



Ohio Association of Public
Treasurers
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Development Agreements



Development Agreement

- Contract between two or more parties
- For project involving private development & public assistance
- Sets out rights and obligations of each party



When

- Anytime the public entity participates in private development
- Beyond
 - Building permit process
 - Zoning changes
 - Zoning waivers

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Assistance from public party

- property tax exemptions
- public infrastructure
- land
- income tax credits
- financial contributions
- utilities
- sales tax exemption
- loans
- grants

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Private entities provide

- new development
- redevelopment
- job creation
- increased valuation
- income taxes
- sales taxes
- property taxes
- compensation

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When

- Before approving incentives, giving any loans or grants, giving or selling public property, or constructing any public improvements
- After the terms of the deal have been determined and are final

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What

- What is each party doing/giving
- What is each party getting
- When must each component be done
- How must it be done
- Who is responsible for what
- Specific requirements/quality standards
- Prohibited uses

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What

- Contingencies
- Defaults
- Remedies
- Termination
- Indemnification
- Recording
- Assignability
- Prevailing Wages
- Public Bidding


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Separate Contracts

- Real Estate Transactions
- Construction Contracts
- Financing

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Separate or Combined

- Service Payment Agreement
- Cooperative Agreement
- Memorandum of Understanding
- Letter of Intent

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Who

- All public entities contributing to or responsible for project
- All private entities responsible for or contributing to project



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Why

- Memorialize terms of deal
- Provide mechanism to deal with disputes
 - clawback of incentives
 - early termination of exemptions
 - monetary damages
 - specific performance



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What can public entity contribute

➤ Municipality

- Property tax exemptions
- Income tax credits
- Zoning
- Loans
- Public infrastructure
- Land

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What can public entity contribute

➤ County

- Property tax exemptions
- Loans
- Conduit bonds
- Public infrastructure
- Land (indirectly)
- Sales tax exemptions

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What can public entity contribute

➤ Township

- Property tax exemptions
- Public infrastructure
- Land (indirectly)

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Schools cannot contribute to economic development directly
Can approve/consent to property tax exemptions
Can negotiate compensation

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Evaluate advantages and disadvantages

- monetary & intangible
- does project fit community master plan

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Community benefits

- housing
- healthcare
- retail
- restaurant
- services
- hotel
- job creation
- amenities
- infrastructure

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Disadvantages

- traffic
- need police & fire services
- loss of green space
- finite resources
- pollution
- change character of community



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Authority

- Constitution
 - prohibition against lending of credit partnerships joint ventures
 - exceptions for economic development
 - no pledge of tax dollars
- Statutes
 - specific authority
 - lack of prohibition
- Charter provisions
- Local ordinances/resolutions



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