



Introduced: 5/3/2021

Revised:

Adopted:

Effective:

#### ORDINANCE 2021-4394

**AN ORDINANCE DECLARING THE IMPROVEMENT OF CERTAIN REAL PROPERTY LOCATED IN THE CITY OF PATASKALA, LICKING 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; AUTHORIZING THE EXECUTION OF A TAX INCREMENT FINANCING AGREEMENT; 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 Council for the City of Pataskala may, under certain circumstances, (i) declare improvement to parcels of real property located in the City of Pataskala (the “City”) 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 City 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 Licking (the “County”), and the City, 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 multiple class A industrial warehouse/distribution, logistics and/or manufacturing buildings together with related site improvements thereon and otherwise improving the Property (the “Project”), provided that the appropriate development incentives are available to support the Project; and

**WHEREAS**, by separate ordinance Council for the City of Pataskala is authorizing the execution of a Community Reinvestment Area Agreement by and between the City and TPA Group, LLC (the “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**, Council for the City of Pataskala has determined that it is necessary and appropriate and in the best interests of the City 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 City 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

**WHEREAS**, Council for the City of Pataskala has determined to provide for the execution and delivery of a Tax Increment Financing Agreement; and

**WHEREAS**, notice of this proposed Ordinance has been delivered to the Board of Education of the Licking Heights Local School District (the “School District”) and the Board of Career Technical Education Center of Licking County (the “Career Center”) in accordance with and within the time period prescribed in R.C. Section 5709.83, or such notice has been waived; and

**WHEREAS**, Council for the City of Pataskala 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 City 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 CITY OF PATASKALA, COUNTY OF LICKING, STATE OF OHIO, A MAJORITY OF ALL MEMBERS ELECTED OR APPOINTED THERETO CONCURRING, THAT:**

Section 1. The Public Infrastructure Improvements described in Exhibit B hereto intended to be made or caused to be made by the City 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 each Parcel within the Property after the effective date of this Ordinance (each of which increase in assessed

value is an “Improvement” as defined in R.C. Section 5709.40) 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 there is an Improvement with respect to the Parcel (as it may be subdivided or combined) of at least \$35,000 (i.e., an increase in true value of \$100,000), or (ii) tax year 2041, and ending for each Parcel on the earlier of (a) thirty (30) years after such commencement, or (b) the date on which the City can no longer require service payments in lieu of taxes, all in accordance with the requirements of R.C. Sections 5709.40, 5709.42 and 5709.43. The exemption for each Improvement shall be subordinate to any exemption provided under the CRA Agreement, irrespective of who files the exemption application under R.C. Section 5709.911.

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 Licking 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, being the “Service Payments”). No Service Payments are required with respect to Improvement exempted under the CRA Agreement for the period and to the extent that the assessed value is exempt under the CRA Agreement. The County Treasurer shall remit all Service Payments to the City for deposit in the TPA 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. Council for the City of Pataskala hereby authorizes the Mayor or other appropriate officers of the City 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.

Section 4. Council for the City of Pataskala 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 City with respect to the Improvements to Parcels of 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 any costs associated with the Public Infrastructure Improvements approved by the City, 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 transferred to the City general fund 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 Improvements had the Improvements not been exempted pursuant to this Ordinance. Pursuant to R.C. Section 5709.40(D)(1), the City 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 Improvements had the Improvements 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 Improvements exempted from real property taxation under the CRA Agreement for the period and to the extent that the Improvements are exempt under the CRA Agreement. The County Treasurer shall remit all remaining Service Payments to the City for deposit in the Fund established in Section 4 hereof.

Section 6. The Tax Increment Financing Agreement (the “TIF Agreement”) between the City and the Developer, substantially in the form attached to this Ordinance as Exhibit C, is hereby approved and authorized, with changes or amendments thereto not inconsistent with this Ordinance and not substantially adverse to the City as determined by the Mayor. The Mayor, for and in the name of the City, is hereby authorized to execute the TIF Agreement and any amendments thereto deemed by the Mayor to be necessary. The approval of changes or amendments by the Mayor, and the character of the changes or amendments as not being inconsistent with this Ordinance and not being substantially adverse to the City, shall be evidenced conclusively by the execution of the TIF Agreement by the Mayor.

Section 7. Council for the City of Pataskala hereby authorizes the Mayor or other appropriate officers of the City 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 8. Council for the City of Pataskala will designate a tax incentive review council (the “TIRC”) that shall annually review the exemptions provided pursuant to this Ordinance as required by R.C. Section 5709.85.

Section 9. Council for the City of Pataskala hereby establishes the following non-discriminatory hiring practices for all recipients of property tax incentives in the City, as required by R.C. 5709.832: no individual may be denied employment solely on the basis of race, religion, sex, disability, color, national origin, or ancestry.

Section 10. 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 11. 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 of this City shall prepare and submit to the Director of DSA the status report required under R.C. Section 5709.40(I).

Section 12. 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 City that resulted in such formal actions were in meetings open to the public and in compliance with all legal requirements.

Section 13: This Ordinance shall become effective from and after the earliest period allowed by the Charter of the City of Pataskala.

ATTEST:

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Kathy M. Hoskinson, Clerk of Council

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Michael W. Compton, Mayor

APPROVED AS TO FORM:

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Brian M. Zets, Law Director