

# RECORD OF ORDINANCES

Ordinance No. 13-079

Passed October 21

, 2013

## ORDINANCE NO. 13-079

**AN ORDINANCE DECLARING THE IMPROVEMENT OF CERTAIN REAL PROPERTY LOCATED IN THE VILLAGE OF WEST JEFFERSON, MADISON COUNTY, OHIO TO BE A PUBLIC PURPOSE; DECLARING SUCH PROPERTY TO BE EXEMPT FROM REAL PROPERTY TAXATION; DESIGNATING SPECIFIC PUBLIC INFRASTRUCTURE IMPROVEMENTS THAT, ONCE MADE, WILL DIRECTLY BENEFIT THE PARCELS FOR WHICH IMPROVEMENT IS DECLARED TO BE A PUBLIC PURPOSE; REQUIRING ANNUAL SERVICE PAYMENTS IN LIEU OF TAXES; ESTABLISHING A MUNICIPAL PUBLIC IMPROVEMENT TAX INCREMENT EQUIVALENT FUND; AND PROVIDING RELATED AUTHORIZATIONS PURSUANT TO OHIO REVISED CODE SECTIONS 5709.40(B), 5709.42, 5709.43, 5709.832 AND 5709.85.**

WHEREAS, Ohio Revised Code (“R.C.”) Section 5709.40(B) provides that this Council may, under certain circumstances, (i) declare improvement to parcels of real property located in the Village of West Jefferson (the “Village”) to be a public purpose, thereby granting to that improvement an exemption from real property taxation, and (ii) designate specific public infrastructure improvements made, to be made, or in the process of being made that directly benefit, or that once made will directly benefit, the parcels for which improvement is declared to be a public purpose; and

WHEREAS, pursuant to R.C. Section 5709.40(D)(1), said exemption may be for up to one hundred percent (100%) of such improvement for up to thirty (30) years without approval of the board of education of the city, local or exempted village school district within the territory of which the improvement is or will be located if payments in lieu of taxes, as provided for in R.C. Section 5709.42, shall be paid to such school district in the amount of the taxes that would have been payable if the improvement had not been exempted from taxation; and

WHEREAS, the real property shown in Exhibit A hereto and incorporated herein by reference (the “Property”) is located in the State of Ohio (the “State”), County of Madison (the “County”), and the Village, with each parcel of the Property referred to herein as a “Parcel” (whether as presently appearing on County tax duplicates or as subdivided or combined and appearing on future tax duplicates); and

WHEREAS, the current and future owners of the Property (each an “Owner” and collectively the “Owners”) wish to develop the Property by constructing commerce distribution warehouse facilities and related improvements thereon and otherwise improving the Property (the “Project”), provided that the appropriate development incentives are available to support this development; and

WHEREAS, by separate ordinance, this Council is authorizing the execution of a First Amendment (the “First Amendment”) to Community Reinvestment Area Agreement by and among the Village, Duke Realty Ohio, Shui-Nan Chuang And Chiou-Jeu Chuang, Trustees Of The Shui-Nan And Chiou-Jeu Chuang Trust, Dated January 28, 2000 and J & L Rotonda, LLC (as amended by the First Amendment, the “Amended CRA Agreement”) to provide the Owners with one hundred percent (100%) real property tax exemptions for fifteen (15) years for the assessed value of structures constructed at the Property; and

WHEREAS, this Council has determined that it is necessary and appropriate and in the best interests of the Village to provide for service payments in lieu of real property taxes (“Service Payments,” as further defined below) with respect to the Property pursuant to R.C. Section 5709.42; and

WHEREAS, the Village desires to facilitate the construction of the public infrastructure improvements described in Exhibit B attached hereto and incorporated herein by this reference (the “Public Infrastructure Improvements”); and

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WHEREAS, notice of this proposed Ordinance has been delivered to the Board of Education of the Jefferson Local School District (the "School District") and the Board of Education of the Tolles Career Center (the "Career Center") in accordance with and within the time period prescribed in R.C. Section 5709.83; and

WHEREAS, this Council has determined that payments in lieu of taxes shall be paid to the School District pursuant to R.C. Section 5709.42 in the amount of the real property taxes that the School District would have received if such increase in the assessed value of the Property had not been exempted from real property taxes pursuant to this Ordinance; and

WHEREAS, pursuant to R.C. Section 5709.40(D)(1), because of the compensation to be provided to the School District, the Village is required to compensate the Career Center at the same percentage and under the same terms as the compensation provided to the School District;

## **NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE OF WEST JEFFERSON COUNCIL, COUNTY OF MADISON, STATE OF OHIO:**

Section 1. The Public Infrastructure Improvements described in Exhibit B hereto intended to be made or caused to be made by the Village are hereby designated as public infrastructure improvements that, once made, will directly benefit the Property.

Section 2. One hundred percent (100%) of the increase in the assessed value of the Property after the effective date of this Ordinance (which increase in assessed value is an "Improvement" as defined in R.C. Section 5709.40, but which Improvement shall not include the assessed value of any structures exempted under the Amended CRA Agreement for the period and to the extent that the structures are exempt under the Amended CRA Agreement) shall be a public purpose and shall be exempt from real property taxation commencing for each Parcel the earlier of the first day of (i) the tax year in which the Parcel (as it may be subdivided in connection with the acquisition of the Parcel by Duke Realty Ohio or its affiliates (collectively, the "Developer")) is acquired by the Developer, or (ii) tax year 2028, and ending for each Parcel thirty (30) years after such date.

Section 3. As provided in R.C. Section 5709.42, the Owner of any Parcel with an Improvement is required hereby to make annual payments in lieu of taxes to the Madison County Treasurer (the "County Treasurer") on or before the final dates for payment of real property taxes. Each such payment (including interest and penalties) shall be charged and collected in the same manner and in the same amount as the real property taxes that would have been charged and payable against the Improvement if it were not exempt from taxation (with the payments in lieu of tax, including any penalties and interest, the "Service Payments"). No Service Payments are required with respect to the assessed value of any structures exempted under the Amended CRA Agreement for the period and to the extent that the structures are exempt under the Amended CRA Agreement. The County Treasurer shall remit all Service Payments to the Village for deposit in the Duke Realty II Municipal Public Improvement Tax Increment Equivalent Fund (the "Fund") established in Section 4 hereof, except for amounts paid directly to the School District and to the Career Center as provided in Section 5 hereof. This Council hereby authorizes the Mayor or other appropriate officers of the Village to provide such information and certifications and execute and deliver, or accept delivery of such instruments as are necessary and incidental to collect those Service Payments and to make such arrangements as are necessary and proper for payment of the Service Payments. Any late payments shall be subject to penalty and bear interest at the then current rate established under R.C. Sections 323.121 and 5703.47, as may be amended from time to time, or any successor provisions thereto, as the same may be amended from time to time. The Service Payments shall be allocated and deposited in accordance with Sections 4 and 5 of this Ordinance.

No Owner shall, under any circumstances, be required in any tax year to both pay Service Payments with respect to an Improvement and reimburse local taxing authorities for the

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amount of real property taxes that would have been payable to local taxing authorities had the Improvement not been exempted from taxation pursuant to this Ordinance.

Section 4. This Council hereby establishes, pursuant to and in accordance with the provisions of R.C. Section 5709.43, the Fund, into which shall be deposited all of the Service Payments distributed to the Village with respect to the Improvement to the Property by or on behalf of the County Treasurer, as provided in R.C. Section 5709.42, except for amounts paid directly to the School District and the Career Center as provided in Section 5 hereof, and hereby appropriates all of the moneys deposited in the Fund from time to time to pay, semi-annually, any costs associated with the Public Infrastructure Improvements, including, but not limited to, the "costs of permanent improvements" described in R.C. Section 133.15(B).

The Fund shall remain in existence so long as Service Payments are collected and used for the aforesaid purposes, subject to the limits set forth in Section 2 hereof, after which said Fund shall be dissolved in accordance with R.C. Section 5709.43(D). Upon dissolution, any incidental surplus money remaining in the Fund shall be disposed of as provided in R.C. Section 5709.43(D).

Section 5. The County Treasurer shall make semi-annual payments to the School District, solely from the Service Payments, collectively in the amount equal to the property tax payments that the School District would otherwise have received from the Improvement had the Improvement not been exempted pursuant to this Ordinance. Pursuant to R.C. Section 5709.40(D)(1), the Village is required to compensate the Career Center at the same rate and under the same terms received by the School District. Thus, the County Treasurer also shall make semi-annual payments to the Career Center, solely from the Service Payments, collectively in the amount equal to the property tax payments that the Career Center would otherwise have received from the Improvement had the Improvement not been exempted pursuant to this Ordinance. No such payments to the School District or the Career Center shall be made with respect to the assessed value of any structures exempted under the Amended CRA Agreement for the period and to the extent that the structures are exempt under the Amended CRA Agreement. The County Treasurer shall remit all remaining Service Payments to the Village for deposit in the Fund established in Section 4 hereof.

Section 6. This Council hereby authorizes the Mayor or other appropriate officers of the Village to take such actions as are necessary or appropriate to implement the transactions contemplated by this Ordinance, including the filing of one or more applications for exemption and any related forms in accordance with R.C. Section 5709.911.

Section 7. This Council hereby designates the tax incentive review council (the "TIRC") established in Ordinance No. 07-030, passed May 21, 2007, as the TIRC that shall annually review the exemptions provided pursuant to this Ordinance as required by R.C. Section 5709.85.

Section 8. The Village hereby incorporates by reference the nondiscriminatory hiring policies for recipients of exemptions described in Ordinance No. 07-030, passed May 21, 2007, and hereby provides that such nondiscriminatory hiring policies shall apply to the exemptions granted pursuant to this Ordinance.

Section 9. The Mayor, or any other official, as appropriate, are each authorized and directed to sign any other documents, instruments or certificates and to take such actions as are necessary or appropriate to consummate or implement the actions described herein or contemplated by this Ordinance.

Section 10. Pursuant to R.C. Section 5709.40(I), the Mayor is hereby directed to deliver a copy of this Ordinance to the Director of the Ohio Development Services Agency ("DSA") within fifteen (15) days after its passage. On or before March 31 of each year that the exemption set forth in Section 2 hereof remains in effect, the Mayor or other authorized officer



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of this Village shall prepare and submit to the Director of DSA the status report required under R.C. Section 5709.40(I).

Section 11. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and any decision making bodies of the Village that resulted in such formal actions were in meetings open to the public and in compliance with all legal requirements.

Section 12. This Ordinance shall take effect and be in force from and after the earliest period allowed by law.

Ronald L. Adams 10-19-13  
President of Council Date

Date Received by Mayor 10/23/13

Darlene A. Steele 10/23/13  
Darlene A. Steele, Mayor Date  
Approved

ATTEST:

Deborah J. Dileo 10/23/13  
Clerk of Council Date  
Deborah J. Dileo

Approved as to Form:

Ronald C. Parsons \_\_\_\_\_ Date  
Director of Law

**EXHIBIT A to TIF Ordinance**

**DESCRIPTION OF PARCELS AFFECTED BY THE IMPROVEMENT**

The Property is the real estate situated in the Village of West Jefferson, County of Madison and State of Ohio consisting of the tax year 2013 parcel numbers listed below.

Parcel Numbers:

10-01998.003

10-01998.006

[DRC to check to ensure that these are the correct parcel numbers and encompass the additional property]

## **EXHIBIT B to TIF Ordinance**

### **DESCRIPTION OF THE PUBLIC INFRASTRUCTURE IMPROVEMENTS**

The Public Infrastructure Improvements may include, but are not limited to, the following:

Street lighting; construction and maintenance of a water tower and/or reservoir or other project to improve the water delivery system of the Village; sidewalks and/or bike paths; acquisition of land for park purposes; acquisition and installation of equipment in parks; construction of other park improvements; acquisition of land for rights of way; construction of roads and all related appurtenances; traffic signs and signals; engineering and other professional services secured in connection with the Public Infrastructure Improvements including legal, planning, citizen participation, environmental studies and remediation; streetscape and other improvements including, but not limited to, grading, draining, curbing, paving, resurfacing, constructing or reconstructing storm sewers, sanitary sewers, water mains, sidewalks, driveway approaches and aprons, public parking spaces and structures; electrical lighting; removal and placement of overhead utilities underground; installation of the desired conduit; environmental remediation; land acquisition; demolition; traffic control devices, including traffic lights, signs and other markings; installing public benches, seating areas and trash receptacles; planting trees, shrubbery and other landscaping materials, together with all other necessary and appropriate appurtenances.