

9/16/19

L-175-19 Ist

ORDINANCE NO. 175-19

BY: **KRISTIN L. SABAN**  
(By Request – Mayor)

AN ORDINANCE DECLARING THE IMPROVEMENT OF CERTAIN REAL PROPERTY LOCATED IN THE CITY OF PARMA, OHIO TO BE A PUBLIC PURPOSE IN CONNECTION WITH THE ESTABLISHMENT OF TAX INCREMENT FINANCING PROGRAM UNDER OHIO REVISED CODE SECTION 5709.41; DECLARING SUCH PROPERTY TO BE EXEMPT FROM REAL PROPERTY TAXATION; DESIGNATING IMPROVEMENTS TO BE MADE THAT WILL BENEFIT SUCH PROPERTY; REQUIRING THE OWNERS THEREOF TO MAKE SERVICE PAYMENTS IN LIEU OF TAXES; ESTABLISHING AN URBAN REDEVELOPMENT TAX INCREMENT EQUIVALENT FUND FOR THE DEPOSIT OF SUCH SERVICE PAYMENTS; AND DECLARING AN EMERGENCY

WHEREAS, Ohio Revised Code (“R.C.”) Sections 5709.41 through 5709.43 (the “TIF Statutes”), specifically R.C. Section 5709.41, provides that this Council of the City of Parma, Ohio (the “City”) may, under certain circumstances, declare Improvement (as defined in Section 1 herein) to parcels of real property located in the City to be a public purpose, thereby exempting that Improvement from real property taxation, provided the City has held fee title to such real property prior to the adoption of the ordinance providing for the exemption; and

WHEREAS, the real property identified and depicted in Exhibit A hereto and incorporated herein by reference (with each current or future parcel of the real property referred to herein individually as a “Parcel” and collectively as the “Project Site”) is located in the City; and

WHEREAS, R.C. Section 5709.41 requires the City to have held title to the Project Site while engaged in urban redevelopment prior to the passage of an ordinance declaring the Improvement to the Project Site to be a public purpose, and the City has held title to the Project Site prior to the passage of this Ordinance while engaged in urban redevelopment; and

WHEREAS, provided a TIF Exemption (as defined herein below) for the improvements identified in Exhibit B (the “Developer Improvements”) are made available, LRC Realty (the “Developer”) desires to develop and redevelop for various commercial uses the Project Site; and

WHEREAS, to incentivize development and redevelopment of the Project Site, this Council has determined that it is necessary and appropriate and in the best interest of the City to exempt from taxation one hundred percent (100%) of the Improvement to each Parcel as permitted and provided in R.C. Section 5709.41 for a period of thirty (30) years (the “TIF Exemption”) and to simultaneously direct and require the current and future owner(s) of each Parcel (each such owner individually, an “Owner,” and collectively, the “Owners”) to make annual Service Payments (as defined in Section 2 of this Ordinance) in lieu of real property tax payments, in the same amount they would have made such real property tax payments except for the TIF Exemption provided by this Ordinance; provided that the TIF Exemption and the obligation to make Service Payments are subject and subordinate to any tax exemption applicable to the Improvement pursuant to Section 140.08 or Sections 5709.12 and 5709.121 or under Sections 3735.65 through 3735.70 or 5709.61 through 5709.69 of the Ohio Revised Code; and

WHEREAS, the City has determined to pay a portion of the Service Payments directly to the Parma City School District (the "School District") in an amount equal to the real property taxes that the School District would have been paid if the Improvement to each Parcel located within that School District had not been exempt from taxation pursuant to this Ordinance; and

WHEREAS, notice of this proposed Ordinance has been delivered to the Board of Education of the School District in accordance with and within the time period prescribed in R.C. Section 5709.83; and

WHEREAS, it is necessary for the immediate preservation of public peace, property, health, and safety of the City, that this Ordinance take effect at the earliest possible date in order to allow for the development and redevelopment of the Project Site.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PARMA, STATE OF OHIO:

Section 1. Authorization of TIF Exemption. Pursuant to and in accordance with R.C. Section 5709.41, this Council hereby finds and determines the increase in the assessed value of each Parcel subsequent to the acquisition of each Parcel by the City while engaged in urban redevelopment (which increase in assessed value is an "Improvement" as defined in R.C. Section 5709.41) to be a public purpose and thus exempt from real property taxation in the amount of one hundred percent (100%) for a period commencing on the effective date of this Ordinance with respect to each Parcel and ending on the earlier of (i) thirty (30) years after such date; or (ii) the date on which the City can no longer require service payments in lieu of taxes, all in accordance with the requirements of the TIF Statutes.

Section 2. Service Payments and Property Tax Rollback Payments. As provided in R.C. Section 5709.42, this Council hereby directs and requires the Owner of each Parcel to make annual Service Payments (as defined herein) with respect to the Improvement allocable thereto to the County Fiscal Officer of Cuyahoga County, Ohio (the "County Fiscal Officer") on or before the final dates for payment of real property taxes. Each service payment in lieu of taxes, including any penalties and interest at the then current rate established under R.C. Sections 323.121(B)(1) and 5703.47 (collectively, the "Service Payments"), 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 an Improvement if it were not exempt from taxation pursuant to Section 1 of this Ordinance. The Service Payments, and any other payments with respect to each Improvement that are received by the County Fiscal Officer in connection with the reduction required by R.C. Sections 319.302, 321.24, 323.152 and 323.156, as the same may be amended from time to time, or any successor provisions thereto as the same may be amended from time to time (the "Property Tax Rollback Payments"), shall be allocated and distributed in accordance with Section 4 of this Ordinance. This Council further hereby authorizes and directs appropriate officers of the City to make such arrangements as are necessary and proper for collection of the Service Payments from the Owners, including the preparation and filing of any necessary exemption applications.

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 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 3. Creation of Urban Redevelopment Tax Increment Equivalent Fund. This Council hereby establishes, pursuant to the TIF Statutes, the Midtown Plaza Urban Redevelopment Tax Increment Equivalent Fund (the "TIF Fund"), into which shall be deposited the Service Payments with respect to the Parcels collected and distributed by the County Fiscal Officer pursuant to Section 2 of this Ordinance. The TIF Fund shall be maintained in the custody of the City. Those Service Payments and any Property Tax Rollback Payments shall be used solely for the purposes authorized in this Ordinance and permitted by law. The TIF Fund shall remain in existence so long as such Service Payments and Property Tax Rollback Payments are collected, after which time the TIF

Fund shall be dissolved and any surplus funds remaining therein transferred to the City's General Fund, all in accordance with R.C. Section 5709.43.

Section 4. Distribution of Funds. Service Payments and Property Tax Rollback Payments received from time to time by the City with respect to the Parcels shall be distributed as follows:

(i) to the School District, an amount equal to the amount that the School District would otherwise have received as real property tax payments (including the applicable portion of any Property Tax Rollback Payments) derived from the Improvement to the Parcels located within that School District if the Improvement had not been exempt from taxation pursuant to this Ordinance; and

(ii) to the Developer for reimbursement of not to exceed \$2,500,000 of the costs of the Developer Improvements; and

(iii) all remaining Service Payments and Property Tax Rollback Payments shall be retained by the City and used for any lawful purpose.

All distributions required under this Section 4 are requested to be made at the same time and in the same manner as real property tax distributions.

The TIF Fund shall remain in existence so long as such Service Payments are collected and used for the aforesaid purposes, after which time said TIF Fund shall be dissolved and any incidental surplus funds remaining therein transferred to the City's General Fund, all in accordance with R.C. Section 5709.43.

Section 5. Further Authorizations. This Council hereby authorizes and directs the City's Economic Development Director, the Clerk of Council or other appropriate officers of the City to make such arrangements as are necessary and proper for collection of the Service Payments. This Council further authorizes the City's Economic Development Director, the Clerk of Council or other appropriate officers of the City to prepare and sign all agreements and instruments and to take any other actions as may be appropriate to implement this Ordinance and the transactions contemplated by the TIF Agreement.

Section 6. Filings with Ohio Development Services Agency. Pursuant to R.C. Section 5709.41(E), the Clerk of Council is hereby directed to deliver a copy of this Ordinance to the Director of the Ohio Development Services Agency within fifteen (15) days after its adoption. On or before March 31 of each year that the TIF Exemption remains in effect, the Clerk of Council or other authorized officer of this City shall prepare and submit to the Director of the Ohio Development Services Agency the status report required under R.C. Section 5709.41(E).

Section 7. Tax Incentive Review Council. The City's Tax Incentive Review Council shall review annually all exemptions from taxation resulting from the declarations set forth in this Ordinance and any other matters as may properly come before that Council, all in accordance with R.C. Section 5709.85.

Section 8. Special Legal Counsel. This Council hereby affirms the retention of the law firm of Bricker & Eckler LLP as special legal counsel to the City in connection with matters described in this Ordinance.

Section 9. Regularity. It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were passed in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including R.C. Section 121.22.

Section 10. Effective Date. This Ordinance is hereby declared to be an emergency measure for the immediate preservation of the public peace, health, safety, and welfare of the City of Parma, and for further reason to file the requisite notices in a timely manner, and this Ordinance shall become immediately effective upon receiving the

affirmative vote of two-thirds of all members elected to Council and approval of the Mayor, otherwise from and after the earliest period allowed by law.

PASSED: \_\_\_\_\_  
PRESIDENT OF COUNCIL

ATTEST: \_\_\_\_\_ APPROVED: \_\_\_\_\_  
CLERK OF COUNCIL

FILED WITH  
THE MAYOR: \_\_\_\_\_  
MAYOR, CITY OF PARMA, OHIO

CERTIFICATE

The undersigned Clerk of Council hereby certifies that the foregoing is a true copy of Ordinance No. \_\_\_\_ - 19 duly adopted by the Council of the City of Parma, Ohio on \_\_\_\_\_, 2019.

\_\_\_\_\_  
Clerk of Council  
City of Parma, Ohio

EXHIBIT A  
DESCRIPTION OF PROJECT SITE



## EXHIBIT B

### DESCRIPTION OF DEVELOPER IMPROVEMENTS

- Façade Renovation
- Parking Lot Improvements to include landscaped end islands, restriping, signage, repair/replacement of catch basins, etc.
- EV car charging station
- Utility Infrastructure
- Signage