



Legislation Text

File #: 3244-2023, **Version:** 1

Background: Ordinance 2189-2020 authorized the City to enter into the First Partial Amendment to Economic Development Agreement dated January 29, 2021 (the “Amended EDA”) with Hamilton Crossing, LLC (the “Developer”), Casto AP Residential, LLC, The New Albany Company, LLC, and Center State Enterprises, LLC. The Developer’s project adjacent to the N. Hamilton Road and State Route 161 interchange is anticipated to include the design and construction of public infrastructure improvements, and these costs will be reimbursed through per unit payments, TIF revenue, and new community authority (the “NCA”) charges. Ordinance 1421-2021 approved and authorized the Director of the Department of Development (the “Director”) to enter into the Amended and Restated Tax Increment Financing & Reimbursement Agreement dated February 28, 2022 (the “Amended .40 TIF Agreement”) between the City and the Developer to provide for the terms of reimbursing the City and the Developer from the applicable TIF revenue and the per unit payment funds for eligible public infrastructure improvements costs. Pursuant to Resolutions 0032X-2022 and 0060X-2022, City Council then authorized the creation of the Hamilton Crossing Community Authority (the “Authority”). As anticipated in prior legislation and the Amended EDA, this legislation will authorize the Director, on behalf of the City, to enter into the Intergovernmental Cooperative Agreement and First Amendment to Amended .40 TIF Agreement with the Authority and the Developer. It will also establish a new city fund known as the Hamilton Crossing NCA Fund for the acceptance of deposits of NCA charges the City receives from the Authority, and then authorize the appropriation and authorization of the expenditure of such.

Fiscal Impact: No funding is required for this legislation. The City is accepting community development charges from the Hamilton Crossing Community Authority for deposit into a newly established NCA fund, and then is appropriating and authorizing the expenditure of those community development charges from such fund in accordance with the Intergovernmental Cooperative Agreement and First Amendment to Amended .40 TIF Agreement with Hamilton Crossing, LLC and Hamilton Crossing Community Authority.

To establish the Hamilton Crossing NCA Fund; to authorize the City Auditor to accept the community development charges from the Hamilton Crossing Community Authority and to deposit such funds into the Hamilton Crossing NCA Fund; to appropriate and authorize the expenditure of the community development charges the City receives for deposit into the new Hamilton Crossing NCA Fund; and to authorize the Director of the Department of Development to enter into the Intergovernmental Cooperative Agreement and First Amendment to the Amended and Restated Tax Increment Financing & Reimbursement Agreement with Hamilton Crossing, LLC and the Hamilton Crossing Community Authority.

WHEREAS, Hamilton Crossing LLC (the “Developer”) proposed a mixed-use development consisting of Class A office and retail development, with the potential for hospitality and limited residential development on ±108.02 acres of real property owned or controlled by the Developer and its wholly owned subsidiaries generally located to the south of the intersection of Hamilton Road and State Route 161 (the “Site”); and

WHEREAS, in order to develop the Site, the Developer agrees to provide initial financing for the design and construction costs required to complete certain public infrastructure improvements; and

WHEREAS, City Council by its Ordinance 2189-2020 authorized the Director of the Department of Development (the “Director”) to enter into the First Partial Amendment to Economic Development Agreement dated January 29, 2021 (the

“Amended EDA”) with the Developer and its partners affirming commitments between the City and the Developer; and

WHEREAS, as part of a Public-Private Partnership (P3) under the Amended EDA, the City and the Developer committed to tax increment financing, per unit payments, and a new community authority under Chapter 349 of the Ohio Revised Code to provide financing assistance for the public infrastructure improvements surrounding the Site; and

WHEREAS, Ordinance 1421-2021 authorized the Director to enter into the Amended and Restated Tax Increment Financing & Reimbursement Agreement (the “Amended .40 TIF Agreement”) with the Developer to provide for the reimbursement of the public infrastructure improvements costs to the City and the Developer using the applicable TIF funds and per unit payments; and

WHEREAS, in accordance with the Amended EDA, Resolutions 0032X-2022 and 0060X-2022 passed by City Council authorized the establishment of the Hamilton Crossing Community Authority (the “Authority”) to assess community development charges of four mills for twenty years to finance land acquisition and development and community facilities including the public infrastructure improvements contemplated herein; and

WHEREAS, this ordinance authorizes the Director to enter into the Intergovernmental Cooperative Agreement and First Amendment to the Amended .40 TIF Agreement (the “Agreement”) with the Developer and the Authority to provide for the implementation of the Authority’s community development charges, and to provide the Director the authority to adjust certain deadlines within the Amended .40 TIF Agreement and Amended EDA; and

WHEREAS, this ordinance further authorizes the City to accept the community development charges from the Authority, to establish a City fund for the deposit of said charges, and to appropriate and authorize the expenditure of said charges in accordance with the Amended .40 TIF Agreement and the Agreement; **NOW, THEREFORE,**

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

SECTION 1. That the Director, or his or her authorized designee, for and in the name of the City, is hereby authorized to execute and deliver the 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, and the character of those changes and amendments as not being substantially adverse to the City, shall be evidenced conclusively by the execution and delivery hereof. In the event of any inconsistency between the Amended .40 TIF Agreement and the Agreement with the Amended EDA, the Amended .40 TIF Agreement and the Agreement shall control.

SECTION 2. That the Director is authorized to execute subsequent amendments to the Amended .40 TIF Agreement and the Agreement to modify certain Developer related deadlines therein as contemplated in the Agreement (provided such subsequent amendments are not substantially adverse to the City as evidenced by approval of the Director and the City Attorney’s Office), and the Director or other appropriate officers of the City are authorized to execute such other agreements, modifications, and instruments, 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.

SECTION 3. That consistent with the Agreement this Council hereby establishes a city fund related to the Authority (the “Hamilton Crossing NCA Fund”) into which there shall be deposited the community development charges collected by the City from the Authority after the Authority retains an allowance pursuant to the Agreement for its administrative costs (the “Available Charge Revenue”). The City Auditor is hereby authorized to deposit the monies contributed by the Authority to the City into the Hamilton Crossing NCA Fund. The City Auditor may establish the Hamilton Crossing NCA Fund as a new City fund including with any necessary subfunds or project accounts. The Hamilton Crossing NCA Fund shall remain in existence so long as the Available Charge Revenue is collected from the Authority.

SECTION 4. That the Available Charge Revenue deposited into Hamilton Crossing NCA Fund created by this Ordinance shall be deemed appropriated for the purposes set forth in this Ordinance, the Agreement, and the Amended .40 TIF Agreement, and authorized to be expended therefrom in accordance with the Agreement and the Amended .40 TIF Agreement, and the City Auditor is authorized to make payments to the Developer or its designee from the Hamilton Crossing NCA Fund in accordance with the Agreement and the Amended .40 TIF 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 5. 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 this Ordinance and the transactions contemplated by the Agreement and the Amended .40 TIF Agreement.

SECTION 6. That the City Auditor is hereby 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 7. That this Ordinance shall take effect and be in force from and after the earliest period allowed by law.