

ORDINANCE RECORD
COUNCIL OF THE CITY OF BRECKSVILLE

Ordinance No. 5348

CREATING THE SHERWIN-WILLIAMS TIF PURSUANT TO OHIO REVISED CODE SECTIONS 5709.41, 5709.42 AND 5709.43, DECLARING IMPROVEMENTS TO CERTAIN PARCELS OF REAL PROPERTY TO BE A PUBLIC PURPOSE, REQUIRING THE OWNERS OF THE IMPROVEMENTS ON SUCH PARCELS TO MAKE SERVICE PAYMENTS IN LIEU OF TAXES, AND REPEALING ORDINANCE NO. 5306 ADOPTED ON MARCH 17, 2020, AND DECLARING AN EMERGENCY.

WHEREAS, under RC Section 5709.41, “improvements” (as such term is defined in RC Section 5709.41(A)(2)) to real property may be declared to be a public purpose if fee title to the real property was acquired by a municipal corporation engaged in urban redevelopment and the real property is conveyed by the municipal corporation either before or after the passage of this ordinance; and

WHEREAS, on March 17, 2020, in connection with The Sherwin-Williams Company’s (the “Company”) planned development of the Valor Acres property, this Council adopted Ordinance No. 5306 approving a tax increment financing incentive pursuant to Ohio Revised Code Section (“RC”) 5709.41 for the Valor Acres property; and

WHEREAS, the City of Brecksville (the “City”) and DiGeronimo Development LLC (the “Developer”) have been cooperating to facilitate the purchase of approximately 88 acres of real property adjacent to Valor Acres and commonly known as the “Dalad Land” (the “Adjacent Site”); and

WHEREAS, with the support and encouragement of the City administration and the Developer based on their plan to redevelop in an integrated manner the Valor Acres property and the Adjacent Site, 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 to create the Sherwin Williams Site as described and depicted on Exhibit A attached to this ordinance (the “SW Site”); and

WHEREAS, the Company has requested that this Council repeal the tax increment financing incentive approved for Valor Acres on March 17, 2020 by Ordinance No. 5306 and approve a tax increment financing incentive for the SW Site; and

WHEREAS, this Council and the City administration believes that shifting a portion of the Company’s planned research and development campus from Valor Acres to a portion of the

Adjacent Site and creating the SW 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, under RC Section 5709.41, the improvements to the SW Site so declared to be a public purpose may be exempted from real property taxation for a period of up to 30 years; and

WHEREAS, the City has determined that it is necessary and appropriate and in the City’s best interest to provide for the Company, or the other owners of the SW Site from time to time, to make service payments in lieu of taxes with respect to the SW Site pursuant to RC Section 5709.42 (the “Service Payments”); and

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WHEREAS, on March 17, 2020, this Council adopted Ordinance 5307 pursuant to RC Section 5709.43 to establish the Brecksville Urban Redevelopment Tax Increment Equivalent Fund, and further required the Finance Director to create an account within said fund for each TIF Ordinance adopted by this Council pursuant to RC Section 5709.41, which account for this Ordinance shall be designated the Sherwin-Williams Account (the "TIF Account") into which the Service Payments required to be paid pursuant to Section 2 shall be deposited; and

WHEREAS, the SW 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, and such school districts have been notified of the City's intent to pass this Ordinance in accordance with RC Sections 5709.41 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 entered into a Second Amended and Restated Compensation Agreement with respect to the exemptions granted by this Ordinance;

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

Section 1. Pursuant to and in accordance with the provisions of RC Section 5709.41, this Council hereby finds and determines that the City acquired the SW Site prior to the adoption of this ordinance while engaged in urban redevelopment and that 100% of the increase in the assessed value of the SW Site that would first appear on the tax list and duplicate of real property after the City's acquisition of the SW Site (which increase in assessed value is herein referred to as the "Improvement" or "Improvements" as defined in RC Section 5709.41(A)(2)) is a public purpose, and 100% of said Improvement is hereby declared to be a public purpose for a period of thirty (30) years commencing on the effective date of this ordinance .

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 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 TIF Account and used for the purposes described in the TIF Fund Ordinance, including without limitation making payments pursuant to the Second Amended and Restated Compensation Agreement with the BBH School District and paying costs of the improvements set forth in the Tax Increment Financing Agreement between the City and the Company. This Council hereby authorizes the Mayor, the Finance Director, the 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 5709.41(E), 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 5709.41(E).

Section 4. This Council hereby repeals Ordinance No. 5306 adopted by this Council on March 17, 2020.

Section 5. 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 to carry out the purposes of this ordinance.

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Section 6. 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 7. 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 Facility 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.

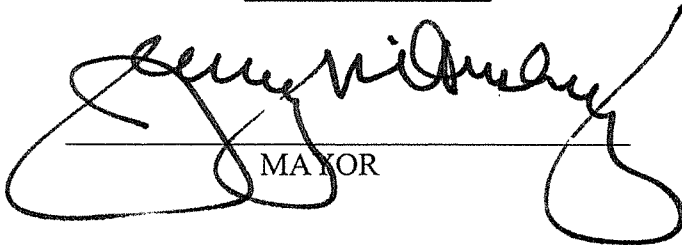
PASSED: October 20, 2020

APPROVED: October 20, 2020

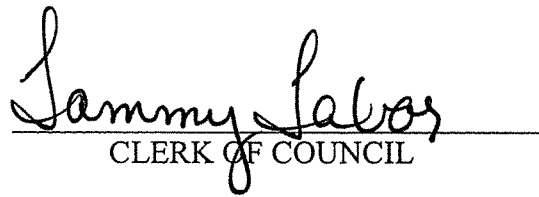
First Reading: September 1, 2020

Second Reading: September 15, 2020

Third Reading: October 20, 2020

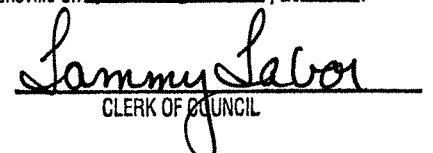


MAYOR



CLERK OF COUNCIL

I do hereby certify that the foregoing is a true and correct copy of Ordinance No. 5348 duly passed by the Council of the City of Brecksville, Ohio, on 10-20, 20 20 and that same was duly posted in accordance with the existing Charter of the City of Brecksville on 10-23, 20 20.



CLERK OF COUNCIL

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EXHIBIT A

SW Site

