



Legislation Text

File #: O-114-20, **Version:** 1

Hawthorne Hills TIF
Business Development
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Declaring the improvements to certain real property parcels within the City to be a public purpose; describing the public improvements to be made to directly benefit such parcels; exempting such improvements from ad valorem real property taxation for a period of 30 years; requiring the owner of the improvements to make service payments in lieu of taxes; establishing a municipal public improvement tax increment equivalent fund for the deposit of the service payments, authorizing various agreements and actions, all pursuant to sections 5709.40, 5709.42, 5709.43 and other provisions of the Ohio Revised Code; and declaring an emergency.

SUMMARY & BACKGROUND:

Sections 5709.40, 5709.42 and 5709.43 of the Ohio Revised Code (“ORC”) (the “Act”) provide that Council may describe public improvements to be made that directly benefit certain parcels of real property located in the City, declare public infrastructure improvements (as defined in §5709.40) with respect to such parcels to be a public purpose, authorize the exemption from real property taxation of improvements to such parcels for a period of time, provide for the making of service payments in lieu real property taxes (“Service Payments”) by the owner of such parcels, and establish a municipal public improvement tax increment equivalent fund into which such service payments shall be deposited, with such mechanism commonly referred to as tax increment financing (“TIF”).

The City of Toledo (“City”) desires to use the authority granted under the above referenced Act to establish a TIF exemption for certain property, known as Hawthorne Hills at 2040 S. Reynolds Rd., formerly the Southwyck Mall property, (the “Property”) as more particularly described in the attached Exhibit A (the “TIF Parcel”) for the purpose of providing and paying for the costs of public infrastructure improvements as defined in ORC § 5709.40(A)(8) and as further described in the attached Exhibit B (the “Public Infrastructure Improvements”) that will directly benefit the TIF Parcel, the surrounding area and the greater community.

By In 2014, pursuant to Ord. 514-14 Council authorized the purchase of the Property in order to consolidate ownership and position the site for redevelopment. A separate ordinance authorizes the conveyance of the property to Amazon for additional investment and improvement of the site to support a delivery facility operation resulting in the creation of new jobs. The TIF will allow the City to recoup investment in the Property and provide funds for public infrastructure improvements that would benefit the Property and the general area.

In addition to benefits to the TIF Parcel, the establishment of a Hawthorne Hills TIF will benefit the City and its residents by creating economic and job opportunities and stimulating collateral development in the City.

The proposed TIF would run with the land and take priority over any other tax exemption, except as may otherwise be permitted in the future by the Council through a duly enacted Ordinance.

City has delivered to the Toledo City School District (“School District”) the written notification of this Ordinance required by ORC §§ 5709.40, 5709.83 and 5715.27. The City and the School District shall enter into a written compensation agreement. The School District shall be paid a portion of the Service Payments, with the amount paid being consistent with that required under the School District’s Resolution 304-2015.

NOW, THEREFORE, Be it ordained by the Council of the City of Toledo:

SECTION 1. TIF Parcel. That a certain parcel of real property in the City as more particularly described in Exhibit A attached hereto (the “TIF Parcel”) is being or will be developed, redeveloped, constructed or renovated (the “Improvements” and collectively, the “Development”); and in order to successfully develop the TIF Parcel it is necessary to have made, make or cause to be made certain public improvements as defined in Section 5709(A)(8) of the Ohio Revised Code (“ORC”) and as further described in Exhibit B attached hereto (the “Public Infrastructure Improvements”).

SECTION 2. Public Infrastructure Improvements. That the Public Infrastructure Improvements, as described in the attached Exhibit B, including the site acquisition by the City, are designated as public improvements that directly benefit, or that once made will directly benefit, the TIF Parcel and the City and, together with the balance of the Development, are determined to be a public purpose necessary for the public health, safety, welfare and economic development purposes of the City.

SECTION 3. Authorization of TIF Exemption. That, pursuant to and in accordance with the provisions of ORC §5709.40(B), one hundred percent (100%) of the increase in the assessed value of the TIF Parcel that would first appear on the tax list and duplicate of real property after the effective date of this Ordinance (which increase in assessed value is herein referred to as the “Improvement” or “Improvements” as defined in ORC §5709.40(A)(4)) is declared to be a public purpose, and shall be exempt from real property taxation (the “TIF Exemption”) for a period of 30 years, with such exemption from taxation commencing with the tax year in which the Exempted Property first appears on the tax list and duplicate of real and public utility property and that begins after the effective date of this Ordinance (the “Commencement Date”) and ending on the thirtieth (30th) anniversary of such Commencement Date or the date the Public Infrastructure Improvements are paid in full, whichever occurs first (the “Exemption Period”). After the TIF Exemption becomes effective, such TIF Exemption shall commence with respect to the parcel when the Improvement to such parcel is made and an exemption there for is claimed in the manner provided by this ordinance and applicable law.

SECTION 4. Payment of Service Payments. That, as provided in ORC §5709.42, the owner or owners of the Improvements are hereby required to and shall pay service payments in lieu of ad valorem real property taxes to the Lucas County Treasurer on or before the final dates for payment of real property taxes, which service payments in lieu of ad valorem real property taxes, together with any associated rollback payments shall be deposited in the Hawthorne Hills Municipal Public Improvement Tax Increment Equivalent Fund described in Section 7. Any late payments of service payments in lieu of ad valorem real property taxes shall be subject to penalty and bear interest at the then current rate established under ORC §§ 323.121(B)(1) and 5703.47, as may hereinafter be amended, or any successor provisions thereto (the late payments together with the service payments in lieu of ad valorem real property taxes and rollback payments are referred to collectively as the “Service Payments”). The Service Payments shall be allocated and distributed in accordance with Sections 6 and 7.

SECTION 5. TIF Exemption Priority. That the TIF Exemption authorized in Section 3 shall run with the land and be binding on subsequent owners of the TIF Parcel and shall have priority over any other exemption

that may be granted with respect to the TIF Parcel or portion thereof under any other provision of the Ohio Revised Code, pursuant to ORC § 5709.911(B)(2). The City and TIF Parcel owner shall take such actions as required under ORC § 5709.911, including filing the application and recording a notice and declaration in the Lucas County Records, to ensure the priority of the TIF Exemption and the requirement to make Service Payments related thereto.

SECTION 6. School Compensation Agreement. That the mayor is authorized to enter into a written compensation agreement with the Toledo City School District (“School District”) to provide for payments in lieu of taxes to the School District as authorized by ORC §5709.82 and by the School District’s Resolution No. 304-2015. The City may request the Lucas County Auditor or Lucas County Treasurer to pay to the School District from the Service Payments the amounts due under the compensation agreement and remit the balance of such Service Payments (the “Net Service Payments”) to the City in accordance with Section 7.

SECTION 7. Creation of TIF Fund; Application of Service Payments. That Council establishes, pursuant to and in accordance with the provisions of ORC §5709.43, within the City Treasury, the Hawthorne Hills Municipal Public Improvement Tax Increment Equivalent Fund (the “TIF Fund”) into which there shall be deposited the Service Payments made with respect to the Improvements on the TIF Parcel, after payment of compensation to the School District, which are distributed to the City by the County Treasurer or County Auditor in accordance with this Ordinance, as provided in ORC §5709.42. Council specifies that moneys in the TIF Fund shall be used solely for the purposes authorized in the Act and in this Ordinance, including to pay the costs of Public Infrastructure Improvements made by the City, whether directly or pursuant to an agreement with another entity, including but not limited to, the interest and any premium on, and principal of, any loans entered into or bonds or notes or other obligations issued or by the City or any other entity to finance costs of the Public Infrastructure Improvements (including any amendment, replacement, refinancing, extension of such loans, bonds, notes or other obligations), until such notes or bonds or other obligations or loans are paid in full, and to pay any trustee, administrative and other costs related to servicing the obligations and providing and replenishing a reserve fund and to pay any costs charged by the issuer of the obligations. The TIF 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. The TIF Fund shall remain in existence so long as the Service Payments are collected and used for the aforesaid purposes, after which said TIF Fund shall be dissolved in accordance with ORC §5709.43.

SECTION 8. Further Authorizations. That the mayor and other City officials as appropriate are authorized to execute all documents and agreements and make such arrangements as are necessary and proper for (i) collection of the Service Payments to be deposited in the TIF Fund, (ii) providing for payments under the compensation agreement to the School District, (iii) the payment of the Public Infrastructure Improvements and (iv) carrying out the provisions of this Ordinance.

SECTION 9. Notification of Adoption; Reporting. That pursuant to ORC §5709.40(I), the Clerk of Council is directed to deliver or cause to be delivered a copy of this Ordinance to the Director of the Ohio Development Services Agency (the “Director”) within 15 days after its passage. On or before March 31 of each year that the exemption set forth in Section 2 remains in effect, the mayor or other authorized officer of this City shall prepare and submit to the Director the status report required under §5709.40(I).

SECTION 10. Tax Incentive Review Council. That the Toledo Tax Incentive Review Council (the “TIRC”) as been established in accordance with ORC §5709.85. The TIRC shall review annually all exemptions from taxation resulting from the declarations set forth in this Ordinance and any other such matters as may properly come before the TIRC.

SECTION 11. Open Meeting. That Council finds and determines that all formal actions of this Council and of any of its committees concerning and relating to the passage of this Ordinance were taken, and that all deliberations of this Council and of any committees that resulted in those formal actions, were held in meetings open to the public in compliance with the law.

SECTION 12. 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 the same is necessary for the immediate preservation of the public peace, health, safety, and property and for the further reason that it is necessary in order for the TIF application and other authorized documents to be executed in conjunction with the conveyance of the Property from the City to Amazon.

Vote on Emergency clause: yeas _____, nays _____

Passed: _____, as an emergency measure: yeas _____, nays _____

Attest: _____
 Clerk of Council

President of Council

Approved: _____

Mayor

I hereby certify that the above is a true and correct copy of an Ordinance passed by Council _____.

Attest: _____
 Clerk of Council