



Legislation Text

File #: 1028-2008, **Version:** 1

Background: Council, by its Ordinance No. 1704-96 passed on July 22, 1996, approved the creation of a tax increment financing to provide funding for public improvements in the Easton area. Council, by its Ordinance No. 0709-03 passed May 19, 2003, expanded the area covered by the original Easton TIF by adding approximately 91 acres to the Easton TIF area. Finally, Council, by its Ordinance No. 0180-2004 passed January 26, 2004, approved the future issuance of up to \$15,000,000 in new bonds to fund public improvements in the Easton area pursuant to an Amended and Restated Tax Increment Financing Agreement dated as of November 1, 2004.

The attached ordinance authorizes the Director of Development to enter into a Reimbursement Agreement with MORSO Holding Co. to finance the construction of future public improvements necessary for the continued development of the Easton area. In lieu of the City issuing \$15,000,000 of additional bonds, MORSO's up front investment in TIF-eligible public improvements will be reimbursed over time from the service payments in lieu of taxes received from the Easton TIF that are available after paying debt service on the City's outstanding \$36,430,000 Tax Increment Financing Bonds, Series 2004A.

Emergency Action is requested to allow the reimbursement agreement to be entered into in a timely manner.

Fiscal Impact: The City has foregone the real property tax revenue that it would have received from development within the Easton area. Instead, that revenue has been diverted to the Easton Project Municipal Public Improvement Tax Increment Equivalent Fund held by the City. That revenue has been and will continue to be used to support outstanding bonds and to pay for future public improvements benefiting the Easton area.

To authorize the Director of Development to enter into a Reimbursement Agreement with MORSO Holding Co. to provide for the construction and reimbursement of public improvements benefiting and serving the Easton area; and to declare an emergency.

WHEREAS, pursuant to Ohio Revised Code Sections 5709.40, 5709.42 and 5709.43, this Council by its Ordinance No. 1704-96 passed on July 22, 1996 (the "Original TIF Ordinance"), approved the creation of a tax increment financing to provide funding for public improvements in the Easton area by exempting from taxation the Improvement (as that term is defined in Ohio Revised Code Section 5709.40) to certain parcels of real property in that area (the "Initial Property"), requiring the owners of the Initial Property to make service payments in lieu of taxes and designating the types of public improvements to be made to benefit the Initial Property; and

WHEREAS, Council, by its Ordinance No. 0709-03 passed May 19, 2003 (that ordinance, together with the Original TIF Ordinance, is hereinafter referred to as the "TIF Ordinance"), expanded the tax increment financing established by the Original TIF Ordinance by exempting from taxation the Improvement to approximately 91 additional acres in the Easton area (such property, together with the Initial Property, is hereinafter referred to as the "Property"), requiring the owners of that property to make service payments in lieu of taxes, determining the types of public improvements that can be funded from service payments in lieu of taxes required pursuant to the TIF Ordinance and deposited into the Easton Project Municipal Public Improvement Tax Increment Equivalent Fund (City Fund No. 401, and hereinafter referred to as the "TIF Fund") and authorizing the Director of Development to enter into an Amended and Restated Tax Increment Financing Agreement with MORSO Holding Co. and Distribution Land Corp. (the "TIF Agreement"); and

WHEREAS, Council, by its Ordinance No. 0180-2004 passed January 26, 2004 (the "Bond Ordinance"), approved the issuance of the City's \$36,430,000 Tax Increment Financing Bonds, Series 2004A (the "Outstanding Bonds") and the future issuance of up to an additional \$15,000,000 in new bonds to fund public improvements in the Easton area (the "Deferred Bonds") pursuant to the TIF Agreement; and

WHEREAS, in lieu of the City's issuance of Deferred Bonds, MORSO Holding Co. (the "Developer") and the City have agreed to enter into a reimbursement agreement (the "Reimbursement Agreement") under which the Developer would be reimbursed for its payment of the costs of further TIF-eligible public improvements at Easton from amounts available in the TIF Fund (after providing for the payment of debt service on the Outstanding Bonds and all other amounts required to be paid under the Trust Agreement securing the Outstanding Bonds); and

WHEREAS, this Council desires to authorize the City to enter into the proposed Reimbursement Agreement with the Developer to provide for those public improvements supporting that future development; and

WHEREAS, an emergency exists in the usual daily operation of the Department of Development in that to implement the intent of this Ordinance and the transactions contemplated herein, it is necessary to specify the effective date for the amendment to the Bond Ordinance contained in Section 2 of this Ordinance; all for the immediate preservation of the public health, peace, property, safety and welfare; **NOW THEREFORE**,

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

Section 1. The Director of Development be and hereby is, authorized and directed to execute the Reimbursement Agreement in substantially the form presently on file with the Director along with any changes or amendments thereto not substantially adverse to the City and approved by the Director, 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 execution thereof by the Director.

Section 2. The Bond Ordinance is hereby amended to delete the authorization of the Deferred Bonds contained in that Ordinance, and this Council hereby determines that the public improvements identified generally in Exhibit B-1 to the TIF Ordinance (excluding any Remote Public Improvements identified in the Exhibit B-1) and made in connection with the Property pursuant to the Reimbursement Agreement directly benefit or once made will directly benefit the Property. This Council further hereby determines, as a result of enactment of the TIF Ordinance, the Bond Ordinance and this Ordinance, and actions of the City taken and to be taken pursuant to those ordinances, and the agreements entered into pursuant to those ordinances, that satisfactory provision has been made for the public improvement needs of the Property. When this ordinance refers to costs of public improvements, those costs include all costs of permanent improvements as defined in Section 133.15(B), Ohio Revised Code, excluding any financing costs as defined in Section 133.01(K), Ohio Revised Code, and excluding any costs directly allocable to any area in any of those Public Improvements that is not used for parking and is used for retail or other businesses.

Section 3. The Director of Development be and hereby is, authorized to execute one or more agreements (including any amendments or supplements thereto) for the construction of public improvements for which reimbursement will be made to the Developer pursuant to the Reimbursement Agreement. Those agreements (including any amendments or supplements thereto) shall be in a form, and shall contain such terms and conditions, as are approved by the Director and are consistent with the purposes of this Ordinance and the Reimbursement Agreement, provided that the approval of that form and those terms and conditions by the Director, and the character of that form and those terms and conditions as being consistent with the purposes of this Ordinance and the Reimbursement Agreement, shall be evidenced conclusively by the execution thereof by the Director.

Section 4. The Director of Development or other appropriate officers of the City are authorized to execute such other agreements and instruments and to take all actions as may be necessary to implement this Ordinance and the transactions contemplated by the Reimbursement Agreement.

Section 5. This Council hereby waives the requirements of Chapter 329 of the City Codes with respect to any agreement entered into pursuant to this Ordinance.

Section 6. The service payments in lieu of taxes and property tax rollback payments deposited in the TIF Fund shall be deemed appropriated for the purposes set forth in the Reimbursement Agreement and authorized to be expended therefrom in accordance with the Reimbursement Agreement, and subject to vouchers approved by the Director of Development the City Auditor is hereby authorized to make payments to the Developer or its designee from the TIF Fund in accordance with the Reimbursement Agreement.

Section 7. Except as provided on this Ordinance, all other provisions of the TIF Ordinance and the Bond Ordinance shall remain in full force and effect.

Section 8. 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 thirty days after its passage and approval by the Mayor, or thirty days after passage if the Mayor neither approves nor vetoes the same, except for Section 2 hereof, which shall take effect upon execution and delivery of the Reimbursement Agreement by both the City and the Developer.