



Legislation Details (With Text)

File #: 3248-2021 **Version:** 1

Type: Ordinance **Status:** Passed

File created: 11/29/2021 **In control:** Economic Development Committee

On agenda: 12/13/2021 **Final action:** 12/16/2021

Title: To create the Sugar Farm 40(B) TIF encompassing property on the far west side of Columbus; to declare improvements to those parcels to be a public purpose and exempt from real property taxation; to require the owners of those parcels to make service payments in lieu of taxes; to require the distribution of the applicable portion of those service payments to Hilliard City Schools and Tolles Career & Technical Center; to establish a municipal public improvement tax increment equivalent fund for the deposit of the remainder of those service payments; and to declare an emergency.

Sponsors:

Indexes:

Code sections:

Attachments: 1. 3248-2021 Sugar Farm 40(B) TIF Ordinance 11-29-21 Ex A, 2. 3248-2021 Sugar Farm 40(B) TIF Ordinance 11-29-21 Ex B

Date	Ver.	Action By	Action	Result
12/16/2021	1	CITY CLERK	Attest	
12/14/2021	1	MAYOR	Signed	
12/13/2021	1	COUNCIL PRESIDENT	Signed	
12/13/2021	1	Columbus City Council	Approved	Pass

Background: Pursuant to Resolution 0183X-2005 and Resolution 0039X-2006 adopted by Council, the City approved the Big Darby Accord Plan Principles and its later revisions. Pulte Homes of Ohio, LLC and Harmony Development Group, LLC (together, the “Developers”) purchased or have options to purchase ±369.2 acres within Columbus near the intersection of Alton & Darby Creek Road and Renner Road (the “Developers’ Property”) in order to construct 525 single family homes and 220 multi-family units to the north of Renner Road valued at approximately \$226 million and to construct 147 single family homes and 196 multi-family units south of Renner Road valued at approximately \$100 million in addition to \$70 million of public infrastructure improvements serving both areas. Consistent with the *Big Darby Accord Watershed Master Plan* and Ordinance 1685-2020 rezoning the Developers’ Property, the parcels are subject to the requirements of the “Big Darby Revenue Program” adopted by Council under Resolution 0216X-2008. Pursuant to Ordinance 1557-2020 passed by Council, the Director of the Department of Development entered into a Big Darby Development Agreement dated March 10, 2021 with the Developers to outline the plans and respective commitments of the City and the Developers for the fulfillment of the Big Darby Revenue Program by establishing new tax increment financing (“TIF”) for parts of the Developers’ Property including a separate TIF area for a 13.886-acre parcel of real property (the “40(B) Parcel”) encompassing 220 multi-family apartment units north of Renner Road valued at approximately \$29 million.

This Ordinance establishes a TIF area under Ohio Revised Code Section 5709.40(B) encompassing the 40(B) Parcel and the real property identified in Exhibit A attached hereto (the “Sugar Farm 40(B) TIF”). The Sugar Farm 40(B) TIF provides for a ninety five percent (95%) exemption from real property taxation on improvements to the parcels within the Sugar Farm 40(B) TIF for a period of not more than thirty (30) years. Hilliard City Schools and Tolles Career & Technical Center will receive funds in the amounts that they would have received in real property taxes had the tax exemption not been granted. Annual service payments in lieu of taxes will be made by the owners of each parcel with respect to TIF exempted improvements. The applicable portion of those service payments will be distributed directly to Hilliard City

Schools and Tolles Career & Technical Center. The remaining non-school portion of those service payments, paid to the City for deposit into the appropriate TIF fund established in this Ordinance, will be used to finance public infrastructure improvements directly benefiting the Sugar Farm 40(B) TIF parcels. The City will submit subsequent legislation to City Council for the appropriation and authorized expenditure of the non-school service payments for the public infrastructure improvements in accordance with an authorized TIF reimbursement agreement between the City and the Developers as well as an authorized agreement with Norwich Township and Franklin County, as applicable.

Emergency Justification: Emergency legislation is required to allow for the immediate effectiveness of this ordinance, which is necessary to enable the timely financing and redevelopment of the above described project already in process.

Fiscal Impact: No funding is required for this legislation. The City is foregoing ninety-five percent (95%) of the real property tax revenue that it would have received from development on the TIF parcels. Instead, the non-school portion of that revenue will be diverted to the TIF fund.

To create the Sugar Farm 40(B) TIF encompassing property on the far west side of Columbus; to declare improvements to those parcels to be a public purpose and exempt from real property taxation; to require the owners of those parcels to make service payments in lieu of taxes; to require the distribution of the applicable portion of those service payments to Hilliard City Schools and Tolles Career & Technical Center; to establish a municipal public improvement tax increment equivalent fund for the deposit of the remainder of those service payments; and to declare an emergency.

WHEREAS, pursuant to Ordinance 0627-2005 adopted by Council on April 4, 2005 and Ordinance 0527-2006 adopted on March 13, 2006, the Director of the Department of Development (the “Director”), on behalf of the City, entered into the Big Darby Accord Participation Agreement (the “Big Darby Accord”) and its amendment with Grove City, Hilliard, Harrisburg, Franklin County, and Prairie, Brown, Pleasant, Norwich, and Washington Townships to secure their funding commitments to the *Big Darby Accord Watershed Master Plan*; and

WHEREAS, pursuant to Ordinance 1662-2008, adopted on October 27, 2008, Council adopted and approved the Economic Development Plan for the Big Darby Planning Area (the “Development Plan”), and the Department of Development and all departments and divisions of the City administration were thereby authorized and directed to consult and use the Development Plan as guidance in establishing tax increment financing (“TIF”) incentive districts or areas and providing financing for public infrastructure improvements within the planning area; and

WHEREAS, Pulte Homes of Ohio, LLC and Harmony Development Group, LLC (together, the “Developers”) plan to develop an approximately ±369.2 acre site within the City of Columbus near the intersection of Alton & Darby Creek Road and Renner Road (the “Developers’ Property”) to construct 525 single family homes and 220 multi-family units to the north of Renner valued at approximately \$226 million (“Sugar Farm”) and to construct 147 single family homes and 196 multi-family units south of Renner valued at approximately \$100 million (“Renner South”) along with appropriate associated amenities and parking; and

WHEREAS, consistent with the *Big Darby Accord Watershed Master Plan* and Ordinance 1685-2020 rezoning the Developers’ Property, the Director entered into an agreement dated March 10, 2021 with the Developers authorized by Ordinance 1557-2020 (the “Big Darby Development Agreement”) to outline the plans and respective commitments of the City and the Developers for the fulfillment of the Big Darby Accord revenue program requirements (the “Big Darby Revenue Program”) as established by Resolution 0216X-2008 adopted by Columbus City Council on April 20, 2009 including establishing new tax increment financing for parts of the Developers’ Property; and

WHEREAS, Ohio Revised Code (“ORC”) Sections 5709.40, 5709.42, and 5709.43 (collectively, the “TIF Statutes”) authorize this Council, by ordinance, to create one or more incentive districts or TIF areas, declare the improvement to parcels of real property located within each incentive district or TIF area to be a public purpose and exempt from taxation, require the owner of each parcel to make service payments in lieu of taxes, provide for the distribution of the applicable portion of such service payments to the subjected school districts and the City, establish one or more municipal public improvement tax increment equivalent funds for the deposit of those non-school service payments, and specify the purposes for which money in those funds will be expended; and

WHEREAS, it has been determined that separate legislation will be submitted for City Council consideration to establish two new TIF incentive districts pursuant to ORC Section 5709.40(C) for the single family homes in Sugar Farm and the residential units in Renner South, and the City and the Developers have agreed to create this separate TIF area for the 13.886-acre parcel of real property identified and depicted in Exhibit A attached hereto (the “40(B) Parcel”) encompassing the 220 multi-family apartment units of Sugar Farm valued at approximately \$29 million; and

WHEREAS, in accordance with the Big Darby Development Agreement, this Council has determined that it is necessary and appropriate and in the best interest of the City to establish a tax increment financing area encompassing the 40(B) Parcel (the “Sugar Farm 40(B) TIF”) to exempt from taxation ninety-five percent (95%) of the improvements to each parcel within the Sugar Farm 40(B) TIF (each individually, a “Parcel” and collectively, the “Parcels”) as permitted and provided in ORC Section 5709.40(B), as applicable, for up to a thirty (30) year coextensive period for all Parcels and to simultaneously direct and require the current and future owners of each Parcel (each individually an “Owner” and collectively the “Owners”) to make annual payments in lieu of taxes (the “Service Payments”), in the same amount as they would have made real property tax payments but for the exemptions provided by this Ordinance; and

WHEREAS, in line with the Big Darby Accord, the Service Payments will be used to properly facilitate the desired development of the far west side of Columbus within the Development Plan area and to pay costs of the public infrastructure improvements described in Exhibit B attached hereto (the “Public Infrastructure Improvements”); and

WHEREAS, in accordance with the Big Darby Revenue Program, the five percent (5%) of the real property taxes of the improvements to each Parcel not exempted from taxation pursuant to this Ordinance will be distributed directly to Franklin County and the appropriate taxing authorities under ORC Section 5709.40(F) including the Norwich Township Fire Department and Emergency Medical Services (the “Fire Department”); and

WHEREAS, the City has determined that the applicable portion of the Service Payments shall be paid directly to the Hilliard City Schools and Tolles Career & Technical Center (the “School Districts”) in an amount equal to the real property taxes that the School Districts would have been paid if the improvement to each Parcel located within the School Districts had not been exempt from taxation pursuant to this Ordinance; and

WHEREAS, pursuant to ORC Section 5709.43(A), this Council has determined to establish a municipal public improvement tax increment equivalent fund in which there shall be deposited the appropriate remaining non-school Service Payments distributed to the City as provided herein; and

WHEREAS, in furtherance of the Big Darby Revenue Program’s requirements to have twenty percent (20%) of the City’s Service Payments used for regional purposes and seventy-five percent (75%) for Big Darby Accord purposes, the remaining ninety-five percent (95%) that becomes the Service Payments distributed to the City will be first distributed to the Fire Department in an amount equal to what they would have received in real property taxes had it not been for the exemption granted by this Ordinance, and the remainder with the City will be split so that cumulatively approximately 21.05% of the remaining 95% is used for the City’s priority regional purposes and 78.95% of the 95% is used for Big Darby Accord purposes; and

WHEREAS, the Department of Development will submit additional legislation for City Council consideration for the appropriation and authorized expenditure of the City’s Service Payments to pay for Public Infrastructure Improvements in accordance with an authorized TIF reimbursement agreement between the City and the Developers as well as an authorized agreement with Norwich Township and Franklin County, as applicable; and

WHEREAS, notice of this proposed ordinance has been delivered to the Board of Education of the School Districts in accordance with and within the time periods prescribed in ORC Sections 5709.40 and 5709.83, respectively; and

WHEREAS, an emergency exists in the daily operations of the Department of Development such that it is immediately necessary to enable the timely financing and redevelopment of the Parcels already in process for the preservation of the public health, peace, property and safety; **NOW, THEREFORE**,

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

Section 1. Parcels and Creation of TIF Area. The real property subject to this Ordinance is identified and depicted in Exhibit A (the “Parcels”, with each individual parcel, a “Parcel”) and pursuant to the TIF Statutes, this Council hereby creates a new tax increment financing area (the “Sugar Farm 40(B) TIF”), the boundaries of which shall be coextensive with the boundary of, and shall include, the Parcels.

Section 2. Public Infrastructure Improvements. This Council hereby designates the public infrastructure improvements described in Exhibit B (the “Public Infrastructure Improvements”) and any other public infrastructure improvements hereafter designated by ordinance as public infrastructure improvements made, to be made or in the process of being made by the City that directly benefit or that once made will directly benefit the Parcels.

Section 3. Exemptions. Pursuant to Ohio Revised Code (“ORC”) Section 5709.40(B), this Council hereby finds and determines that ninety-five percent (95%) of the increase in assessed value of each Parcel subsequent to the effective date of this ordinance (which increase in assessed value is hereinafter referred to as the “Improvement” as defined in ORC Section 5709.40(A)) is hereby declared to be a public purpose and exempt from taxation for a coextensive period for all Parcels, which commences for all Parcels with the first tax year that begins after the effective date of this Ordinance and in which an Improvement first appears on the tax list and duplicate of real and public utility property for a Parcel and ending on the earlier of: (a) thirty (30) years after such commencement; or (b) the date on which the City can no longer require service payments in lieu of taxes, all in accordance with the requirements of the TIF Statutes. The exemption provided by this ordinance is subordinate to any exemption for a Parcel granted pursuant to ORC Section 3735.65 et. seq. (community reinvestment area), ORC Section 5709.61 et. seq. (enterprise zone) and ORC Section 5709.08 (government and public property).

Section 4. Service Payments. As provided in ORC Section 5709.42, the current and future owners of each Parcel (each individually an “Owner” and collectively the “Owners”) are hereby required to make service payments in lieu of taxes with respect to the Improvement allocable to each Parcel to the Franklin County Treasurer or its designee on or before the final dates for payment of real property taxes. The service payments in lieu of taxes will be charged and collected in the same manner and in the same amount as the real property taxes that would have been charged and collected against that Improvement if it were not exempt from taxation pursuant to this Ordinance, including any penalties and interest (collectively, the “Service Payments”). The Service Payments, and any other payments with respect to each Improvement that are received in connection with the reduction required by ORC Sections 319.302, 321.24, 323.152 and 323.156, as the same may be amended from time to time, or any successor provisions thereto as the same may be amended from time to time (the “Property Tax Rollback Payments”), will be deposited and distributed in accordance with this Ordinance.

Section 5. TIF Funds. This Council establishes, pursuant to and in accordance with the provisions of ORC Section 5709.43, the Sugar Farm 40(B) Municipal Public Improvement Tax Increment Equivalent Fund (the “TIF Fund”) into which the appropriate Service Payments and Property Tax Rollback Payments collected with respect to the Parcels and not required pursuant to this Ordinance to be distributed to Hilliard City Schools and Tolles Career & Technical Center (the “School Districts”) will be deposited. The TIF Fund will be maintained in the custody of the City. The City may use amounts deposited into the TIF Fund only for the purposes authorized in the TIF Statutes and this Ordinance (as it may be amended). The TIF Fund will remain in existence so long as the Service Payments and Property Tax Rollback Payments are collected and used for the aforesaid purposes, after which time the TIF Fund will be dissolved and any surplus funds remaining therein transferred to the City's General Fund, all in accordance with ORC Section 5709.43.

Section 6. Distributions; Payment of Costs. Pursuant to the TIF Statutes, the County Treasurer is requested to

distribute the Service Payments and Property Tax Rollback Payments as follows:

a. To the School Districts, an amount equal to the amount the School Districts would otherwise receive as real property tax payments (including the applicable portion of any Property Tax Rollback Payments) derived from the Improvement to each Parcel if the Improvement had not been exempt from taxation pursuant to this Ordinance.

b. To the City, all remaining amounts for further deposit into the appropriate TIF Fund for payment of costs of the Public Infrastructure Improvements, including, without limitation, debt charges on any notes or bonds issued to pay or reimburse finance costs or costs of those Public Infrastructure Improvements.

All distributions required under this Section are requested to be made at the same time and in the same manner as real property tax distributions.

Section 7. Further Authorizations. This Council hereby authorizes the Director of the Department of Development, the City Clerk, or other appropriate officers of the City to deliver a copy of this ordinance to the Ohio Department of Development and to make such arrangements as are necessary and proper for collection of the Service Payments. This Council further authorizes the Director of the Department of Development, the City Clerk, the City Attorney, or other appropriate officers of the City to prepare and sign all agreements and instruments and to take any other actions as may be appropriate to implement this Ordinance.

Section 8. TIRC. The City's Tax Incentive Review Council (TIRC) shall review annually all exemptions from taxation resulting from the declarations set forth in this Ordinance and any other matters as may properly come before the TIRC, all in accordance with Section 5709.85 of the Ohio Revised Code.

Section 9. Severability. If any provision of this Ordinance, or any covenant, obligation or agreement authorized herein is determined by a court to be invalid or unenforceable, that determination shall not affect any other provision, covenant, obligation or agreement, each of which shall be construed and enforced as if the invalid or unenforceable portion were not contained herein. That invalidity or unenforceability shall not affect any valid and enforceable application thereof, and each such provision, covenant, obligation or agreement shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent permitted by law.

Section 10. Effective Date. For the reasons stated in the Preamble hereto, which is hereby made a part hereof, this Ordinance is hereby 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 the passage if the Mayor neither approves nor vetoes the same.