



Legislation Text

File #: 1909-2023, **Version:** 1

Background: Ordinance No. 2622-2020 authorized the Director of the Department of Development to execute the Second Amendment to the Amended and Restated Tax Increment Financing Agreement dated as of December 28, 2016, as previously amended by the First Amendment to said agreement dated as of December 11, 2019 (collectively, the “Agreement”) relating to the three Polaris tax increment financing (TIF) areas and the exemption authorization provided by Ordinance No. 2600-2020. It also appropriated and authorized the expenditure of service payments in lieu of taxes and property tax rollback payments to be deposited into the Polaris TIF Fund as a result of the exemption authorization provided by Ordinance No. 2600-2020 for the purposes of the Agreement. The purpose of this ordinance is to amend Ordinance No. 2622-2020 in order to fully implement all of the terms and conditions of that piece of legislation and the Agreement, including, but not limited to, providing for workforce housing commitments, providing compensation to certain school districts, providing for the use of the Polaris TIF Fund revenue for projects as identified and determined by the City, providing for the collection of the City’s economic development fees, providing for the issuance of debt for the public infrastructure improvements, and making other technical modifications.

Emergency Justification: An emergency exists in the usual daily operation of the Department of Development in that it is immediately necessary to amend Ordinance No. 2622-2020 for which the City, in support thereof, desires to enter into a cooperative agreement with the Columbus-Franklin County Finance Authority and the developer and/or its affiliates to refund and issue new bonds at the most advantageous interest rate. Failure to pass as an emergency will very likely result in a higher interest rate on the bonds to be issued for the public infrastructure improvements.

Fiscal Impact

The City is authorizing the appropriation and expenditure of the service payments in lieu of taxes and property tax rollback payments (the “Service Payments”) to be deposited in the Polaris TIF Fund (4402) as a result of the exemption authorization provided by Ordinance No. 2600-2020 pursuant to the School Compensation Agreement with the Delaware Area Career Center. The City is also authorizing the appropriation and transfer of the Service Payments deposited in the Polaris TIF Fund (4402) to the Polaris Interchange Fund (7770) in an initial amount not to exceed \$1,500,000.00 for years 2021-23; thereafter \$500,000.00 per year during and including 2024 to 2027, and after that, 12.5% of the annual Service Payments as a result of the exemption authorization provided by Ordinance No. 2600-2020, shall be transferred to the Polaris Interchange Fund (7770). The City is similarly authorizing the appropriation and yearly transfer of \$5,000.00 per each outstanding TIF in the Agreement during the term of the Agreement from the Service Payments deposited or to be deposited in the Polaris TIF Fund (4402) to the Business Tax Incentive (BTI) Fund (2229). Finally, the City is authorizing the appropriation and expenditure of the Service Payments deposited or to be deposited in the Polaris TIF Fund (4402), and not already appropriated as provided herein, pursuant to the Cooperative Agreement that the City plans to enter into by and among the City, the Columbus-Franklin County Finance Authority, and the developer and/or its affiliates.

To amend Ordinance No. 2622-2020 in order to be able to fully implement all of the terms and conditions of Ordinance No. 2622-2020 and the Second Amendment to the Amended and Restated Tax Increment Financing Agreement; to authorize the Director of the Department of the Development (the “Director”) to enter into a housing development agreement by and among the City, NP Capital Management Corp., and/or its affiliates; to authorize the Director to enter into a school compensation agreement by and among the City, the Delaware Area Career Center, and NP Capital Management Corp.; to authorize the Director to enter into a cooperative agreement by and among the City, the Columbus-

Franklin County Finance Authority, and NP Capital Management Corp. and/or its affiliates; to authorize the appropriation, transfer, and/or expenditure of the service payments to be deposited into the Polaris TIF Fund for any of the following purposes: funding the school compensation agreement and the cooperative agreement as well as providing for the City's retained service payments; and to declare an emergency.

WHEREAS, Ordinance No. 2622-2020, passed by City Council on November 23, 2020, authorized the Director of the Department of Development (the "Director") to execute the Second Amendment to the Amended and Restated Tax Increment Financing Agreement dated as of December 28, 2016, as previously amended by the First Amendment to said agreement dated as of December 11, 2019, (collectively, the "Agreement") relating to the three Polaris tax increment financing (TIF) areas and the exemption authorization provided by Ordinance No. 2600-2020; and

WHEREAS, Ordinance No. 2622-2020 also appropriated and authorized service payments in lieu of taxes and property tax rollback payments to be deposited into the Polaris TIF Fund No. 4402 as a result of the exemption authorization provided by Ordinance No. 2600-2020 for the purposes of the Agreement; and

WHEREAS, it is necessary to amend Ordinance No. 2622-2020 in order to be able to fully implement all of the terms and conditions of Ordinance No. 2622-2020 and the Agreement including, but not limited to, providing for affordable and workforce housing commitments, providing compensation to certain school districts, providing for the use of Polaris TIF Fund revenue for projects identified and determined by the City, providing for the collection of the City's economic development fees, providing for issuances of debt for the public infrastructure improvements, and making other technical modifications; and

WHEREAS, an emergency exists in the usual daily operation of the Department of Development in that it immediately necessary to amend Ordinance No. 2622-2020 for which the City, in support thereof, desires to enter into a cooperative agreement with the Columbus-Franklin County Finance Authority (the "Authority") and the developer and/or its affiliates to refund the Authority's existing bonds and then to issue new bonds at the most advantageous interest rate prior to anticipated interest rate increases thereby saving on interest, all for the preservation of the public health, peace, property, safety, and welfare of the City; **NOW, THEREFORE**,

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

SECTION 1. That City Council finds and determines that amending Ordinance No. 2622-2020 is in the City's best interest and will advance the City's policy goals to provide for affordable and workforce housing commitments, provide compensation to certain school districts, provide for the use of Polaris TIF Fund revenue for projects as identified and determined by the City, provide for the collection of the City's economic development fees, provide for the issuance of debt for the public infrastructure improvements, and making other technical modifications. In consideration thereof, City Council authorizes that Ordinance No. 2622-2020 be amended to read as follows herein, with new language underlined and deletions stricken.

SECTION 2. That Section 2 as amended, and Section 4 as repealed, of Ordinance No. 2622-2020 shall read as follows, with deletions stricken and new language underlined:

Section 2. The Director of Development and other appropriate officers of the City, or each of their designees, are hereby authorized and directed to take such actions, execute such other instruments, agreements and documents, including each of their modifications, and make such arrangements and cause the execution of transactions contemplated, subject to approval by the City Attorney's Office, that are consistent with the purpose of this ordinance or contemplated by the Agreement, the Housing Development Agreement, the School Compensation

Agreement, and/or the Cooperative Agreement, as each is described herein, and necessary and proper to implement this ordinance.

~~Section 4. This ordinance shall take effect and be in force from and after the earliest date permitted by law.~~

SECTION 3. That new sections identified as Sections 4, 5, 6, 7, 8, 9, 10, 11, 12, and 13 are added to Ordinance No. 2622-2020 as follows, with new language underlined:

Section 4. That the Director or his or her designee, for and in the name of the City, is authorized to enter into the Housing Development Agreement presently on file with the Department of Development along with any changes or amendments thereto not inconsistent with this ordinance and not substantially adverse to the City and which shall be approved by the Director and the City Attorney, provided that the approval of such changes and amendments thereto, and the character of those changes and amendments not being substantially adverse to the City, shall be evidenced conclusively by the Director’s execution and delivery thereof. The Housing Development Agreement will cause 200 residential rental apartments constructed on property currently owned by the Developer or its affiliates, which is an amount equivalent to 20% of the “Subsequent Apartments,” to be subject to the City’s workforce housing restrictions on rent and income (“Subsequent Apartments” are defined as any residential rental apartments constructed on property currently owned by the Developer or its affiliates as designated on the Exhibit I attached to the Agreement for the first 1,000 market rate residential apartments for which original construction was commenced by the Developer or its affiliates after the adoption of this ordinance); and

Section 5. That the Director, or his or her designee, for and in the name of the City, is authorized to enter into the School Compensation Agreement presently on file with the Department of Development along with any changes or amendments thereto not inconsistent with this ordinance or Ordinance No. 2600-2020 and not substantially adverse to the City and which shall be approved by the Director and the City Attorney, 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 Director’s execution and delivery thereof.

Section 6. That the service payments in lieu of taxes and property tax rollback payments deposited into the Polaris TIF Fund (4402) as a result of the exemption authorization under Ordinance No. 2600-2020 shall be deemed appropriated for the purposes set forth in the School Compensation Agreement and authorized to be expended therefrom in accordance with the School Compensation Agreement, and the City Auditor is authorized to make payments to the Delaware Area Career Center or its designee from the Polaris TIF Fund (4402) in accordance with the School Compensation Agreement upon order of the Director, or his or her designee, and that no order shall be drawn or money paid except by voucher, the form of which shall be approved by the City Auditor.

Section 7. That the City Auditor is authorized to appropriate and transfer an amount not to exceed \$1,500,000.00 (\$500,000.00 for each of years 2021, 2022 and 2023) from Fund 4402 to Fund 7770 per the account codes attached to this ordinance, and thereafter, subject to the authorization of the Director, appropriate and make annual transfers of \$500,000.00 during and including calendar years 2024 to 2027 as funds are received in Fund 4402 to Fund 7770.

Section 8. That subject to the authorization of the Director, the City Auditor is authorized to appropriate and make annual transfers as funds are received in Fund 4402 to Fund 7770 up to a maximum of 12.5% annually from the service payments in lieu of taxes and property tax rollback payments received into Fund 4402 as a result of the exemption authorization under Ordinance No. 2600-2020.

Section 9. That subject to the authorization of the Director, the City Auditor is authorized to appropriate and make annual transfers as funds are received in Fund 4402 to Fund 2229 for the City TIF Administrative Fee, as that term is further described in the Agreement and is currently \$5,000.00 per each outstanding TIF included in the Agreement pursuant to this ordinance and Ordinance 3169-2022.

Section 10. That the City Auditor is authorized to establish such accounting codes, as necessary, to make any accounting changes to revise the funding source for all agreements, contracts, or modifications associated with Ordinance No. 2622-2020, or the transactions contemplated by the Agreement or the School Compensation Agreement.

Section 11. That the City Auditor is authorized to transfer the unencumbered balance in a project account or subfund to the unallocated balance account within the same fund upon receipt of certification by the Director of the Department administering said project that the project has been completed and the monies are no longer required for said project.

Section 12. That the Director, or his or her designee, for and in the name of the City, is authorized to enter into the Cooperative Agreement presently on file with the Department of Development along with any changes or amendments thereto not inconsistent with this ordinance or Ordinance No. 2600-2020 and not substantially adverse to the City and which shall be approved by the Director and the City Attorney, 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 Director's execution and delivery thereof.

Section 13. That the service payments in lieu of taxes and property tax rollback payments deposited into the Polaris TIF Fund (4402) shall be deemed appropriated for the purposes set forth in the Cooperative Agreement and authorized to be expended therefrom in accordance with the Cooperative Agreement, and the City Auditor is authorized to make payments to the Columbus-Franklin County Finance Authority or its designee from the Polaris TIF Fund (4402) in accordance with the Cooperative Agreement upon order of the Director, or his or her designee, and that no order shall be drawn or money paid except by voucher, the form of which shall be approved by the City Auditor.

SECTION 4. The following Sections of Ordinance No. 2622-2020, not amended herein, remain the same: Sections 1 and 3.

SECTION 5. For the reasons stated in the preamble 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 passage if the Mayor neither approves nor vetoes the same.