



Legislation Text

File #: 1975-2021, **Version:** 1

Background

The “Polaris TIF” was approved by Council through Ordinance 3106-96, and expanded by Council via Ordinances 0627-2004, 1560-2005, 1914-2008, and 1582-2013. Council removed certain undeveloped parcels from the Polaris TIF by Ordinance 1847-2015 and again by Ordinance 3313-2018 to combine with other non-TIF exempted parcels to establish the “Polaris II TIF” and then the “Polaris III TIF.” The City and NP Capital Management Corp. (the “Developer”) entered into the Amended and Restated Tax Increment Financing Agreement dated as of December 28, 2016 (the “Original Agreement”) pursuant to Ordinance 1260-2016 as amended by the First Amendment to the Original Agreement, dated as of December 11, 2019 (the “First Amendment,” and together with the Original Agreement, the “Agreement”) pursuant to Ordinance 2876-2019 to provide funding for public infrastructure improvements necessary for the development of Polaris and the surrounding area from the Polaris TIFs. Ordinance 2876-2019 also authorized the City to enter into a Cooperative Agreement with the Columbus-Franklin County Finance Authority (the “CFCFA”), the Developer, The Pointe at Polaris Phase I, LLC and Pointe at Polaris Phase II, LLC in order to allow for the sale and repayment of bonds issued by the CFCFA to fund and/or refinance the parking garages and related improvements associated with the Pointe at Polaris - Phase I & II projects.

The City and Developer are now engaged in the construction of the Roadway Improvements - Lyra Drive Extension CIP No. 530161-100204 (the “Project”) pursuant to the Agreement and the Construction Reimbursement Agreement dated June 29, 2020 (the “CGMRA”) authorized by Ordinance 2631-2018. This Ordinance approves and authorizes an additional cooperative agreement by and among the City, the CFCFA, and the Developer (the “Lyra Cooperative Agreement”) to allow for the sale and repayment of bonds issued by the CFCFA to finance the Project and a portion of the next phase: Intersection - E. Powell Road and Lyra Drive CIP No. 530086-100047. This Ordinance will also appropriate and authorize the expenditure of the Polaris I, II, and III TIFs revenues from the Polaris TIF Fund in accordance with the Agreement and pursuant to the Lyra Cooperative Agreement.

Emergency Justification

Emergency legislation is required to allow for immediate execution of the Lyra Cooperative Agreement and, which is necessary to create liquidity for future public infrastructure improvements.

Fiscal Impact

No funding is required for this legislation. The City is appropriating and authorizing the expenditure of TIF revenues deposited or to be deposited in the Polaris TIF Fund (4402) in accordance with the TIF Agreement and pursuant to the Lyra Cooperative Agreement.

To appropriate and authorize the expenditures of TIF revenues deposited or to be deposited in the Polaris TIF Fund (4402); to authorize the Director of Development to enter into a Cooperative Agreement between the City, the Columbus-Franklin County Finance Authority, and NP Capital Management Corp. to provide TIF revenue from the Polaris TIF Fund (4402) as security and for repayment of bonds issued by the Columbus-Franklin County Finance Authority for the Lyra Drive projects pursuant to the Lyra Cooperative Agreement; and to declare an emergency.

WHEREAS, pursuant to Ohio Revised Code Section 5709.40, Council passed Ordinance 3106-96 (as subsequently amended to add additional territory to the TIF area by Ordinance 0627-2004, Ordinance 1560-2005, Ordinance 1914-2008, and Ordinance 1582-2013 and to remove territory from the TIF area by Ordinance 1847-2015 and Ordinance 3313-2018, as amended, the “1996 Polaris TIF Ordinance”), to establish the “Polaris TIF,” to declare improvements to certain parcels of real property that are part of the Polaris TIF to be a public purpose, to require the owners of Polaris TIF parcels to make service payments in lieu of taxes (“Service Payments”), to establish the “Polaris TIF Fund” for the deposit of

those Service Payments, and to otherwise establish a tax increment financing (TIF) program for those TIF parcels and the Polaris development; and

WHEREAS, Ordinance 1847-2015 (the “Polaris II TIF Ordinance”) and Ordinance 3313-2018 (the “Polaris III TIF Ordinance”) also each respectively established the “Polaris II TIF” and the “Polaris III TIFs,” declared improvements to certain parcels of real property that are part of the Polaris II and III TIF to be a public purpose, required the owners of the Polaris II and III TIF parcels to make Service Payments for deposit into the Polaris TIF Fund; and

WHEREAS, pursuant to Ordinances 1260-2016 and 2876-2019, the City and NP Capital Management Corp. (the “Developer”) entered into the Amended and Restated Tax Increment Financing Agreement dated as of December 28, 2016 (the “Original Agreement”) as amended by the First Amendment to the Original Agreement, dated as of December 11, 2019 (the “First Amendment” and together with the Original Agreement the “Agreement”) to provide funding for public infrastructure improvements necessary for the continued development of Polaris and the surrounding area of the Polaris TIFs; and

WHEREAS, pursuant to the Agreement and Ordinance 2876-2019, the City entered into a Cooperative Agreement with the Columbus-Franklin County Finance Authority (the “CFCFA”), the Developer, The Pointe at Polaris Phase I, LLC and Pointe at Polaris Phase II, LLC (the “Pointe Cooperative Agreement”) in order to allow for the sale of bonds by the CFCFA to fund and/or refinance the parking garages and related improvements associated with the Pointe at Polaris - Phase I & II projects; and

WHEREAS, a portion of the Service Payments in the Polaris TIF Fund appropriated for the TIF Agreement have been pledged to repay the Finance Authority for its issuance of bonds pursuant to the Pointe Cooperative Agreement; and

WHEREAS, pursuant to Ordinance 2631-2018, the City and the Developer entered into a Construction Reimbursement Agreement (the “CGMRA”) for the construction of the Roadway Improvements - Lyra Drive Extension CIP No. 530161-100204 (the “Project”); and

WHEREAS, the City, the CFCFA, and the Developer have agreed to enter into an additional Cooperative Agreement (the “Lyra Cooperative Agreement”) so the CFCFA may issue additional bonds to finance the Project pursuant to the CGMRA as well as to finance a portion of the next phase: Intersection - E. Powell Road and Lyra Drive CIP No. 530086-100047; and

WHEREAS, as contemplated in the Agreement, it is necessary and appropriate to authorize the Director of Development to enter into the Lyra Cooperative Agreement to accommodate the security and remittance of non-school Service Payments from the Polaris TIF Fund; and

WHEREAS, it is now necessary and appropriate to authorize the expenditure of non-school Service Payments to be deposited into the Polaris TIF Fund and not already pledged under the Pointe Cooperative Agreement to the Developer, the CFCFA, or its designee, including a trustee, to secure the financing for the Project and the next phase in accordance with the Lyra Cooperative Agreement to be executed; and

WHEREAS, an emergency exists in the usual daily operations of the Department of Development in that it is immediately necessary to authorize the Director to enter into the Lyra Cooperative Agreement in order to create liquidity for future public infrastructure improvements around Polaris to create or preserve job and housing opportunities, all 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. That the Director of Development, for and in the name of the City, is hereby authorized to execute the Cooperative Agreement (the “Lyra Cooperative Agreement”) presently on file with the Director 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 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 2. That the Director or other appropriate officers of the City are authorized to execute such other agreements and instruments or each of their modifications, subject to approval by the City Attorney's Office, and to take all actions as may be necessary to implement this Ordinance and the transactions contemplated by the Agreement, the CGMRA (as each are defined herein), and the Lyra Cooperative Agreement.

Section 3. That the service payments in lieu of taxes and property tax rollback payments deposited into the Polaris Municipal Public Improvement Tax Equivalent Fund (4402) created by Ordinance 3106-96 (the "Polaris TIF Fund") and generated from the parcels in the 1996 Polaris TIF Ordinance, the Polaris II TIF Ordinance, and the Polaris III TIF Ordinance and not already appropriated and authorized for expenditure for the Pointe Cooperative Agreement (as each preceding term is defined herein) shall be deemed appropriated for the purposes set forth in the Lyra Cooperative Agreement and authorized to be expended therefrom in accordance with the Agreement and the Lyra Cooperative Agreement, and the City Auditor is authorized to make payments to the Developer, the Finance Authority or its designee, including a trustee, from the Polaris TIF Fund in accordance with the Agreement and the Lyra 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. That the City Auditor is authorized to make annual transfers from the Polaris TIF Fund (4402) to the BTI Fund (2229), subject to the authorization of the Director, for the City TIF Administrative Fee, as that term is described in the Lyra Cooperative Agreement and is currently \$5,000 per each outstanding TIF included in the Lyra Cooperative Agreement pursuant to this Ordinance and Ordinance 3221-2018.

Section 5. That for 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 full 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.