

AN ORDINANCE CREATING A TAX INCREMENT FINANCING AREA ENCOMPASSING THE REAL PROPERTY COMMONLY KNOWN AS THE DALAD PROPERTY PURSUANT TO OHIO REVISED CODE SECTIONS 5709.40, 5709.42 AND 5709.43, DECLARING IMPROVEMENTS TO THOSE PARCELS OF REAL PROPERTY TO BE A PUBLIC PURPOSE, AND REQUIRING THE OWNERS OF THE IMPROVEMENTS ON SUCH PARCELS TO MAKE SERVICE PAYMENTS IN LIEU OF TAXES; AND DECLARING AN EMERGENCY

WHEREAS, the City and DiGeronimo Development LLC (the “Developer”) have been cooperating to facilitate the purchase of approximately 88 acres of real property commonly known as the “Dalad Land” as described and depicted on Exhibit A attached to this ordinance (the “Adjacent Site”); and

WHEREAS, with the support and encouragement of the City administration and the Developer, The Sherwin-Williams Company (the “Company”) has expressed its desire to shift a portion of its planned research and development campus from the Valor Acres property to a portion of the Adjacent Site; and

WHEREAS, in connection with the Company’s planned development of the Valor Acres property, this Council has previously approved a tax increment financing incentive pursuant to Ohio Revised Code Section (“RC”) 5709.41; and

WHEREAS, the Company has requested that this Council approve a tax increment financing incentive for the portion of its research and development facility to be located on the Adjacent Site subject to the same terms and conditions as the original incentive granted for the Valor Acres property; and

WHEREAS, since this Council is not able to grant a tax increment financing incentive pursuant to RC 5709.41 at this point in time because it has not yet acquired title to the Adjacent Site, the Company has requested that this Council approve a tax increment financing incentive pursuant to RC 5709.40 and subsequently, after the City is able to acquire title to the Adjacent Site, adopt a tax increment financing incentive pursuant to RC 5709.41;

WHEREAS, this Council and the City administration believes that shifting a portion of the Company’s planned research and development campus to a portion of the Adjacent Site is in the best interest of the City, the Company, the Company’s proposed research and development campus, and the development of both the Adjacent Site and the Valor Acres property; and

WHEREAS, RC 5709.40, 5709.42, and 5709.43 (collectively, the “TIF Act”) authorize this Council, by ordinance, to declare the improvement to parcels of real property located within the City to be a public purpose and exempt from taxation and require the owner of each parcel to make service payments in lieu of taxes; and

WHEREAS, to facilitate the desired redevelopment of the Adjacent Site and the development of the Company’s research and development campus by providing for costs of public infrastructure improvements, 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 defined in Section 1 of this ordinance) of the Adjacent Site as permitted and provided in RC 5709.40(B), as applicable, for up to thirty (30) years and to simultaneously direct and require the current and future owners of each Parcel (each individually an “Owner” and collectively the “Owners”) to make annual Service Payments (as defined in Section 4 of this ordinance) in lieu of real property tax payments, in the same amount as they would have made real property tax payments except for the exemption provided by this ordinance; and

WHEREAS, the Adjacent Site is located within the boundaries of the Brecksville Broadview Heights City School District (the “BBH School District”) and within the service area of the Cuyahoga Valley Career Center (“CVCC”, and collectively with the BBH School District, the “School Districts”); and the School Districts have been notified of the City’s intent to pass this Ordinance in accordance with RC 5709.40 and 5709.83, as applicable to each; and

WHEREAS, the Board of Education of the BBH School District has approved the exemptions granted by this ordinance, and the City and the BBH School District have agreed to enter into a Second Amended and Restated Compensation Agreement.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Brecksville, Cuyahoga County, Ohio, that:

SECTION 1. The real property subject to this ordinance is identified and depicted on Exhibit A to this ordinance (as currently or subsequently configured, the “Parcels”, with each individual parcel a “Parcel”).

SECTION 2. This Council hereby designates the public infrastructure improvements described in Exhibit B to this ordinance (the “Public Infrastructure Improvements”) and any other public infrastructure improvements hereafter designated by ordinance as public infrastructure improvements made, to be made or in the process of being made by the City that directly benefit, or that once made will directly benefit, the Parcels.

SECTION 3. This Council hereby finds and determines that one hundred percent (100%) of the increase in assessed value of each Parcel subsequent to the effective date of this ordinance

(which increase in assessed value is hereinafter referred to as the “Improvement” as defined in RC 5709.40(A)) is hereby declared to be a public purpose and exempt from taxation for a period commencing on the earlier of January 1, 2025, or January 1 of the tax year in which at least an aggregate of \$1,000,000 (\$350,000 of assessed value) of Improvements would appear on the tax list and duplicate for such tax year for such Parcel (it being the intent that each Parcel be exempt for separate 30 year periods) were it not for the exemption granted by this ordinance, and ending 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 the TIF Act. The exemption provided by this ordinance is subordinate to any exemption for a Parcel granted pursuant to RC 3735.65 et. seq. (community reinvestment area), RC 5709.41 et. seq. (urban redevelopment tax increment financing incentive) or RC 5709.61 et. seq. (enterprise zone), and is senior to any exemption for a Parcel granted pursuant to RC 5709.40(C).

SECTION 2. As provided in RC Section 5709.42, the owner or owners of the Improvements are hereby required to, and shall make, semi-annual service payments in lieu of taxes (“Service Payments”) to the County Treasurer on or before the final dates for payment of real property taxes. The Service Payments, when distributed to the City by the County Treasurer, shall be deposited in the Brecksville Municipal Public Improvement Tax Increment Equivalent Fund. The City will make all required payments to the School Districts from such Service Payments deposited into the Fund. This Council hereby authorizes the Mayor, Director of Finance, Director of Law and other appropriate officers of the City, to provide such information and certifications and to execute and deliver or accept delivery of such instruments as are necessary and incidental to collection of those Service Payments, and to make such arrangements as are necessary and proper for payment of those Service Payments.

SECTION 3. Pursuant to RC Section 5709.40(I), the Clerk of Council is hereby directed to deliver a copy of this ordinance to the Director of the Development Services Agency of the State of Ohio within fifteen days after its passage. On or before March 31st of each year that the exemption set forth in Section 1 hereof remains in effect, the Mayor or other authorized officer of this City shall prepare and submit to the Director of the Development Services Agency of the State of Ohio the status report required under RC Section 5709.40(I).

SECTION 4. This Council further hereby authorizes the Mayor, the Law Director, the Finance Director and other appropriate officers of the City, to sign such documents and take such actions as are necessary carry out the purposes of this ordinance.

SECTION 5. This Council determines that all formal actions of this Council concerning and relating to the passage 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 RC Section 121.22.

SECTION 6. This Council declares this ordinance to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare. The reason for the emergency is to permit The Sherwin-Williams Company to proceed immediately with the approval process for and design and construction of its research and development campus so that it has the opportunity to commence certain construction activities before the end of the 2020 construction period and create construction and permanent jobs in the City without delay; therefore, this ordinance shall be in full force and effect immediately upon its adoption by this Council and approval by the Mayor, otherwise, from and after the earliest period allowed by law.

PASSED: _____, 2020

APPROVED: _____, 2020

First Reading: _____

Second Reading: _____

Third Reading: _____

MAYOR

CLERK OF COUNCIL

EXHIBIT A
IDENTIFICATION AND MAP OF THE PARCELS

The following legal description and maps specifically identify and depicts the Parcels

All of that property described and depicted on this page and the pages that follow which, at the effective date of adoption of this ordinance is located within the City of Brecksville, Cuyahoga County, Ohio and is understood to be designated as of the effective date of this ordinance by the parcel numbers set forth below:

Permanent Parcel Nos. 604-08-001, 002, 003, 004 & 007; 604-07-007; 603-20-029; 603-20-030 and 603-21-022

Legal Description:

Situated in the City of Brecksville, County of Cuyahoga and State of Ohio and known as being part of Original Brecksville Township Lots 48 and 55 and bounded and described as follows:

Beginning at an iron monument found at the southeasterly corner of said Original Lot 55, being also a point in the centerline of Miller Road, variable width, at its intersection with the original centerline of Brecksville Road, 66 feet wide, (now 100 feet wide);

Thence South 89 degrees 36 minutes 51 seconds West along the centerline of Miller Road, 1614.83 feet to a point;

Thence North 0 degrees 18 minutes 51 seconds West, 50.00 feet to an iron pin set in the northerly line of Miller Road at its intersection with the westerly line of Parcel V-26 of land conveyed to the United States of America by deed recorded in Volume 8495, Page 625 of Cuyahoga County Records, and the principal place of beginning of the parcel herein described;

Thence South 89 degrees 36 minutes 51 seconds West along the northerly line of Miller Road, 150.01 feet to an iron pin set at an angle point, therein;

Thence North 0 degrees 19 minutes 25 seconds West along the northerly line of Miller Road, 15.00 feet to an iron pin set at an angle point, therein;

Thence North 84 degrees 40 minutes 29 seconds West along the northerly line of Miller Road, 200.98 feet to an iron pin set at an angle point, therein;

Thence South 0 degrees 19 minutes 25 seconds East along the northerly line of Miller Road, 35.00 feet to an iron pin set at an angle point, therein;

Thence South 89 degrees 36 minutes 51 seconds West along the northerly line of Miller Road, 399.71 feet to an iron pin set at its intersection with the easterly line of Interstate Route 77, variable width;

Thence North 0 degrees 19 minutes 25 seconds West along the easterly line of Interstate Route 77, and the easterly line of a parcel of land conveyed to Bernice Schwager by deeds recorded in Volume 14658, Page 101 and A.F.N. 200402180390 of Cuyahoga County Records, 1059.29 feet to its intersection with the northerly line of said land so conveyed, and from which point an iron pipe found bears South 89 degrees 34 minutes 32 seconds West, 0.55 feet; South 0 degrees 25 minutes 28 seconds East, 0.38 feet;

Thence South 89 degrees 34 minutes 32 seconds West along the northerly line of said land conveyed to Bernice Schwager, 137.52 feet to its intersection with the westerly line of said land so conveyed, and from which point a capped iron pin found (Dempsey #6914) bears South 89 degrees 34 minutes 32 seconds West, 0.36 feet; South 0 degrees 25 minutes 28 seconds East, 0.59 feet;

Thence South 0 degrees 19 minutes 25 seconds East along the westerly line of said land conveyed to Bernice Schwager, 666.35 feet to its intersection with the northeasterly limited access right-of-way of Interstate Route 77, and from which point a capped iron pin found (Dempsey #6914) bears North 62 degrees 57 minutes 10 seconds East, 0.41 feet;

Thence North 37 degrees 03 minutes 14 seconds West along the northeasterly limited access right-of-way line of Interstate Route 77, 229.25 feet to an iron pin set at its intersection with the easterly line of a parcel of land conveyed to the Industrial Commission of Ohio by deed recorded in Volume 10665, Page 597 of Cuyahoga County Records;

Thence North 0 degrees 19 minutes 25 seconds West along the easterly line of said land conveyed to the Industrial Commission of Ohio, 482.37 feet to its intersection with the northerly line of said land so conveyed, and from which point an iron pin found bears South 89 degrees 34 minutes 32 seconds West, 0.53 feet; South 0 degrees 25 minutes 28 seconds East, 0.43 feet;

Thence South 89 degrees 34 minutes 32 seconds West along the northerly line of said land conveyed to the Industrial Commission of Ohio, and the northerly line of a parcel of land conveyed to the State of Ohio by deed recorded in Volume 13116, Page 927 of Cuyahoga County Records, 291.34 feet to its intersection with the northeasterly limited access right-of-way line of Interstate Route 77, and from which point a capped iron pin found (Dempsey #6914) bears North 89 degrees 34 minutes 32 seconds East, 0.66 feet;

Thence North 27 degrees 38 minutes 30 seconds West along the northeasterly limited access right-of-way line of Interstate Route 77, 59.75 feet to its intersection with the easterly line of a parcel of land conveyed to the State of Ohio by deed recorded in Volume 13609, Page 83 of Cuyahoga County Records, and from which point a capped iron pin found (Dempsey #6914) bears South 27 degrees 38 minutes 30 seconds East, 0.62 feet; North 62 degrees 21 minutes 30 seconds East, 0.68 feet;

Thence North 0 degrees 30 minutes 20 seconds East along the easterly line of said land conveyed to the State of Ohio, and the easterly line of a parcel of land conveyed to Gary S. Kohn, Trs. by deed recorded as A.F.N. 200104231167 of Cuyahoga County Records, 1028.86 feet to an iron pin set in the northerly line of said Original Lot 55;

Thence South 89 degrees 41 minutes 33 seconds West along the northerly line of said Original Lot 55, 373.47 feet to a capped iron pin found (Dempsey #6914) at its intersection with the easterly line of said land conveyed to the State of Ohio;

Thence North 0 degrees 36 minutes 47 seconds West along the easterly line of said land conveyed to the State of Ohio, and the easterly line of Sublot 82 in the Country Woods Subdivision Phase 4 as shown by the recorded plat in Volume 235, Page 31 of Cuyahoga County Map Records, 801.77 feet to a capped iron pin found (Himes #6163) at its intersection with a southerly line of said Subdivision;

Thence North 89 degrees 45 minutes 29 seconds East along said southerly line of the Country Woods Subdivision Phase 4, and the southerly line of Block "A" in the Harvel Estates Subdivision as shown by the recorded plat in Volume 162, Page 15 of Cuyahoga County Map Records, 2759.21 feet to its intersection with the westerly line of a parcel of land conveyed to Lynda Gillinov by deed recorded in Volume 11836 Page 473 of Cuyahoga County Records, and from which point a capped iron pin found (Dempsey #6914) bears North 0 degrees 14 minutes 31 seconds West, 0.10 feet;

Thence South 0 degrees 05 minutes 00 seconds West along the westerly line of said land conveyed to Lynda Gillinov, 240.00 feet to an iron pin set at its intersection with the northerly line of Parcel V-10 of said land conveyed to the United States of America;

Thence South 89 degrees 45 minutes 29 seconds West along the northerly line of said land conveyed to the United States of America, 1172.69 feet to its intersection with the westerly line of said land so conveyed, and from which point an iron pin found bears South 0 degrees 17 minutes 43 seconds East, 0.28 feet;

Thence South 0 degrees 17 minutes 43 seconds East along the westerly line of said land conveyed to the United States of America, 1639.35 feet to an angle point, therein, from which an iron pin found bears South 0 degrees 17 minutes 43 seconds East, 0.25 feet;

Thence North 89 degrees 34 minutes 32 seconds East along the westerly line of said land conveyed to the United States of America, 121.91 feet to an iron pipe found at an angle point, therein;

Thence South 0 degrees 18 minutes 51 seconds East along the westerly line of said land conveyed to the United States of America, 1059.80 feet to the principal place of beginning, and containing 85.6090 acres of land according to the survey by Donald G. Bohning & Associates, Inc. dated February, 2006.

The courses used in this description are referenced to an assumed meridian and are used to indicate angles only.

Map of the Parcels

The following depiction marks with shading and highlights in yellow identify the nine parcels (from north to south and west to east): 603-21-022, 603-20-030, 603-20-029, 604-08-007, 604-07-007, 604-08-001, 604-08-002, 604-08-003 and 604-08-004.

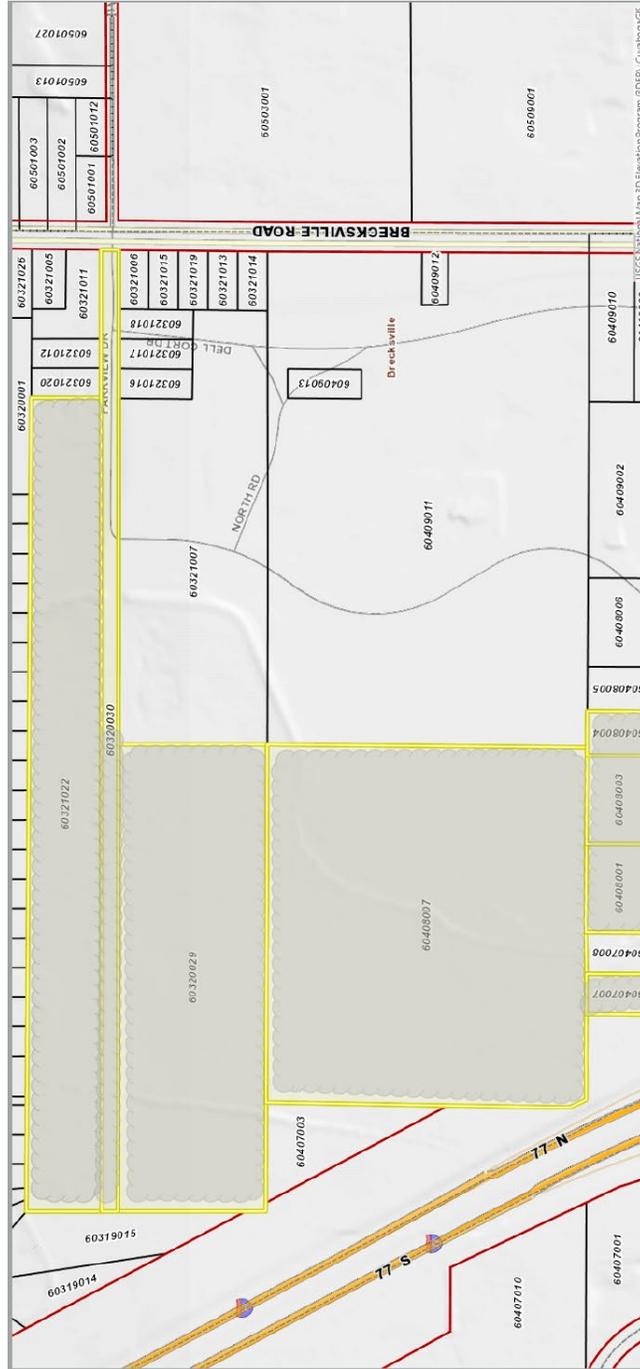


EXHIBIT B

PUBLIC INFRASTRUCTURE IMPROVEMENTS

The Public Infrastructure Improvements consist of any “public infrastructure improvement” defined under RC 5709.40(A)(8) and all related costs of those permanent improvements (including, but not limited to, those costs listed in RC 133.15(B)), including, without limitation, the following:

- **Roadways.** Construction, reconstruction, extension, opening, improving, maintaining, widening, grading, draining, curbing or changing of the lines and traffic patterns of roads, highways, streets, intersections, bridges (both roadway and pedestrian), sidewalks, bikeways, medians and viaducts accessible to and serving the public, and providing signage (including traffic signage and informational/promotional signage), lighting systems, signalization, and traffic controls, and all other appurtenances thereto, including, without limitation, improvements to Miller Road, access improvements to I-77 and construction of publicly accessible roadways (whether publicly or privately owned) within or adjacent to the Parcels.
- **Parking.** Construction, reconstruction, improving, and equipping of surface or structured public parking facilities, including surface and on-street parking facilities along the Roadways described above.
- **Water/Sewer.** Construction, reconstruction or installation of public utility improvements (including any underground municipally owned utilities), storm and sanitary sewers (including necessary site grading therefore), water and fire protection systems, and all appurtenances thereto.
- **Environmental/Health.** Implementation of environmental remediation measures necessary to enable the construction of the private improvements on the Parcels or the Public Infrastructure Improvements, and the construction of public health facilities.
- **Utilities.** Construction, reconstruction, burial or installation of gas, electric and communication service facilities and all appurtenances thereto, including, but not limited to those associated with improvements described in “Roadways” above and facilities owned by nongovernmental entities when such improvements are determined to be necessary for economic development purposes.
- **Stormwater.** Construction, reconstruction, relocation, modification and installation of stormwater, wetland and flood remediation projects and facilities (including without limitation stream relocation and retaining walls), both for storm water quantity and quality, including the payment and reimbursement for such projects and facilities on private property when determined to be necessary for public health, safety and welfare.
- **Demolition.** Demolition, including demolition of the existing structures on the Parcels.

- **Parks.** Construction or reconstruction of one or more public parks and park or recreational facilities, including grading, trees and other park plantings, park accessories and related improvements, multi-use trails and bridges, together with all appurtenances thereto.
- **Streetscape/Landscape.** Construction or installation of streetscape and landscape improvements including trees, tree grates, signage, curbs, sidewalks, scenic fencing, street and sidewalk lighting, trash receptacles, benches, newspaper racks, bike racks, burial of overhead utility lines and related improvements, together with all appurtenances thereto, including, but not limited to streetscape improvements in conjunction with and along the roadway improvements described in “Roadways” above.
- **Real Estate.** Acquisition of real estate or interests in real estate (including easements) (a) necessary to accomplish any of the foregoing improvements or (b) in aid of industry, commerce, distribution or research, including acquisition of interests in the Parcels by one or more public or private entities necessary for redevelopment of the Parcels.
- **Professional Services.** Engineering, consulting, legal, administrative, and other professional services associated with the planning, design, acquisition, construction and installation of the foregoing improvements and real estate.