

RESOLUTION NO. 21-19
VILLAGE OF PLAIN CITY, OHIO

A RESOLUTION AUTHORIZING AND DIRECTING THE VILLAGE ADMINISTRATOR, AS THE VILLAGE'S HOUSING OFFICER, TO EXECUTE A COMMUNITY REINVESTMENT AREA ABATEMENT AGREEMENT FOR THE PROPERTY LOCATED AT 138 WEST MAIN STREET.

WHEREAS, an application for a post-1994 community reinvestment area (CRA) property tax abatement under chapter 3735 of the Ohio Revised Code was received by the Village Housing Officer for the property located at 138 West Main Street; and

WHEREAS, a review was conducted by the Village Housing Officer of the application and the Housing Officer finds that the application meets the guidelines and requirements established by the Village to grant a CRA tax abatement; and

WHEREAS, the Johnathan Alder Local School District Board of Education (the Board) was provided a copy of the application for its review and consent; and

WHEREAS, on May 13, 2019, the Board consented to the granting of said abatement as proposed in the CRA abatement agreement attached hereto as Exhibit A; and

WHEREAS, Chapter 3735 of the Ohio Revised Code requires the legislative authority of the Village to take action to approve said abatement.

NOW THEREFORE, THE MUNICIPALITY OF PLAIN CITY HEREBY RESOLVES:

Section 1. The Village Administrator, as the Village's Housing Officer, is hereby authorized and directed to execute a community reinvestment area abatement agreement for the property located at 138 West Main Street in general accordance with Exhibit A attached hereto.

Section 2. The Village Administrator is further authorized and directed to take subsequent action, upon execution of said agreement, to fulfill the Village's requirements under said agreement.

Section 3. This Resolution shall be effective from and after the earliest period provided by law.

Passed: August 26, 2019.

Attest:

Renee Bonnett
Village Fiscal Officer

Darrin Lane
Mayor

First reading: July 22, 2019.

Second reading: August 12, 2019.

Third reading: August 26, 2019. Vote: 6 yea ___ nay ___ abstain

CERTIFICATE

The undersigned, Fiscal Officer of the Village of Plain City, Ohio, hereby certifies that the foregoing is a true and correct copy of Resolution Number 21-19, passed by the Council of the Village of Plain City, Ohio on the 26th day of August, 2019.

Renee Sonnett
Fiscal Officer, Village of Plain City, Ohio

Approved as to form.
Paul Michael-Lafayette
Village Solicitor

EXHIBIT A

COMMUNITY REINVESTMENT AREA ABATEMENT AGREEMENT

This Community Reinvestment Area Abatement Agreement ("**Agreement**") is made and entered between the VILLAGE OF PLAIN CITY, a municipal corporation with its offices at 213 South Chillicothe Street, Plain City, Ohio 43064 (the "**Village**"), and TIMOTHY D. DAWSON, ("**Owner**"), (both collectively referred to herein as the "**Parties**") and sets forth the complete understanding of the Parties as to the exemption of real property taxes on improvements made to the Property, defined below, pursuant to the Village's Community Reinvestment Area exemption program and Ohio Revised Code ("**ORC**") §§3735.65 *et seq.* (the "**CRA Exemption**").

WITNESSETH:

WHEREAS, the Village of Plain City, has created a "**Community Reinvestment Area**" pursuant to ORC Chapter 3735; and,

WHEREAS, the Village has encouraged the acquisition and redevelopment of real property in the Plain City Uptown Community Reinvestment Area; and,

WHEREAS, Owner has acquired real property within the Plain City Uptown Community Reinvestment Area and proposes to redevelop said property for the purpose of constructing new restaurant space and event space; and,

WHEREAS, pursuant to ORC §§3735.65 *et seq.*, the Village has the authority to provide, and is desirous of so providing Owner with a CRA Exemption to induce the Project, defined below; and,

WHEREAS, Owner filed an application with the Village on March 19, 2019, which said application is incorporated herein and referenced hereto as part of this Agreement (the "**Application**"), for an exemption from real property taxation of a percentage of assessed valuation of the redeveloped structure to be constructed under the Project, defined below, with such redeveloped structure to be used for commercial purposes; and,

WHEREAS, the Village verified the Application submitted by Owner and determined the construction meets the requirements for such a CRA Exemption; and,

WHEREAS, the Village will include in filings with the Ohio Development Services Agency regarding this matter the application fee, remitted by Owner, as such fee is set forth under ORC §3735.672(C) and Ohio Administrative Code Rule 122:9-1-01; and,

WHEREAS, the Village is required to obtain approval of the CRA Exemption by the Board of Education of the Jonathan Alder Local School District (the "**Board**"), pursuant to ORC §3735.671; and,

WHEREAS, the Village provided the Board with notice of the proposed CRA Exemption on Apr. 4, 2019 pursuant to the requirements set forth under ORC §5709.83; and,

WHEREAS, Owner and the Village acknowledge that this Agreement must be approved by formal action by the Plain City Village Council and the Board as a condition for this Agreement to take effect, with this Agreement thereafter taking effect upon any such approval; and,

WHEREAS, the Plain City Village Council adopted Resolution 22-19 on Aug. 26th, 2019, declaring that construction of the Project, defined below, are a public purpose for which exemptions from real property taxation may be granted (the "Improvements"); and,

WHEREAS, Owner and the Village further acknowledge that this Agreement has been entered into prior to the commencement of construction under the Project as defined herein.

NOW THEREFORE, in consideration of the mutual covenants hereinafter contained and he benefit to be derived by the Parties from the execution hereof, the Parties herein agree as follows:

§1. Project Description. Owner has purchased 150 West Main Street, Plain City, Ohio 43085, Madison County Auditor Parcel ID 04-00043.000 (the "**Property**") in fee and will construct new renovated commercial space (the "**Project**"). The Project will involve a total investment by Owner of approximately two hundred ninety-five thousand dollars (\$295,000.00).

The Project will commence on or about July 1, 2019 (the "**Commencement Date**"). It is intended that all construction and improvements will be completed by March 31, 2020.

§2. CRA Exemption. The Village hereby grants Owner a tax exemption equal to a percentage of the assessed valuation of the Property exempted hereunder, for the Improvements made under the Project, for the following period and for the following benefit level:

Exemption Period	Exemption Benefit Level
Twelve (12) Years	One Hundred Percent (100%)

The exemption provided under this §2 commences the first year for which the Property would first be taxable were that property not exempted from taxation under this Agreement. No CRA Exemption hereunder shall commence after tax year 2022 (i.e., tax lien date January 1, 2022), nor extend beyond tax year 2034.

Owner agrees and consents to the Village preparing and filing all necessary applications and supporting documents to obtain the exemption authorized by the CRA Exemption Statutes and the Village. The Village shall perform such acts as are reasonably or legally necessary or appropriate to effect, claim, reserve, and maintain the CRA Exemption granted under this Agreement, including, without limitation, joining in the execution of all documentation and providing any necessary certificates required in connection with such exemption.

§3. Annual Monitoring. Owner shall provide the Plain City Tax Incentive Review Council, organized under ORC §5709.85 ("Plain City TIRC"), any information reasonably required by the Plain City TIRC to evaluate Owner's compliance with this Agreement, including returns filed pursuant to ORC §5711.02 if requested by the Plain City TIRC.

Pursuant to ORC §3735.671(D), Owner shall remit an annual monitoring and reporting fee payable to the Village at such time as the Plain City TIRC requests information under this §3, with the annual fee equal to the greater of five hundred dollars (\$500.00) or one percent (1%) of the amount of taxes exempted hereunder up to a maximum two thousand five-hundred dollars (\$2,500.00) annually, for each year throughout the term of this Agreement.

§4. Taxes Otherwise Due. Owner shall pay such real property taxes as are not exempted under this Agreement and are charged against the Property and shall file all tax reports and returns as required by law. If Owner fails to pay such taxes or file such returns and reports, exemptions under this Agreement are rescinded beginning with the year for which such taxes are charged or such reports or returns are required to be filed and thereafter.

§5. CRA Exemption Continues. If, for any reason, the Community Reinvestment Area designation expires, or the Director of Development of the State of Ohio revokes his or her confirmation of the area, or the Village revokes the designation of the area, entitlements granted under this Agreement shall continue for the number of years specified under this Agreement, unless Owner materially fails to fulfill its obligations under this Agreement and the Village terminates or modifies the CRA Exemption pursuant to this Agreement.

§6. Certifications. Pursuant to ORC §3735.671(C)(3), Owner hereby certifies that at the time this Agreement is executed, Owner does not owe any delinquent real or tangible personal property taxes to any taxing authority of the State of Ohio, and does not owe delinquent taxes for which Owner is liable under Chapter 5733, 5735, 5739, 5741, 5743, 5747, or 5753 of the ORC, or, if such delinquent taxes are owed, Owner currently is paying the delinquent taxes pursuant to an undertaking enforceable by the State of Ohio or an agent or instrumentality thereof, has filed a petition in bankruptcy under 11 U.S.C.A. 101, *et seq.*, or such a petition has been filed against Owner. For the purposes of this §6, delinquent taxes are taxes that remain unpaid on the latest day prescribed for payment without penalty under the ORC chapter governing payment of those taxes.

§7. Failure to Comply. If Owner materially fails to fulfill its obligations under this Agreement, or if the City determines that the certification under §6, above, is fraudulent, the Village may terminate or modify the CRA Exemption under this Agreement, and may require the repayment of the amount of taxes that would have been payable had the Property not been exempted from taxation under this Agreement. Repayment of taxes under this §7 may be secured by the Village by a lien placed on the Property in the amount required to be repaid hereunder, and such lien shall attach, and may be perfected, collected and enforced in the same manner as a mortgage lien on real property, and shall otherwise have the same force and effect as such.

§8. Discontinuing Operations. If Owner discontinues operations at the Property prior to the expiration of the term of this Agreement, Owner and any successor or any related member shall not enter into an agreement under ORC §§3735.671, 5709.62, 5709.63 or 5709.632 within five years after such discontinuation. The CRA Exemption granted under this Agreement shall be revoked if it is determined that Owner, any successor to that person, or any related member has violated the prohibition against entering into this Agreement under ORC §§3735.671(E), 5709.62 or 5709.63 prior to the time prescribed by that division of either of those sections. For purposes of this §9, “successor” and “related member” have meanings as defined in ORC §3735.671(E).

§9. Non-Discriminatory Hiring Practices. As required under ORC §5709.85(D), and by executing this Agreement, Owner is hereby committing to offer equal opportunity and equal consideration to all persons who seek employment with Owner, that no individual will be discriminated against on the basis of race, color, ancestry, religion, creed, national origin, age, sex, veteran status, disability, and/or any other characteristic protected by applicable federal, State or local law.

§10. Agreement Not Transferrable. This Agreement is not transferrable or assignable without the express, written approval of the Village, which such approval shall not be unreasonably withheld.

§11. Non-Waiver. No failure by the Village to enforce its rights or seek its remedies under this Agreement upon any non-compliance or default by Owner shall affect or constitute a waiver of the Village’s rights to enforce that right or seek that remedy.

§12. Miscellaneous.

(a) **Notices.** Except as otherwise specifically set forth in this Agreement, all notices, demands, requests, consents or approvals given, required or permitted to be given hereunder shall be in writing and shall be deemed sufficiently given if actually received or if hand-delivered or sent by a recognized, overnight delivery service or by certified mail, postage prepaid and return receipt requested, addressed to the other party at the address set forth in this Agreement or any addendum to or counterpart of this Agreement, or to such other address as the recipient shall have previously notified the sender of in writing, and shall be deemed received upon actual receipt, unless sent by certified mail, in which event such notice shall be deemed to have been received when the return receipt is signed or refused. For purposes of this Agreement, Notices shall be addressed to:

If to Village: Village of Plain City
 Attn: Village Administrator
 213 South Chillicothe Street
 Plain City, OH 43064

If to Owner: Timothy D. Dawson
 490 Wilderness Road
 Marysville, OH 43040

The Parties, by notice given hereunder, may designate any further or different

addresses to which subsequent notices, certificates, requests or other communications shall be sent.

(b) Extent of Provisions: No Personal Liability. All rights, remedies, representations, warranties, covenants, agreements and obligations of the Village under this Agreement shall be effective to the extent authorized and permitted by applicable law. No representation, warranty, covenant, agreement, obligation, or stipulation contained in this Agreement shall be deemed to constitute a representation, warranty, covenant, agreement, obligation or stipulation of any present or future official, member, officer, agent or employee of the Village or Owner in other than his or her official capacity. No official executing or approving the Village's or Owner's participation in this Agreement shall be liable personally under this Agreement or be subject to any personal liability or accountability by reason of the issuance thereof.

(c) Amendments. This Agreement may only be amended by a written instrument executed by both Parties.

(d) Executed Counterparts. This Agreement may be executed in several counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same agreement. It shall not be necessary in proving this Agreement to produce or account for more than one of those counterparts.

(e) Severability. In case any section or provision of this Agreement, or any covenant, agreement, obligation or action, or part thereof, made, assumed, entered into or taken, or any application thereof, is held to be illegal or invalid for any reason:

(i) that illegality or invalidity shall not affect the remainder hereof or thereof, any other section or provision hereof, or any other covenant, agreement, obligation or action, or part thereof, made, assumed, entered into, or taken, all of which shall be construed and enforced as if the illegal or invalid portion were not contained herein or therein;

(ii) the illegality or invalidity of any application hereof or thereof shall not affect any legal and valid application hereof or thereof; and

(iii) each section, provision, covenant, agreement, obligation or action, or part thereof shall be deemed to be effective, operative, made, assumed, entered into or taken in the manner and to the fullest extent permitted by law.

(f) Captions. The captions and headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of the Agreement.

(g) Governing Law and Choice of Forum. This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio or applicable federal law. All claims, counterclaims, disputes and other matters in question between the City, its agents and employees, and the Company, its employees and agents, arising out of or relating to this Agreement or its breach will be decided in a court of competent jurisdiction within Franklin County, Ohio.

In witness thereof, the Parties have caused this Agreement to be executed this 25th
day of September, 2019.

VILLAGE OF PLAIN CITY

By: 
Nathan E. Cahall, Village Administrator

TIMOTHY D. DAWSON

By: 