

ORDINANCE No. 23-____

AN ORDINANCE AUTHORIZING THE EXECUTION OF A
FIRST AMENDMENT TO A COMMUNITY REINVESTMENT
AREA AGREEMENT; AND DECLARING AN EMERGENCY.

WHEREAS, this Council, by its Ordinance 14-77 created the Mixed Use Community Reinvestment Area (the “CRA”); and

WHEREAS, this Council, by its Resolution 19-08 granted a 15-year, 100% real property tax abatement to Ontario Hospitality Inc. (the “Company”) to secure the Company’s commitment to construct a new Holiday Inn Express and Suites Hotel, an IHG Hotel, containing 99 modern guest suites, a meeting room, treat shop, swimming pool, fitness center and business center on or about Lexington-Springmill Road near U.S. Route 30 in the City (the “Project”); and

WHEREAS, this Council, by its Resolution 19-30 authorized the execution of a Community Reinvestment Area Agreement (the “Original Agreement”) with the Company; and

WHEREAS, the Company is requesting the City agree to amend the Original Agreement to permit the real property tax abatement applicable to the Project to start in tax year 2024 (the “First Amendment”), which is the first year the Project would first be taxable absent the property tax abatement; and

WHEREAS, this Council has determined that it is in the best interest of the City and its citizens to proceed and enter into the First Amendment in support of the Project.

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

SECTION 1: This Council hereby approves the First Amendment in the form presently on file with the Clerk of Council, providing for, among other things, the provision of the real property tax exemption for the Project to start in tax year 2024, and authorizes any changes therein and completions thereto not inconsistent with this ordinance and not substantially adverse to this City and which shall be approved by the Mayor. The Mayor, for and in the name of this City, is hereby authorized to execute and deliver that First Amendment, provided further that the approval of changes and completions thereto by that official, and their character as not being substantially adverse to the City, shall be evidenced conclusively by the Mayor's execution thereof. This Council further hereby authorizes the Mayor, the Clerk of Council and the Director of Law, and other appropriate officers of the City, to sign those instruments and make those arrangements as are necessary carry out the purposes of this ordinance.

SECTION 2: The Mayor is authorized and directed to forward an executed copy of the First Amendment to the Director of the Ohio Department of Development on or before March 31, 2024 pursuant to Ohio Revised Code Section 3735.672.

SECTION 3: This Council finds and determines 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 any of its committees and that all deliberations of this Council or any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law, including Ohio Revised Code Section 121.22.

SECTION 4: This ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health or safety of the City, and for the further reason that this ordinance is required to be immediately effective in order to facilitate the orderly and

timely development of the Project site; wherefore, this ordinance shall be in full force and effect immediately upon its passage.

DATE:_____

Ayes_____ Nays_____ Abstain_____

Eddie Gallo, President of Council

APPROVED AS TO FORM:

ATTEST:

Andrew J. Medwid, Law Director

Cathy Van Auker, Clerk of Council

APPROVED:

Randy E. Hutchinson, Mayor

Date

DISAPPROVED:

Objections:_____

Randy E. Hutchinson, Mayor

Date

**FIRST AMENDMENT TO THE
COMMUNITY REINVESTMENT AREA AGREEMENT**

This First Amendment to the Community Reinvestment Area Agreement (the “First Amendment”) is made and entered into on [_____], 2023, by and between the City of Ontario, Ohio (the “CITY”), an Ohio municipal corporation, with offices located at 555 Stumbo Road, Ontario, Ohio 44906, and Ontario Hospitality Inc., an Ohio corporation (the “COMPANY”) with its offices located at 719 Earick Road, Mansfield, Ohio 44903. The CITY and the COMPANY are collectively referred to herein as the “Parties.” Capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the Original Agreement (as hereinafter defined).

WITNESSETH:

WHEREAS, the Ontario City Council by Resolution No. 14-77 designated the Mixed Use Community Reinvestment Area pursuant Chapter 3735 of the Ohio Revised Code; and

WHEREAS, pursuant to Resolution No. 19-08, the City granted the COMPANY with a 15-year 100% real property tax abatement; and

WHEREAS, pursuant to Resolution No. 19-30, the CITY and the COMPANY entered into a Community Reinvestment Area Agreement, on October 23, 2019 (the “Original Agreement”, and together with this First Amendment, the “CRA Agreement”), which generally provides for a 15-year, 100% real property tax abatement for the COMPANY to construct a new Holiday Inn Express and Suites Hotel, an IHG Hotel, containing 99 modern guest suites, a meeting room, treat shop, swimming pool, fitness center and business center on or about Lexington-Springmill Road near U.S. Route 30 in the CITY (the “Project”), all as further described in that Original Agreement; and

WHEREAS, by execution of this First Amendment, CITY and the COMPANY desire to amend the Original Agreement to permit the real property tax abatement applicable to the Project to start in tax year 2024, which is the first year the Project would first be taxable absent the property tax abatement;

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

SECTION 1. AMENDMENT TO ESTIMATED COMPLETION DATE. Section 1.2 of the Original Agreement is hereby amended and restated in its entirety as follows:

- 1.2 The PROJECT is estimated to begin on or before September 1, 2022, and all acquisition, construction and installation is estimated to be completed by December 31, 2023. The estimated provided in this Section are good faith estimated provided pursuant to Section 3735.671(B) of the Ohio Revised Code (in effect at the time of the Original Agreement) and shall not be construed in a manner that would limit the amount or term of the tax exemptions provided in this Agreement, other than as those tax exemptions are limited in Section 3.1 of this Agreement.

SECTION 2. AMENDMENT TO FINAL COMMENCEMENT YEAR. Section 3.1 of the Original Agreement is hereby amended and restated in its entirety as follows:

- 3.1 The CITY hereby grants the COMPANY a 100% real property tax exemption pursuant to Section 3735.67 of the Ohio Revised Code for a 15-year period for the PROJECT. The exemption commences the first year for which the real property would first be taxable were that property not exempted from taxation. No exemption shall commence after tax year 2024/collection year 2025, nor extend beyond tax year 2039/collection year 2040 (15-year exemption period).

SECTION 3. NO OTHER MODIFICATIONS. Except as amended or modified herein, all terms, covenants, and conditions of the CRA Agreement as heretofore in effect shall remain in full force and effect, and as amended and modified hereby, all of the terms, covenants, and conditions of the CRA Agreement are hereby ratified and affirmed in all respects. It is the intent of the Parties that the existing Original Agreement and this First Amendment be construed together as a single agreement provided, however, that the terms of this First Amendment shall control in the event of an irreconcilable conflict between the applicable terms of this First Amendment and the applicable terms of the Original Agreement.

SECTION 4. PROGRAM COMPLIANCE. This First Amendment may be executed in one or more counterparts, each of which constitutes an original agreement and all of which constitute one and the same original agreement. Delivery of an executed counterpart hereof by facsimile or in electronic format shall be effective as manual delivery of such counterpart.

[Signatures on the Next Page.]

IN WITNESS WHEREOF, CITY, by Randy E. Hutchinson, Mayor, and pursuant to Ordinance No. 23-____, and the COMPANY, by its duly authorized signor, has caused this Agreement to be executed on the date first set forth above.

COMPANY:

ONTARIO HOSPITALITY INC.,
an Ohio corporation

By: _____
Name: _____
Title: _____

CITY:

CITY OF ONTARIO

By _____
Randy E. Hutchinson, Mayor

Approved as to form:

Andrew J. Medwid, Director of Law