



Introduced: 12/04/2017
Revised:
Adopted:
Effective

CITY OF PATASKALA

ORDINANCE 2017-4204

AN ORDINANCE APPROVING A MEMORANDUM OF UNDERSTANDING WITH THE LICKING HEIGHTS LOCAL SCHOOL DISTRICT IN CONNECTION WITH POSSIBLE PROPERTY TAX EXEMPTIONS IN A PORTION OF THE PATASKALA CORPORATE PARK, AS EXPRESSED IN THE ATTACHED EXHIBIT A.

WHEREAS, Ohio Revised Code (“R.C.”) Sections 5709.40 et seq. (the “TIF Act”) authorize municipal corporations to grant tax exemptions for improvements to real property in connection with tax increment financing arrangements entered into pursuant to the TIF Act; and

WHEREAS, R.C. Sections 3735.65 et seq. (the “CRA Act”) authorize municipal corporations to designate areas as "community reinvestment areas" and to grant real property tax exemptions for new construction within those areas; and

WHEREAS, in order to encourage commercial, industrial and other economic development in the City of Pataskala, Ohio (the "City"), the City has created an economic development area in the City known as the Pataskala Corporate Park (the “Corporate Park”); and

WHEREAS, to encourage the development of properties within the Corporate Park, the City is considering the granting of (i) one or more such property tax exemptions (each, a "TIF Exemption") pursuant to the TIF Act to a portion of the Corporate Park within the boundaries of the Licking Heights Local School District (the “School District”) and described in Exhibit A attached hereto (the "Licking Heights Area"), and (ii) one or more of such property tax exemptions pursuant to the CRA Act with respect to the Licking Heights Area (each, a "CRA Exemption"), all in connection with the development of the real property located in the Licking Heights Area; and

WHEREAS, the City and the Board of Education of the School District have attempted to negotiate compensation for the School District with respect to future CRA Exemptions in the Licking Heights area other than the compensation provided by the R.C. in circumstances where there is no such agreement (the “Default R.C. Provisions”); and

WHEREAS, those negotiations have concluded without such an agreement, meaning that the Default R.C. Provisions shall be applicable; and

WHEREAS, the City and the Board of Education of the School District desire to memorialize the applicability of the Default R.C. Provisions by entering into a Memorandum of Understanding (the "MOU");

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PATASKALA (hereinafter called the "City"), OHIO, that:

SECTION 1. The City Administrator and the Director of Finance are each individually authorized, on behalf of the City and in their official capacities, to execute and deliver a MOU with the School District in substantially the form now on file with the Clerk of the City Council, each of which this City Council finds and determines is in the best interests of the City and its citizens and taxpayers. The MOU is hereby approved with such changes that are not materially inconsistent with this ordinance and not substantially adverse to the City and that are permitted by law and shall be approved by said official or officials. The approval of such changes, and that such changes are not materially inconsistent with this ordinance and not substantially adverse to City, shall be conclusively evidenced by the signing of the MOU by such official or officials. The City Administrator, the Director of Finance, and other appropriate officials of the City are also each individually authorized and directed to execute and deliver any other agreements and to take all other actions and do all other things necessary and consistent with this ordinance in order to accomplish the purposes of this ordinance.

SECTION 2. It is found and determined that all formal actions of this City Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this City Council, and that all deliberations of this City Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with the law, including R.C. Section 121.22.

SECTION 3. This ordinance shall take effect at the earliest time permitted by law.

CERTIFIED AS PASSED, this ____ day of _____, 2018.

Mayor

ATTEST:

Kathy M. Hoskinson, Clerk of Council

Michael W. Compton, Mayor

Approved as to form:

Brian M. Zets, Law Director

MEMORANDUM OF UNDERSTANDING

(Exhibit A)

This Memorandum of Understanding (this "MOU") is made and entered into as of this ____ day of _____, 2017, by and between the City of Pataskala, Ohio (the "City"), a municipal corporation organized and existing under the constitution and the laws of the State of Ohio and its Charter, and the Board of Education (the "Board of Education") of the Licking Heights Local School District (the "School District"), a public school district organized and existing under the constitution and laws of the State of Ohio.

WHEREAS, it has been and is in the best interests of the City and the School District to designate certain areas common to both their jurisdictional areas for commercial, industrial and other business development from time to time; and

WHEREAS, the City has created an economic development district within an area of the City known as the "Pataskala Corporate Park" (the "Corporate Park"); and

WHEREAS, a portion of the area within the Corporate Park shown on Exhibit A (the "Licking Heights Area") is within the territorial boundaries of the School District; and

WHEREAS, the City anticipates that, in order to facilitate development of properties within the Licking Heights Area, it may be necessary to exempt some or all of the parcels comprising such parcels from real property taxes as (a) a community reinvestment area (a "CRA") pursuant to R.C. Sections 3735.65 et seq. ("CRA Exemptions") or (b) an area subject to tax increment financing (a "TIF") pursuant to R.C. 5709.40 et seq. ("TIF Exemptions"); and

WHEREAS, the City levies an income tax within the Licking Heights Area pursuant to R.C. Chapter 718 upon income earned by persons working in the Licking Heights Area and upon the profits of business located therein (the "City Income Tax"); and

WHEREAS, the City and the Board of Education of the School District have attempted to negotiate compensation for the School District with respect to future development in the Licking Height Portion other than the compensation provided by the R.C. in circumstances where there is no such agreement (the "Default R.C. Provisions"); and

WHEREAS, those negotiations have concluded without such an agreement, meaning that the Default R.C. Provisions shall be applicable; and

WHEREAS, the City and the Board of Education of the School District desire to memorialize the applicability of the Default R.C. Provisions by entering into this MOU; and

WHEREAS, the Board of Education of the School District by its Resolution No. ____ adopted _____, 2017, a true copy of which is attached hereto as Exhibit B (the "School District Resolution"), and the City Council of the City by its Ordinance ____ adopted _____, 2017, a

true copy of which is attached hereto as Exhibit C, have approved and authorized the execution of this MOU;

NOW, THEREFORE, in consideration of the premises and covenants contained herein, the parties hereto agree to the foregoing premises and as follows:

Section 1. Applicability of Default R.C. Provisions. The Default R.C. Provisions shall be applicable to any CRA Exemptions or TIF Exemptions granted by the City if the Licking Heights Area of the JEDD, some of which are:

- a. Any such CRA Exemption shall be limited as provided in R.C. Section 3735.671(A)(2);
- b. Any such TIF Exemption shall be limited as provided in R.C. Section 5709.40(B); and
- c. The School District shall be entitled to a share of the proceeds of the City Income Tax derived from the Licking Height Area of the Pataskala Corporate Park.

Section School District Approval of CRA and TIF in Licking Heights Area. In consideration of this MOU, the Board of Education of the School District approves and consents to, and agrees it will not challenge: (a) any CRA or CRA Exemption or (b) any TIF or TIF Exemption, as, when and to the extent authorized and implemented by the City in the Licking Heights Area of the JEDD in which the Default R.C. Provisions are applicable.

Section 3. Amendment. This MOU may be amended or modified by the parties only in writing, signed by both parties to the MOU.

Section 4. Entire MOU², Waiver of Notice. This MOU merges and supersedes all prior discussions, agreements, and undertakings of every kind and nature between the parties with respect to the subject matter of this MOU. The School District, by adoption of the School District Resolution and execution of this MOU, hereby waives any notice requirements in connection with the TIFs and CRAs, including, but not limited to, those set forth in R.C. Sections 3735.67, 3735.671, 5709.40, 5709.41, 5709.83 and 5715.27 and waives any defects or irregularities relating to the period for which the exemptions or abatements granted by the TIFs, or CRAs will apply.

Section 5. City Commitment for Granting CRA Incentives. The City agrees not to enter into an agreement under Section 3735.671 of the Revised Code granting a CRA real property tax exemption unless the owners of the real property to which that exemption will apply have committed in writing, through deed restrictions or covenants, to retain that real property in the School District. Those restrictions or covenants shall prohibit any owner of the real property to which that agreement and its CRA real property tax exemption apply (the "CRA Exempted Property") from consenting to, proposing or petitioning for the transfer of any of that CRA Exempted Property from the jurisdiction of the School District to the jurisdiction of any other school district without the prior written consent of the School District. Those restrictions or covenants shall provide that they are binding on the owner and any subsequent owners of the

CRA Exempted Property, and shall further provide that they are enforceable by the School District as a third party beneficiary against the owner and any subsequent owner.

Section 6. Notices and Communications. All payments, certificates and notices which are required to or may be given pursuant to the provisions of this MOU shall be sent by the United States ordinary mail, postage prepaid, and shall be deemed to have been given or delivered when so mailed to the following addresses:

If to the City: City of Pataskala, Ohio
Attn: City Administrator
Suite 2-B
621 West Broad Street
Pataskala, Ohio 43062

If to the School District: Licking Heights Local School District
Attn: Superintendent
6539 Summit Road SW
Pataskala, Ohio 43062

Either party may change its address for receiving notices and reports by giving written notice of such change to the other party.

The City and the School District are mutually committed to ongoing and open communication regarding developments in the Licking Heights Area, all consistent with established City practices and in addition to the District's full participation in the meetings of the Tax Incentive Review Council established for the Licking Heights Area. The City and the School District will work together to address any unintended or unexpected disadvantages for the School District under any of the changes to the school's funding.

Section 7. Counterparts. This MOU may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument, and any party to this MOU may execute this MOU by signing any such counterpart.

Section 8. Extent of Covenants, Binding Effect: No Personal Liability. All covenants, stipulations, obligations and agreements of the parties contained in this MOU shall be effective to the extent authorized and permitted by applicable law. Each provision of the MOU is binding upon the officer(s) or other person(s) and any body or bodies as may from time to time have the authority under the law to take the actions as may be necessary to perform all or any part of the duty required by a given provision of this MOU. Each duty of the City and its bodies, officers and employees, undertaken pursuant to the MOU, is established as a duty of the City and of each such officer, employee or body having authority to perform that duty, specifically enjoined by law resulting from an office, trust or station within the meaning R.C. Section 2731.01, providing for enforcement by writ of mandamus. No such covenant, stipulation, obligation or agreement shall be deemed a covenant, stipulation, obligation or agreement of any present or future member, officer, agent, or employee of any parties in their individual capacity.

IN WITNESS WHEREOF, the Parties have caused this MOU to be executed in their respective names by their duly authorized representatives, all as of the date first written above.

CITY OF PATASKALA, OHIO

**LICKING HEIGHTS LOCAL
SCHOOL DISTRICT**

By:

City Administrator

By:

Superintendent

Approved as to form:

Director of Law

By:

Treasurer

FISCAL OFFICER'S CERTIFICATE

The undersigned, Fiscal Officer of the City of Pataskala, Ohio, certifies hereby that the moneys required to meet the obligations (if any) of the City during the year 2017 under the foregoing MOU have been appropriated lawfully for that purpose, and are in the Treasury of the City or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This Certificate is given in compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.

Dated: _____, 2017

Director of Finance

