

AMENDING ORD. 511-18 (IRONVILLE TIF)

Law

E. Granata (x1034)

Revised

**Amending Ord. 511-18 which authorized a Tax Increment Financing exemption for certain real property known as the Ironville Site and made various declarations and authorizations related thereto, by amending existing Sections 3, 4, and 5 and enacting a new Section 4 to provide for minimum service payments pursuant to ORC section 5709.91; renumbering sections 6 through 13 as sections 7 through 14 respectively; and declaring an emergency.**

SUMMARY & BACKGROUND:

Ord. 511-18 (See Attachment 1) authorized a Tax Increment Financing (“TIF”) exemption for improvements to real property in an area located within the territorial boundaries of the City and within an area known as the “Ironville Site,” consisting of one or more separate parcels of real property (as depicted and described in Exhibit A to Ord. 511-18 and attached hereto, each a “Parcel” and, collectively, the “Site”).

Ord. 511-18, as authorized by Sections 5709.40 through 5709.43 of the Ohio Revised Code (“ORC”), declared the improvement to certain real property to be a public purpose and declared such improvements to be exempt from real property taxation; authorized necessary agreements; required the owners of that property to make service payments in lieu of taxes, including to the Toledo Public Schools; designated the public infrastructure improvements to be made that will directly benefit the real property; and established a municipal public improvement tax increment equivalent fund for the deposit of service payments; and declared an emergency.

The TIF authorized by 511-18 is a key support and incentive for the construction and implementation of the Cliffs Natural Resources Inc. HBI production project and will benefit residents by creating new jobs and economic opportunities, enlarging the property tax base, stimulating collateral development in the City, and providing revenue for the city and the Toledo-Lucas County Port Authority to undertake public infrastructure improvements. The public infrastructure improvements, as that term is defined in ORC §5709.40(A)(7), was described in Exhibit B to Ord. 511-18 and is also attached hereto and incorporated herein (the “Public Infrastructure Improvements”).

As provided in Section 2 of Ord. 511-18, which is not amended by this amending Ordinance, the Toledo City School District has authorized a compensation agreement for this TIF exemption by its Resolution 107-18.

This amendment is necessary, as due to the financing of certain improvements, the City and Port Authority intend, pursuant to ORC §5709.91 and to the proposed TIF Agreement, to require the owners of certain Parcels to make minimum service payments to the County Treasurer or the Port Authority on or before the final dates for payment of real property taxes, in the minimum amounts set forth in the amended Section 4 of this Ordinance and in the Declaration of Covenants and Conditions Relative to Minimum Service Payment Obligations and Other Matters (a “Declaration”) as applicable to a Parcel that is or will be subject to a minimum service payment as set forth herein and therein. Additionally, these amendments authorize the City to enter into one or more cooperative agreements with the Port Authority and others related to the financing of the public improvements, and to authorize reimbursement to IronUnits LLC for certain public infrastructure improvements.

Except as specifically amended herein, all provisions of Ord. 511-18 remain in full force and effect. NOW, THEREFORE,

Be it ordained by the Council of the City of Toledo:

SECTION 1. That Section 3 of Ord. 511-18 which reads as follows:

SECTION 3. Payment of Service Payments. That, as provided in ORC §5709.42, but only after the TIF Exemption is effective, the Owner of a parcel comprising Exempted Property shall be required to, and shall make, service payments in lieu of taxes with respect to the Improvement allocable thereto to the County Treasurer on or before the final due dates for payment of real property taxes. Each service payment in lieu of taxes shall be charged and collected in the same manner and in the same amount as the real property taxes that would have been charged and payable against such parcel as if it were not exempt from taxation pursuant to Section 1 hereof. If any reduction in the levies otherwise applicable to such parcel is made by the County budget commission under ORC §5705.31, the amount of the service payment in lieu of taxes shall be calculated as if the reduction in levies had not been made. Any late payments of service payments in lieu of taxes shall be subject to penalty and bear interest at the then current rate established under ORC §§323.121(B)(1) and 5703.47 or any successor provisions thereto, as the same may be amended from time to time, or any successor provisions thereto (the "Penalties and Interest"). Each Owner shall make any other payments in respect of such parcel which are received by the County Treasurer in connection with any reduction required by ORC §319.302, as the same may be amended from time to time, or any successor provisions thereto (the "Property Tax Rollback Payments," together with the service payments in lieu of taxes and the "Penalties and Interest," are collectively referred to as the "Service Payments"). The Service Payments shall be allocated and distributed in accordance with Section 5.

is repealed.

SECTION 2. That a new Section 3 of Ord. 511-18 is enacted to read:

SECTION 3: Payment of Service Payments. That, as provided in ORC §5709.42, but only after the TIF Exemption is effective, the Owner of a parcel comprising Exempted Property shall be required to, and shall make, service payments in lieu of taxes with respect to the Improvement allocable thereto to the County Treasurer on or before the final due dates for payment of real property taxes. Each service payment in lieu of taxes shall be charged and collected in the same manner and in the same amount as the real property taxes that would have been charged and payable against such parcel as if it were not exempt from taxation pursuant to Section 1 hereof. If any reduction in the levies otherwise applicable to such parcel is made by the County budget commission under ORC §5705.31, the amount of the service payment in lieu of taxes shall be calculated as if the reduction in levies had not been made. Any late payments of service payments in lieu of taxes shall be subject to penalty and bear interest at the then current rate established under ORC §§323.121(B)(1) and 5703.47 or any successor provisions thereto, as the same may be amended from time to time, or any successor provisions thereto (the "Penalties and Interest"). Each Owner shall make any other payments in respect of such parcel which are received by the County Treasurer in connection with any reduction required by ORC §319.302, as the same may be amended from time to time, or any successor provisions thereto (the "Property Tax Rollback Payments," together with the service payments in lieu of taxes, including but not

limited to the minimum service payment described in Section 4 below, and the “Penalties and Interest,” are collectively referred to as the “Service Payments”). The Service Payments shall be allocated and distributed in accordance with Section 5.

SECTION 3. That Section 4 of Ordinance 511-18 which reads:

SECTION 4. Agreements Authorized. That the Mayor is authorized to execute on behalf of the City one or more TIF Agreements, among the City, the Port Authority and the tenants, providing for, among other things, the payment and collection of the Service Payments, which TIF Agreement shall be in such form as is acceptable to such official or officials executing the agreement, approved by the Director of Law, and not substantially inconsistent with the terms of this Ordinance. The Mayor is further authorized to enter into the service and compensation agreements with the Port Authority and, if appropriate, any tenants, and the School District. Any agreement with the Schools shall acknowledge that the Schools are waiving any income tax sharing to which they may, arguably, have otherwise been entitled.

is repealed.

SECTION 4. That a new Section 4 of Ordinance 511-18 is enacted to read:

SECTION 4. Minimum Service Payments. Pursuant to ORC §5709.91 and the Declaration, during the period when the exemption granted by this Ordinance is in effect for each Parcel, Owners are hereby required to make, and shall make, minimum service payments with respect to the Improvements on each such Parcel to the County Treasurer or the Port Authority on or before the final dates for payment of real property taxes. Each minimum service payment shall be in the amount of the difference, if any, between the service payments in lieu of taxes to be collected for any tax year for payment of real property taxes and the amount of Debt Service payable in the applicable year or collection of those service payments in lieu of taxes to be collected for that tax year before accounting for the collection of any minimum service payments.

SECTION 5. That Section 5 of Ordinance 511-18 which reads:

SECTION 5. Creation of TIF Fund; Application of Service Payments. That, pursuant to and in accordance with the provisions of ORC §5709.43, a municipal public improvement tax increment equivalent fund (the “Tax Increment Fund”) is established within the City Treasury, which may, at the option of the officials responsible for creating such fund, be established as an account within an existing tax increment equivalent fund of the City, into which shall be deposited the Service Payments made in respect of the Improvements which are distributed to the City by the County Treasurer in accordance with this Ordinance.

Money in the Tax Increment Fund shall be used first to compensate the School District pursuant to the Compensation Agreement and then to finance the Public Infrastructure Improvements, and shall, to the extent provided in further ordinances of this Council, be pledged to the payment of debt service on any bonds, notes or other obligations issued to finance such Public Infrastructure Improvements as well as any reimbursement payments to the Port Authority for reimbursement of any costs of the Public Infrastructure Improvements. The Tax Increment Fund shall be maintained in the custody of the City and shall receive all distributions of Service Payments required to be made to the City. Those Service Payments received by the City with respect to the Exempted Property, shall be used solely for the purposes authorized in ORC §§5709.40

through 5709.43, including, but not limited to, school compensation and paying any costs of the Public Infrastructure Improvements. For purposes of this Ordinance, “costs” of the Public Infrastructure Improvements payable from the Tax Increment Fund shall also include the items of “costs of permanent improvements” set forth in ORC §133.15(B), and incurred with respect to the Public Infrastructure Improvements, which “costs” specifically include any reimbursement payments for the reimbursement of the costs of the Public Infrastructure Improvements, and Debt Service on, and any Administrative or other expenses relating to the issuance of, any bonds, notes, or other obligations issued to finance the Public Infrastructure Improvements.

The Tax Increment Fund shall remain in existence so long as such Service Payments are collected and used for the aforesaid purposes, after which time the Tax Increment Fund shall be dissolved and any surplus funds remaining therein shall be transferred to the City’s General Fund, all in accordance with ORC §5709.43(D).

is repealed.

SECTION 6: That a new Section 5 of Ordinance 511-18 is enacted read:

SECTION 5. Agreements Authorized. That the Mayor is authorized to execute on behalf of the City one or more TIF Agreements, among the City, IronUnits LLC, the Port Authority and the tenants, providing for, among other things, the payment and collection of the Service Payments, which TIF Agreement shall be in such form as is acceptable to such official or officials executing the agreement, approved by the Director of Law, and not substantially inconsistent with the terms of this Ordinance. The Mayor is further authorized to enter into the service and compensation agreements with the Port Authority and, if appropriate, any tenants, IronUnits LLC and the School District. Any agreement with the Schools shall acknowledge that the Schools are waiving any income tax sharing to which they may, arguably, have otherwise been entitled. The Mayor is further authorized to enter into one or more cooperative agreements with the Port Authority, and, if appropriate, any tenants, IronUnits LLC, and, if appropriate, the trustee of any bonds, notes, or other obligations issued to finance the Public Infrastructure Improvements, which cooperative agreements shall be in such form as is acceptable to such official or officials executing the agreement, approved by the Director of Law, and not substantially inconsistent with the terms of this Ordinance.

SECTION 7. That Sections 6 through 13 of Ordinance 511-18 are renumbered as Sections 7 through 14, respectively, without any other changes or amendments thereto.

SECTION 8. That a new Section 6 of Ordinance 511-18 is enacted to read:

SECTION 6. Creation of TIF Fund; Application of Service Payments. That, pursuant to and in accordance with the provisions of ORC §5709.43, a municipal public improvement tax increment equivalent fund (the “Tax Increment Fund”) is established within the City Treasury, which may, at the option of the officials responsible for creating such fund, be established as an account within an existing tax increment equivalent fund of the City, into which shall be deposited the Service Payments made in respect of the Improvements which are distributed to the City by the County Treasurer in accordance with this Ordinance.

Money in the Tax Increment Fund shall be used first to compensate the School District pursuant to the Compensation Agreement and then to finance the Public Infrastructure Improvements, and shall, to the extent provided in further ordinances of

this Council, be pledged to the payment of debt service on any bonds, notes or other obligations issued to finance such Public Infrastructure Improvements as well as any reimbursement payments to the Port Authority or IronUnits LLC for reimbursement of any costs of the Public Infrastructure Improvements. The Tax Increment Fund shall be maintained in the custody of the City and shall receive all distributions of Service Payments required to be made to the City. Those Service Payments received by the City with respect to the Exempted Property, shall be used solely for the purposes authorized in ORC §§5709.40 through 5709.43, including, but not limited to, school compensation and paying any costs of the Public Infrastructure Improvements. For purposes of this Ordinance, “costs” of the Public Infrastructure Improvements payable from the Tax Increment Fund shall also include the items of “costs of permanent improvements” set forth in ORC §133.15(B), and incurred with respect to the Public Infrastructure Improvements, which “costs” specifically include any reimbursement payments for the reimbursement of the costs of the Public Infrastructure Improvements, and Debt Service on, and any Administrative or other expenses relating to the issuance of, any bonds, notes, or other obligations issued to finance the Public Infrastructure Improvements.

The Tax Increment Fund shall remain in existence so long as such Service Payments are collected and used for the aforesaid purposes, after which time the Tax Increment Fund shall be dissolved and any surplus funds remaining therein shall be transferred to the City’s General Fund, all in accordance with ORC §5709.43(D).

SECTION 9. Notification of Adoption; Reporting. Pursuant to Ohio Revised Code Section 5709.40(H), the Clerk is directed to deliver a copy of this Ordinance Amending Ordinance 511-18 to the Director of the Development Services Agency of the State of Ohio within fifteen days after its adoption.

SECTION 10. Open Meeting. It is found and determined that all formal actions of this Council concerning and relating to the adoption 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 Section 121.22 of the Ohio Revised Code.

SECTION 11. Emergency. That this Ordinance is declared to be an emergency measure and shall be in force and effect from and after its passage. The reason for the emergency lies in the fact that same is necessary for the immediate preservation of the public peace, health, safety, and property and that it is necessary that this Ordinance become effective in 2018 so that the construction and implementation of the Cliffs’ project can move forward on timely bases and the public benefits from the project can be most effectively finalized.

Vote on emergency clause: yeas \_\_, nays \_\_.

Passed: \_\_\_\_\_, 2019, as an emergency measure: yeas \_\_, nays \_\_.

Attest:

\_\_\_\_\_  
Clerk of Council

\_\_\_\_\_  
President of Council

Approved: \_\_\_\_\_, 2019  
Wade Kapszukiewicz  
Mayor