



Legislation Text

File #: 1416-2021, **Version:** 1

Background: City Council passed Ordinance 2117-2005 on December 12, 2005 to authorize the creation of ten tax increment financing incentive districts (the "TIF Districts") to provide funding for public infrastructure improvements in the northeast area of Columbus. City Council passed additional ordinances to amend Ordinance 2117-2005 in order to supplement the list of eligible public infrastructure improvements, to add certain new parcels to some of the existing TIF Districts, and to remove parcels from certain existing TIF Districts in order to create a new TIF area. Concurrently with the establishment of the TIF Districts, City Council passed Ordinance 2153-2005 on December 12, 2005 to authorize the Director of Development (the "Director") to enter into a memorandum of understanding (the "Northeast MOU") with multiple developers, including M/I Homes of Central Ohio, LLC (the "Developer"), to affirm the financial commitments for public infrastructure improvements in five of the TIF Districts associated with the Northeast MOU. City Council passed Ordinance 0942-2010 on June 28, 2010 to authorize the Director to enter into subsequent amendments to the Northeast MOU dated July 1, 2010 (the "First Amendment") and dated May 9, 2019 (the "First Administrative Amendment and together with the Northeast MOU and First Amendment, the "NE MOU and Amendments") to reaffirm and update financing commitments for the public infrastructure improvements in the northeast area of Columbus. Pursuant to the NE MOU and Amendments, one of the public infrastructure improvements is the Northeast MOU - Central College Ulry Road Reconstruction, CIP: 440106-100000. City Council passed Ordinance 3245-2019 on January 27, 2020 to enter into a tax increment financing agreement with the Developer for the first phase of said public infrastructure improvement. This ordinance (i) approves and authorizes the Director to enter into a second tax increment financing agreement with the Developer to provide for additional financing for an additional phase of the Northeast MOU - Central College Ulry Road Reconstruction, and (ii) appropriates and authorizes the expenditure of monies generated from one of the TIF Districts of the NE MOU and Amendments, the Ulry-Central College Incentive District, per the terms of the second tax increment financing agreement.

Fiscal Impact: No funding is required for this legislation. The City is appropriating and authorizing the expenditure of TIF revenues deposited into the Ulry-Central College Tax Equivalent Fund (7442) in accordance with the second tax increment financing agreement between the City and M/I Homes of Central Ohio, LLC.

Emergency Justification: Emergency legislation is necessary to authorize the Director of Development to enter into a second tax increment financing agreement with the Developer in order to allow the Developer and the Department of Public Service to maintain the project schedule by providing for the reimbursement of the next phase of the Northeast MOU - Central College Ulry Road Reconstruction.

To appropriate and authorize the expenditure of TIF revenues to be deposited into the Ulry-Central College Tax Equivalent Fund (7442); to authorize the Director of Development to enter into a second tax increment financing agreement with M/I Homes of Central Ohio, LLC to provide for the reimbursement to M/I Homes of Central Ohio, LLC for the next phase of the Northeast MOU - Central College Ulry Road Reconstruction benefiting or serving the residential development of the northeast area of Columbus; and to declare an emergency.

WHEREAS, Ohio Revised Code Sections 5709.40, 5709.42 and 5709.43 authorized City Council, by its Ordinance 2117-2005 passed on December 12, 2005 (the "2005 TIF Ordinance"), to create ten tax increment financing incentive districts (the "TIF Districts") in order to (i) declare the improvement to certain parcels of real property located within the TIF Districts to be a public purpose and 100% exempt from taxation for a period of 30 years, (ii) require the owners of each parcel in the TIF Districts to make service payments in lieu of taxes (the "Service Payments") to the Columbus City School District and the New Albany-Plain Local School District, as applicable, and to make the non-school Service Payments to the City, (iii) deposit the non-school Service Payments into municipal public improvement tax increment equivalent funds (the "TIF Funds"), and (iv) specify public infrastructure improvements made, to be made, or in the

process of being made that benefit or serve, or once made, will benefit or serve the TIF Districts; and

WHEREAS, the 2005 TIF Ordinance was amended by City Council pursuant to Ordinance 0715-2009 passed June 8, 2009, Ordinance 2258-2014 passed October 20, 2014, Ordinance 3123-2016 passed December 12, 2016, and Ordinance 2791-2020 passed December 14, 2020 to supplement the list of eligible public infrastructure improvements in the 2005 TIF Ordinance, to add certain new parcels to some of the existing TIF Districts, and to remove parcels from certain existing TIF Districts in order to create a new TIF area; and

WHEREAS, one of the TIF Districts and one of the TIF Funds established by the 2005 TIF Ordinance was the Ulry-Central College Incentive District and the Ulry-Central-College Tax Equivalent Fund (Fund 7442, the “TIF Fund”), which receives the deposit of the non-school Service Payments generated from the parcels in the Ulry-Central College Incentive District; and

WHEREAS, pursuant to Ordinance 2153-2005 passed on December 12, 2005, City Council authorized the Director of Development (the “Director”) to enter into a memorandum of understanding dated February 23, 2006 (the “Northeast MOU”) with multiple developers, including M/I Homes of Central Ohio, LLC (the “Developer”), to affirm the financial commitments for public infrastructure improvements benefiting and serving five of the TIF Districts including the Ulry-Central College Incentive District; and

WHEREAS, pursuant to Ordinance 0942-2010 passed on June 28, 2010, City Council authorized the Director to enter into subsequent amendments to the Northeast MOU dated July 1, 2010 (the “First Amendment”) and dated May 9, 2019 (the “First Administrative Amendment,” and together with the Northeast MOU and the First Amendment, the “NE MOU and Amendments”) to reaffirm and update financing commitments for the public infrastructure improvements in the northeast area of Columbus; and

WHEREAS, in relation to the NE MOU and Amendments and pursuant to the authorization provided by Ordinance 3245-2019 passed by City Council on January 27, 2020, the Director entered into a tax increment financing agreement with the Developer dated September 3, 2020 (the “Original TIF Agreement”) for the purposes of providing for remittance of non-school Service Payments from the TIF Fund to the Developer for its expenses up to \$165,000 for the first phase associated with the Northeast MOU - Central College Ulry Road Reconstruction, CIP: 440106-100000 (the “Public Infrastructure Improvements”); and

WHEREAS, in furtherance of the NE MOU and Amendments and the Original TIF Agreement, the City has determined that it is in the best interest of the City and its residents to cause the Developer to proceed with the next phase associated to the Public Infrastructure Improvements benefiting and serving the five TIF Districts associated with the NE MOU and Amendments; and

WHEREAS, it is necessary and appropriate to authorize the Director to enter into a second tax increment financing agreement (the “Second TIF Agreement”) with the Developer to provide for the reimbursement from the TIF Fund for the next phase of the Public Infrastructure Improvements; and

WHEREAS, it is now necessary to appropriate and authorize the expenditure of TIF revenues deposited into the TIF Fund to the Developer for the next phase of the Public Infrastructure Improvements in accordance with the Second TIF Agreement; and

WHEREAS, an emergency exists in the usual daily operations of the Department of Development in that it is necessary to authorize the Director to execute a second TIF Agreement described herein to allow the Developer and the Department of Public Service to maintain the project schedule for the next phase of the Public Infrastructure Improvements all for the preservation of the public health, peace, safety and welfare without delay; **NOW, THEREFORE**,

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

Section 1. That the Director of Development (the “Director”), for and in the name of the City, is hereby authorized to execute and deliver a second tax increment financing agreement (the “Second TIF 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.

Section 2. That the Director or other appropriate officers of the City are authorized to execute subsequent amendments to the Second TIF Agreement to add additional work related to the Public Infrastructure Improvement or to increase the maximum reimbursement provided thereunder and 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 Second TIF Agreement.

Section 3. That the service payments in lieu of taxes and property tax rollback payments deposited into the Ulry-Central-College Tax Equivalent Fund (Fund 7442, the “TIF Fund”), and not already appropriated pursuant to Ordinance 3245-2019 for the tax increment financing agreement with the Developer dated September 3, 2020, shall be deemed appropriated for the purposes set forth in the Second TIF Agreement and authorized to be expended therefrom in accordance with the Second TIF Agreement; provided however, the Director reserves the right to amend the amount of the authorized maximum obligation pursuant to the Second TIF Agreement if it is determined by the City additional financing is required for the phases of the Public Infrastructure Improvements; and the City Auditor is authorized to make payments to the Developer or its designee from the TIF Fund in accordance with the Second 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 4. 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, amendments, or modifications associated with this Ordinance and the transactions contemplated by the Second TIF Agreement or its amendments.

Section 5. 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 6. 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 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.