



Legislation Details (With Text)

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On agenda: 4/30/2012 **Final action:** 5/2/2012

Title: To authorize and direct the Director of the Department of Development to execute an Assignment of and Amendment to TIF Project and Reimbursement Agreement for the construction of a parking garage containing 250 public parking spaces in the Short North Incentive District; and to declare an emergency.

Sponsors:

Indexes:

Code sections:

Attachments:

| Date | Ver. | Action By | Action | Result |
|-----------|------|-----------------------|----------|--------|
| 5/2/2012 | 1 | CITY CLERK | Attest | |
| 5/1/2012 | 1 | MAYOR | Signed | |
| 4/30/2012 | 1 | COUNCIL PRESIDENT | Signed | |
| 4/30/2012 | 1 | Columbus City Council | Approved | Pass |

Background: In December 2005, City Council passed Ordinance 2172-2005 approving the creation of the Short North Incentive District. Service payments in lieu of taxes made with respect to improvements within the Short North Incentive District are diverted to the Short North Tax Equivalent Fund and are intended to finance the creation of public parking spaces in the Short North Incentive District to relieve parking overcrowding and spur job creation. A 2005 parking study identified a need for 500 additional parking spaces in the Short North TIF District.

In 2007, City Council passed Ordinance 0176-2007 authorizing the Director of Development to enter into a TIF Project and Reimbursement Agreement (the "TIF Agreement") by and between the City and Apex Realty Enterprises, LLC ("Apex") to finance the construction of a parking garage containing 250 public parking spaces by assigning a portion of the service payments in lieu of taxes collected within the Short North TIF Incentive District to pay costs incurred for construction of that parking garage.

Apex no longer plans to construct the agreed-upon parking garage and intends to transfer its interest in the garage site to another developer, E.W. High Street, LLC ("E.W. High") so that E.W. High can construct the garage and other improvements. To enable E.W. High to do so, it is necessary to transfer Apex's rights and obligations under the TIF Agreement to E.W. High and amend the TIF Agreement to reflect the reduced costs of the garage caused by differences between Apex's and E.W. High's respective development plans. This ordinance authorizes the Director of Development to enter into an assignment agreement on behalf of the City that approves those items.

Fiscal Impact: No City funding is required for this legislation.

To authorize and direct the Director of the Department of Development to execute an Assignment of and Amendment to TIF Project and Reimbursement Agreement for the construction of a parking garage containing 250 public parking spaces

in the Short North Incentive District; and to declare an emergency.

WHEREAS, pursuant to Ohio Revised Code Sections 5709.40, 5709.41, 5709.42 and 5709.43, this Council on December 12, 2005, adopted Ordinance 2172-2005 (the "Short North TIF Ordinance"), authorizing the creation of the Short North Incentive District (the "Incentive District"), declaring improvements to parcels of certain real property located in the Incentive District to be a public purpose, exempting those improvements from real property taxation for a period of time, specifying certain public infrastructure improvements to be made to benefit those parcels, providing for the making of service payments in lieu of taxes (the "Service Payments") by the owners thereof, providing for payments to the Columbus City School District in the amount of the real property taxes that School District would have been paid if the improvements had not be exempted from taxation pursuant to the Short North TIF Ordinance, and establishing the Short North Tax Equivalent Fund into which the remaining Service Payments are to be deposited (the "TIF Fund"); and

WHEREAS, there has been placed on file in the office of the City Clerk a Short North Parking Study, dated November 2005, which outlines the development that has occurred and continues to occur within the Incentive District and identifies the need for an additional 500 public parking spaces in the area; and

WHEREAS, on February 12, 2007, City Council passed Ordinance 0176-2007, authorizing the Director of Development to enter into a TIF Project and Reimbursement Agreement (the "TIF Agreement") by and between the City and Apex Realty Enterprises, LLC ("Apex") to finance the construction of a parking garage containing 250 public parking spaces (the "Parking Garage") by assigning a portion of the service payments in lieu of taxes collected within the Incentive District to pay costs incurred for construction of the Parking Garage; and

WHEREAS, Apex no longer plans to construct the Parking Garage and intends to transfer its interest in the site on which the Parking Garage was to be situated to another developer, E.W. High Street, LLC ("E.W. High"); and

WHEREAS, Apex similarly wishes to transfer, and E.W. High wishes to accept, Apex's rights and obligations under the TIF Agreement and to amend the public improvement description contained therein, all so that E.W. High might construct the Parking Garage and related public improvements; and

WHEREAS, Apex and E.W. High have requested that the City approve the assignment of the TIF Agreement and amend the exhibit of costs attached thereto to reflect the reduced costs of the Parking Garage as part of E.W. High's development plan, with that approval evidenced by the City's execution and delivery of an Assignment of and Amendment to TIF Project and Reimbursement Agreement (the "Assignment"); and

WHEREAS, an emergency exists in the usual daily operation of the Department of Development, in that it is immediately necessary to authorize the execution and delivery of the Assignment in order to preserve the opportunity to develop the Parking Garage, all for the immediate preservation of the public health, peace, property, safety and welfare;
NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:

Section 1. The form of the Assignment presently on file with the City Clerk, providing for, among other things, the assignment of Apex's rights and obligations under the TIF Agreement to E.W. High and the amendment of the costs of the Parking Garage, is hereby approved and authorized with changes therein and amendments thereto not inconsistent with this Ordinance and not substantially adverse to the City and which shall be approved by the Director of the City's Department of Development (the "Director") and the City Attorney. The Director, for and in the name of the City, is hereby authorized to execute and deliver the Assignment in substantially that form along with any changes or amendments thereto, provided that the approval of such changes and amendments thereto by the Director, and the character of those changes and amendments as not being substantially adverse to the City, shall be evidenced conclusively by the execution thereof by the Director.

Section 2. This Council authorizes and directs the Director or other appropriate officers of the City to prepare and execute all agreements and instruments and to take all actions as may be appropriate to implement this Ordinance.

Section 3. That for the reason stated in the preamble hereto, which is hereby made a part hereof, this Ordinance is declared to be an emergency measure and shall take effect and be in force from and after its passage and approval by the Mayor or ten days after its passage if the Mayor neither approves nor vetoes the same.