



Legislation Text

File #: O-068-21, **Version:** 1

North Towne TIF
Department of Economic Development
B. Schlhorst (x1692) / E. Granata (x1034)

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 owners thereof to make service payments in lieu of taxes; establishing a municipal public improvement tax increment equivalent fund for the deposit of service payments; authorizing various agreements and actions, all pursuant to sections 5709.40, 5709.42, 5709.43, 5709.83, 5709.91, 5709.911 and other provisions of the Ohio Revised Code; and declaring an emergency.

SUMMARY & BACKGROUND:

Sections 5709.40 through 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, Ohio (“City”) desires to use the authority granted pursuant to such sections of the ORC to establish a TIF exemption for certain real property, known as the former North Towne Square Mall (“Property”), as more particularly described in the attached Exhibit A (“TIF Parcels”) for the purposes 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 Parcels, the surrounding area and the greater community.

The North Towne Square Mall opened in 1980 and closed in 2005. Between 2005 and 2011 the former mall structure fell in to an extreme state of disrepair. The City negotiated an agreement with the owners that addressed blighted and hazardous conditions and secured its investment by taking title to the mall site (“Property”). Pursuant to Ordinance 537-11, the City entered into a Development Agreement and Real Estate Purchase Option Agreement with the owners of the site. The City acquired the Property and remediated and demolished the structure using brownfield remediation funding from the U.S. EPA and Racetrack Redevelopment Funding from the Ohio Development Services Agency. In exchange and in consideration for the transfer of title for a nominal amount, the mall owners were granted in return an option to re-purchase the property at appraised value less the documented costs related to demolition and holding expenses. Since 2011, the Property has remained vacant without real potential of redevelopment primarily because of cross-access easements between the city-owned parcel and an adjacent property. The property owned by Development 2002,

LLC was a former department store that was attached to the mall complex. It is now home to Super Fitness, a popular health and fitness center. The cross-access easements were originally in place to allow mall patrons to access all parts of the mall despite differences in property ownership. The cross-access easements were never released. Title to the City's Property remains encumbered and a deterrent to sale and redevelopment. A separate ordinance authorizes amendments to previous agreements that will reposition the site to attract a project that creates jobs.

Mel Simon Dr., Skyview Dr., New Towne Square Dr., and Teletowne Dr. are all public roads that are adjacent to the Property. All of the roadways are in very poor condition and will need to be addressed with any redevelopment that occurs at the Property. The North Towne TIF will create a mechanism in which the City can recoup its investment in public infrastructure that will benefit the Property. The TIF will 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.

The City has delivered to the Washington Local 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 receive an amount equal to one hundred percent (100%) of what the School District would have received if not for the North Towne TIF. Further, in exchange for the Service Agreement, the School District agrees to waive and release any and all rights it may have pursuant to Ohio Revised Code section 5709.82 or otherwise to share in the increased income tax revenue collected by the City of Toledo resulting from a project on the Property.

The fiscal impact of this ordinance is as follows:

- The amount of funds requested: Not Applicable
- The expenditure budget line item: Not Applicable
- New revenue generated (operational revenue, grants, if any): Not Applicable
- Revenue budget line item (if any): Not Applicable
- Are funds budgeted in the current fiscal year (yes/no)? : Not Applicable
- Is this a capital project (yes/no)? No
- If yes, is it new or existing (new/existing)? Not Applicable
- What section of the City's Strategic Plan does this support:
 - o Excellence in Basic Services (yes/no) No
 - o Quality Community Investment (Livable City, Development) (yes/no) Yes
 - o Workplace Culture & Customer Service (yes/no) No
 - o Environment (yes/no) No

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

SECTION 1. TIF Parcels. That certain parcels of real property in the City as more particularly described in Exhibit A attached hereto (the "TIF Parcels") are being or will be developed, redeveloped, constructed or renovated (the "Improvements" and collectively, the "Development"); and in order to successfully develop the TIF Parcels 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, but not limited to, the site acquisition, demolition and

remediation and public road or utility improvements by the City, are designated as public improvements that directly benefit, or that once made will directly benefit, the TIF Parcels and the City, 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 assessed value of each parcel comprising the TIF Parcels (the “Exempted Property”) subsequent to the effective date of this Ordinance (which increase in assessed value is hereinafter referred to as the “Improvement,” 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 commencing with the tax year in which the Improvements 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 any parcel when the Improvement to such parcel is made and an exemption therefor is claimed in the manner provided by this ordinance and applicable law.

SECTION 4. School Compensation Agreement. That the authorization of the TIF Exemption in Section 3 is subject to the execution of a compensation agreement with the Washington Local School District (“School District”) providing for payments in lieu of taxes (“Compensation Agreement”). 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 5. 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 ad valorem real property 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 3 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 4 and 6.

SECTION 6. 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 North Towne Municipal Public Improvement Tax Increment Equivalent Fund (the “TIF Fund”) into which there shall be deposited the Service Payments made with respect to the Public 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 and authorizes 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 7. 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), unless the City Council provides its written consent to a subsequent exemption by means of a duly enacted ordinance. The City and/or the 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 8. Agreements. That the Mayor is authorized to execute on behalf of the City one or more TIF Agreements providing for, among other things, the payment and collection of the Service Payments, which TIF 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 inconsistent with the terms of this Ordinance. The Mayor is further authorized to enter into the Compensation Agreement with 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.

SECTION 9. 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 10. Non-Discriminatory Hiring Policy. That, in accordance with ORC §5709.832, the City determines that no employer located on the Site shall deny any individual employment based on considerations of race, religion, sex, disability, color, national origin or ancestry.

SECTION 11. Tax Incentive Review Council. That the Toledo Tax Incentive Review Council (the "TIRC") has 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 12. 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 3 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 13. 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 14. 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 in order to expedite the development of the TIF Parcels.

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