



Legislation Text

File #: 2545-2020, **Version:** 1

BACKGROUND: The City, in cooperation and partnership with Franklin County and the Crew SC Stadium Company, LLC, a Delaware limited liability company, entered into a Development Agreement dated July 3, 2019 as authorized by Ordinance Number 1730-2019, documenting the parties' agreements relating to the development of a new multi-purpose sports, entertainment, cultural and recreational facility (the "Stadium"), and a project containing mixed-use retail, entertainment, residential, hospitality, office and/or commercial uses (the "Mixed-Use Development") adjacent to the Stadium (collectively the "Project") near the western terminus of Nationwide Boulevard and the Olentangy River. Pursuant to the Development Agreement and Resolution Nos. 0230X-2019 and 0252X-2019, the Confluence Community Authority (the "Authority") was created to among other things hold legal title to the Stadium. The Development Agreement was subsequently amended by a certain First Amendment to Development Agreement dated as of December 19, 2019, which added Crew SC Development Company LLC, a Delaware limited liability company, and the Authority as parties (the Development Agreement and First Amendment collectively the "EDA").

Pursuant to the EDA, the City agreed to support the Project by establishing tax increment financing under O.R.C. 5709.41 (the "Stadium 41 TIF"). In accordance with O.R.C. 5709.41, the Department of Development has submitted Ordinance Number 2481-2020 to authorize the City to accept title to the Project parcels from Confluence Development LLC, a Delaware limited liability company (the "Developer"), an affiliate of Crew SC Stadium Company, LLC, and the Authority, and then transfer title back to the Developer and the Authority in order to establish the Stadium 41 TIF.

In order to further implement the EDA, this legislation will amend a second time Ordinance 1648-2016, which established the Jaeger TIF. Ordinance 1648-2016 was previously amended by Ordinance 3170-2019 to remove certain parcels from the Jaeger TIF in order to establish the new Jaeger TIF Area No. 2. This legislation will remove additional parcels from those remaining in the Jaeger TIF in order to establish the new Stadium 41 TIF. The Stadium 41 TIF will provide for a 100% exemption from real property taxation on all improvements to the parcels within the new Stadium 41 TIF area for a period of not more than thirty (30) years. Annual service payments in lieu of taxes will be made with respect to improvements to the new Stadium 41 TIF parcels. The applicable portion of those service payments will be distributed directly to the Columbus City School District, in the same manner as usual, in the amount that the school district would have received in real property taxes had the tax exemption not been granted. The remaining non-school portion of those service payments will be paid to the City for deposit into a new Stadium 41 TIF fund established in this ordinance to be used to finance the development of the Project or other purposes as determined by Council in this or subsequent ordinances. The Department of Development will submit for City Council consideration additional legislation to execute a TIF Cooperative Agreement with the Authority, and Developer as applicable.

FISCAL IMPACT: No funding is required for this legislation. The City is foregoing real property tax revenue that it would have received from development on the new Stadium 41 TIF parcels or would have otherwise received in the previously created TIF fund under Ordinance 1648-2016. Instead, the non-school portion of the new TIF revenue will be diverted to the new TIF fund.

To amend Ordinance 1648-2016, as previously amended by Ordinance 3170-2019, to remove parcels from the existing Jaeger TIF area; to create the Stadium 41 TIF area pursuant to O.R.C. 5709.41; to declare improvements to the Stadium 41 TIF parcels to be a public purpose and exempt from real property taxation; to require the owners of the Stadium 41 TIF parcels to make service payments in lieu of taxes; to require the distribution of the applicable portion of those service payments to the Columbus City School District; and to establish an urban redevelopment tax increment equivalent fund for the deposit of the remainder of those service payments. **(AMENDED BY ORD. 3265-2021; PASSED 12/13/2021)**

WHEREAS, the City, in cooperation and partnership with Franklin County and the Crew SC Stadium Company, LLC, a

Delaware limited liability company, have entered into a Development Agreement dated as of July 3, 2019 as authorized by Ordinance Number 1730-2019; and

WHEREAS, pursuant to the Development Agreement, the City, Franklin County, and Crew SC Stadium Company, LLC established the Confluence Community Authority (the “Authority”) pursuant to the City's adoption of Resolution Nos. 0230X-2019 and 0252X-2019 and added the Authority and Crew SC Development Company, LLC as parties to the Development Agreement by a certain First Amendment to Development Agreement dated as of December 19, 2019 (the Development Agreement and First Amendment collectively the “EDA”); and

WHEREAS, the EDA provides for but is not limited to the development of a new multi-purpose sports, entertainment, cultural and recreational facility (the “Stadium”) and a project containing mixed-use retail, entertainment, residential, hospitality, office and/or commercial uses adjacent to the Stadium (the “Mixed-Use Development,” and together with the Stadium, the “Project”) near the western terminus of Nationwide Boulevard and the Olentangy River; and

WHEREAS, to support redevelopment in the Arena District, this Council, by its Ordinance No. 2092-01 passed December 17, 2001, created the Pen West TIF pursuant to Sections 5709.40, 5709.42 and 5709.43 of the Ohio Revised Code, with that Pen West TIF including the parcels to now be included in the Project; and

WHEREAS, to further support redevelopment in the Arena District, this Council amended that Pen West TIF by its Ordinance No. 1648-2016 passed June 27, 2016, creating the Jaeger TIF pursuant to Sections 5709.41, 5709.42 and 5709.43 of the Ohio Revised Code, with that Jaeger TIF including the parcels to now be included in the Project; and

WHEREAS, to further support redevelopment in the Arena District, this Council amended that Jaeger TIF by its Ordinance No. 3170-2019 passed December 16, 2019, creating the Jaeger TIF Area No. 2 pursuant to Sections 5709.41, 5709.42 and 5709.43 of the Ohio Revised Code, with that Jaeger TIF Area No. 2 not including the parcels to now be included in the Project; and

WHEREAS, the Project parcels remain subject to redevelopment, and pursuant to Ordinance No. 2043-2019 passed by this Council on July 22, 2019 and the EDA, the City has determined to amend and restructure the Jaeger TIF in the Arena District in order for the City to support the development of the Project with tax increment financing by removing the Project parcels from the Jaeger TIF area and declaring the improvements to the Project parcels to be a public purpose under new tax increment financing pursuant to Sections 5709.41, 5709.42 and 5709.43 of the Ohio Revised Code (the “Stadium 41 TIF”); and

WHEREAS, Sections 5709.41, 5709.42 and 5709.43 of the Ohio Revised Code (collectively, the “TIF Statutes”) authorize the legislative authority of a municipal corporation engaged in urban redevelopment, by ordinance, to declare the improvements to certain parcels of real property located within the municipal corporation and for which it held fee title, to be a public purpose and exempt from taxation, require the owner of each parcel to make service payments in lieu of taxes (the “Service Payments”), provide for the distribution of the applicable portion of those Service Payments to the overlapping city, local or exempted village school district, establish an urban redevelopment tax increment equivalent fund for the deposit of the remainder of such Service Payments and payments from that fund; and

WHEREAS, the Department of Development has submitted Ordinance Number 2481-2020 to authorize the City to accept title to the Project parcels from the Developer and the Authority, and then transfer title back to the Developer and the Authority prior to establishing the Stadium 41 TIF pursuant to Section 5709.41 of the Ohio Revised Code, which requires the City to hold fee title to the parcels to be included in the Stadium 41 TIF prior to enacting this Ordinance; and

WHEREAS, this Council has determined that it is necessary and appropriate and in the best interest of the City to exempt from taxation one hundred percent (100%) of the improvements to each Parcel (as defined in Section 2 of this ordinance) as permitted and provided for in the TIF Statutes for up to thirty (30) years (the “TIF Exemption”) and to simultaneously direct and require the current and future owner(s) of each Parcel (each such owner individually, an

“Owner,” and collectively, the “Owners”) to make annual Service Payments in lieu of real property tax payments, in the same amount as they would have made real property tax payments except for the TIF Exemption provided by this Ordinance; provided that the TIF Exemption and the obligation to make Service Payments are subject and subordinate to any tax exemptions applicable to any improvements to the Parcels pursuant to Section 140.08, or Sections 717.05 through 717.053, Sections 5709.12 and 5709.121, or under Sections 3735.65 through 3735.70 or 5709.08 or 5709.081 or 5709.61 through 5709.69 of the Ohio Revised Code; and

WHEREAS, in accordance with the EDA, the Developer intends to split parcel 010-300554 and convey to the City approximately 1.25 acres of real property therein on which the City will construct a structured parking facility to serve the Mixed-Use Development (the “Parking Facility Parcel”); and

WHEREAS, in furthering the EDA, the Parking Facility Parcel shall not be part of the Stadium 41 TIF Parcels as defined in Sections 1 and 2 below; to resolve any doubt, upon the aforementioned parcel split, this Ordinance shall be amended to remove the Parking Facility Parcel from the Stadium 41 TIF Parcels; and

WHEREAS, the City has determined that a portion of the Service Payments shall be paid directly to the Columbus City School District (the “School District”) in an amount equal to the real property taxes that School District would have been paid if the improvement to each Parcel located within that School District had not been exempt from taxation pursuant to this Ordinance; and

WHEREAS, pursuant to Section 5709.43(B) of the Ohio Revised Code, this Council has determined to establish an urban redevelopment tax increment equivalent fund in which there shall be deposited the remaining Service Payments distributed to the City as provided herein; and

WHEREAS, notice of this proposed Ordinance has been delivered to the Board of Education of the School District in accordance with and within the time periods prescribed in Sections 5709.41 and 5709.83 of the Ohio Revised Code;
NOW, THEREFORE,

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

Section 1. Removal of Parcels from Existing .41 TIF. That Exhibit A of Ordinance 1648-2016 passed June 27, 2016 and as amended pursuant to Ordinance 3170-2019 passed December 16, 2019 and Ordinance 2523-2020, is hereby repealed and replaced with Exhibit A attached hereto, to remove from the Jaeger TIF area certain parcels and property including right of way in accordance with the EDA, some of which is to be included in the Stadium 41 TIF area.

Section 2. Creation of a New TIF Area. The real property to be included in the new Stadium 41 TIF is identified and depicted as the “Stadium 41 TIF Parcels” on Exhibit B attached hereto (with each current or future parcel of such real property referred to herein individually as a “Parcel” and collectively as the “Parcels”).

Section 3. Ownership of Parcels in New TIF Area. This Council finds that the City is engaged in urban redevelopment and held fee title to each of the Parcels prior to passage of this Ordinance as Council authorized by Ordinance 2481-2020.

Section 4. Authorization of TIF Exemption. Pursuant to and in accordance with the provisions of Section 5709.41 of the Ohio Revised Code, this Council hereby finds and determines that one hundred percent (100%) of the increase in assessed value of each Parcel subsequent to the acquisition of that Parcel by the City (which increase in assessed value is hereinafter referred to as the “Improvement” as defined in Section 5709.41(A) of the Ohio Revised Code) is hereby declared to be a public purpose and will be exempt from taxation for a period commencing on the effective date of this Ordinance and ending on the earlier of (a) 30 years after such commencement or (b) the date on which the City can no longer require service payments in lieu of taxes, all in accordance with the requirements of the TIF Statutes. The TIF Exemption granted and the payment obligations of this Ordinance are subject and subordinate to any tax exemption applicable to the Improvement under Section 140.08, or Sections 717.05 through 717.053, or Section

5709.08 or Section 5709.081 or Sections 5709.12 or 5709.121, or Sections 3735.65 through 3735.70 or 5709.61 through 5709.69 of the Ohio Revised Code.

Section 5. Service Payments. Subject to any tax exemption applicable to the Improvement pursuant to Section 140.08, or Sections 717.05 through 717.053, or Section 5709.08 or Section 5709.081 or Sections 5709.12 or 5709.121, or Sections 3735.65 through 3735.70 or 5709.61 through 5709.69 of the Ohio Revised Code, and pursuant to Section 5709.42 of the Ohio Revised Code, this Council hereby directs and requires the Owner of each Parcel it owns to make service payments in lieu of taxes with respect to the Improvement allocable thereto to the Franklin County Treasurer (the “County Treasurer”) on or before the final dates for payment of real property taxes. Each service payment in lieu of taxes, including any penalties and interest at the then current rate established under Sections 323.121(B) (1) and 5703.47 of the Ohio Revised Code (collectively, the “Service Payments”), shall be charged and collected in the same manner and in the same amount as the real property taxes that would have been charged and payable against the Improvement if it were not exempt from taxation pursuant to this Ordinance. The Service Payments, and any other payments with respect to each Improvement that are received by the County Treasurer in connection with the reduction required by Sections 319.302, 321.24, 323.152 and 323.156 of the Ohio Revised Code, as the same may be amended from time to time, or any successor provisions thereto as the same may be amended from time to time (the “Property Tax Rollback Payments”), shall be allocated and distributed in accordance with Section 6 of this Ordinance. This Council further hereby authorizes and directs appropriate officers of the City to make such arrangements as are necessary and proper for collection of the Service Payments from the Owners, including the preparation and filing of any necessary exemption applications.

Section 6. Tax Increment Equivalent Fund. This Council hereby establishes, pursuant to and in accordance with the provisions of Section 5709.43 of the Ohio Revised Code, an urban redevelopment tax increment equivalent fund (the “Stadium 41 TIF Fund” or the “TIF Fund”), into which there shall be deposited the Service Payments not required to be distributed to the School Districts pursuant to this Ordinance and paid to the City pursuant to this Ordinance. The TIF Fund shall be maintained in the custody of the City, and those Service Payments and Property Tax Rollback Payments received by the City with respect to the Improvement of each Parcel and so deposited pursuant to Sections 5709.42 and 5709.43 of the Ohio Revised Code shall be used solely for the purposes authorized in the TIF Statutes and this Ordinance. The TIF Fund shall remain in existence so long as such Service Payments and Property Tax Rollback Payments are collected and used for the aforesaid purposes, after which time the TIF Fund shall be dissolved, and any surplus funds remaining therein shall be transferred to the City’s General Fund, all in accordance with Section 5709.43 of the Ohio Revised Code.

Section 7. Distribution of Service Payments. Pursuant to the TIF Statutes, the County Treasurer is requested to distribute the Service Payments and Property Tax Rollback Payments as follows:

- a) to the School District, an amount equal to the amount it would otherwise have received as real property tax payments (including the applicable portion of any Property Tax Rollback Payments) derived from the Improvement to each Parcel located within that School District as if the Improvement had not been exempt from taxation pursuant to this Ordinance; and
- b) to the City, all remaining amounts for further deposit into the TIF Fund for payment of the costs of urban redevelopment identified in the EDA and a subsequent TIF Cooperative Agreement, for which legislation will be submitted for Council consideration, including, without limitation, to pay debt charges on any securities of or loans undertaken by the Authority to pay or reimburse financing costs or those costs of urban redevelopment related to the Project.

All distributions required under this section are requested to be made at the same time and in the same manner as real property tax distributions.

Section 8. Further Authorizations. This Council ratifies the delivery of the notice of this Ordinance to the School Districts pursuant to Section 5709.41 and Section 5709.83 of the Ohio Revised Code; hereby authorizes and

directs the Director, the City Clerk or other appropriate officers of the City to deliver a copy of this Ordinance and status reports to the Ohio Development Services Agency pursuant to Section 5709.41(E) of the Ohio Revised Code; to make such arrangements as are necessary and proper for collection of the Service Payments; further authorizes and directs the Director, the City Clerk, the City Attorney, the City Auditor, or other appropriate officers of the City to prepare and sign all agreements and instruments and to take any other actions as may be appropriate to implement this Ordinance.

Section 9. TIRC. The City's Tax Incentive Review Council (TIRC) shall review annually all exemptions from taxation resulting from the declarations set forth in this Ordinance and any other matters as may properly come before that Council, all in accordance with Section 5709.85 of the Ohio Revised Code.

Section 10. Effective Date. This ordinance shall take effect and be in force from and after the earliest date permitted by law.