



## Legislation Details (With Text)

**File #:** 1554-2008      **Version:** 2

**Type:** Ordinance      **Status:** Passed

**File created:** 9/25/2008      **In control:** Development Committee

**On agenda:** 10/20/2008      **Final action:** 10/22/2008

**Title:** To authorize the Director of Development to enter into a Reimbursement Agreement with NWD Investments, LLC to provide for the construction and reimbursement of public improvements benefiting and serving the Arena District area.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:**

Date	Ver.	Action By	Action	Result
10/22/2008	2	CITY CLERK	Attest	
10/21/2008	2	MAYOR	Signed	
10/20/2008	1	Columbus City Council	Amended as submitted to the Clerk	Pass
10/20/2008	2	Columbus City Council	Approved	Pass
10/20/2008	2	COUNCIL PRESIDENT	Signed	
10/6/2008	1	Columbus City Council	Read for the First Time	
9/30/2008	1	Dev Drafter	Sent to Clerk's Office for Council	
9/29/2008	1	CITY ATTORNEY	Reviewed and Approved	
9/25/2008	1	Dev Drafter	Sent for Approval	
9/25/2008	1	DEVELOPMENT DIRECTOR	Reviewed and Approved	
9/25/2008	1	Dev Drafter	Sent for Approval	

### **Background:**

Council, by Ordinance No. 2356-98 and 2357-98 passed on September 14, 1998, 2093-01 and 2092-01 passed on December 17, 2001 approved the creation of a tax increment financing districts to provide funding for public improvements in the Arena District area.

The attached ordinance authorizes the Director of Development to enter into a Reimbursement Agreement with NWD Investments, LLC to finance the construction of future public improvements necessary for the continued development of the Arena District area.

### **Fiscal Impact:**

The City has foregone the real property tax revenue that it would have received from development within the Arena District area. Instead, that revenue has been diverted to Municipal Public Improvement Tax Increment Equivalent Fund's: 404 "PenSite TIF", 405 "NWD Offsites TIF", 415 "Pen West East TIF", 416 "Pen West West TIF" held by the City. That revenue has been and will continue to be used to support outstanding bonds and to pay for future public improvements benefiting the Arena area.

To authorize the Director of Development to enter into a Reimbursement Agreement with NWD Investments, LLC to provide for the construction and reimbursement of public improvements benefiting and serving the Arena District area.

**WHEREAS**, pursuant to Ohio Revised Code Sections 5709.40, 5709.42 and 5709.43, this Council by its Ordinance No. 2356-98 and

2357-98 passed on September 14, 1998, 2093-01 and 2092-01 passed on December 17, 2001 (the "Original TIF Ordinances"), approved the creation of a tax increment financing to provide funding for public improvements in the Arena District area by exempting from taxation the Improvement (as that term is defined in Ohio Revised Code Section 5709.40) to certain parcels of real property in that area (the "Initial Property"), requiring the owners of the Initial Property to make service payments in lieu of taxes and designating the types of public improvements to be made to benefit the Initial Property; and

**WHEREAS**, NWD Investments, LLC (the "Developer") and the City have agreed to enter into a reimbursement agreement (the "Reimbursement Agreement") under which the Developer would be reimbursed for its payment of the costs of further TIF-eligible improvements in the Arena District from amounts available in the TIF Funds, including interest at ~~an market~~ interest rate **as established in the Agreement by the City Auditor** for its payment of the costs (after providing for the payment of debt service on the Outstanding Bonds and all other amounts required to be paid under the Trust Agreement securing the Outstanding Bonds); and

**WHEREAS**, this Council desires to authorize the City to enter into the proposed Reimbursement Agreement with the Developer to provide for those public improvements supporting that future development; and

**WHEREAS**, with the construction of the parking garage associated with the proposed new grocery store in the Arena District being subject to the receipt of TIF funds described hereafter, it is the intent of the City that any agreement shall not unduly restrict public parking and that the operator shall inform the director of the Department of Development and City Council of any methods or differential charges used to allow public parking in this facility; and

**WHEREAS**, if the TIF revenue produced by this reimbursement agreement exceeds the amount needed to reimburse NWD Investments, LLC for identified projects then the assignment of additional projects or disposition of excess funds shall be subject to approval by City Council; and

**WHEREAS**, it is the intent of the City that Giant Eagle and its Lessor at 777 Neil Avenue, Columbus, Ohio, shall negotiate in good faith a reversion of the lease to the Lessor of the existing square footage, prior to vacating the leased space, with a condition providing that a traditional supermarket limited to the existing square footage shall not occupy the reverted lease space vacated by Giant Eagle. In no event shall the lease space be permitted to go dark or unoccupied for an unreasonable amount of time, and Giant Eagle shall cooperate with the City and Lessor on any new occupant. The Lessor and Giant Eagle shall negotiate all terms and conditions in accordance with all provisions of federal, state and local laws and ordinances; and

**WHEREAS**, as part of the Reimbursement Agreement, it is necessary to expand the use of remediation funds set forth in Section X (C) of that certain Capital Improvements Project Development and Reimbursement Agreement for Nationwide Arena District, dated as of September 15, 1998, amended as of January 1, 2001 and August 1, 2003 (the "Original Agreement"); and **NOW THEREFORE**,

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

**Section 1.** The Director of Development be and hereby is, authorized and directed to execute the Reimbursement Agreement along with any changes or amendments thereto not substantially adverse to the City and approved by the Director, 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.** The Director of Development be and hereby is, authorized to execute one or more agreements (including any amendments or supplements thereto) for the construction of TIF eligible improvements for which reimbursement will be made to the Developer pursuant to the Reimbursement Agreement. Those agreements (including any amendments or supplements thereto) shall be in a form, and shall contain such terms and conditions, as are approved by the Director and are consistent with the purposes of this Ordinance and the Reimbursement Agreement, provided that the approval of that form and those terms and conditions by the Director, and the character of that form and those terms and conditions as being consistent with the purposes of this Ordinance and the Reimbursement Agreement, shall be evidenced conclusively by the execution thereof by the Director.

**Section 3.** The Director of Development and other appropriate officers of the City shall, within ninety (90) days, prepare a walkability plan and an associated cost and construction schedule to connect the proposed Arena District grocery store to the intersection of Goodale Street and Neil Avenue.

**Section 4.** The Director of Development or other appropriate officers of the City are authorized to execute such other agreements and instruments and to take all actions as may be necessary to implement this Ordinance and the transactions contemplated by the Reimbursement Agreement.

**Section 5.** The Director of Development is authorized to amend the Original Agreement with Nationwide Arena LLC to expand the use of remediation funds set forth in Section X(C) of the Original Agreement.

**Section 5 6.** That all agreements (including any changes, amendments or supplements thereto) authorized by this Ordinance shall be subject to review and approval by the City Attorney as to form.

**Section 6 7.** This Council hereby waives the requirements of Chapter 329 of the City Codes with respect to any agreement entered into pursuant to this Ordinance.

**Section 7 8.** The service payments in lieu of taxes and property tax rollback payments deposited in the TIF Fund shall be deemed appropriated for the purposes set forth in the Reimbursement Agreement and authorized to be expended therefrom in accordance with the Reimbursement Agreement, and subject to vouchers approved by the Director of Development the City Auditor is hereby authorized to make payments to the Developer or its designee from the TIF Funds in accordance with the Reimbursement Agreement.

**Section 8 9.** Except as provided on this Ordinance, all other provisions of the TIF Ordinances shall remain in full force and effect.

**Section 9 10.** That this ordinance shall take effect and be in force from and after the earliest period allowed by law.