



## Legislation Text

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**File #: 2622-2020, Version: 1**

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### **Background**

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 this Ordinance hereby authorizes the “Second Amendment” to the Original Agreement (collectively, the “Agreement”) to provide funding for public infrastructure improvements necessary for the development of Polaris and the surrounding area from the Polaris TIF.

The Polaris TIF was approved by Council by Ordinance 3106-96, expanded by Council by 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 establish the Polaris II TIF and Polaris III TIF. In 2020, Council reconciled the Polaris TIF boundaries to account for certain parcel combinations and splits along the periphery of the Polaris I, II, and III TIFs and certain cartographic errors, all resulting in the modern configuration of the Polaris TIF depicted on Exhibit A to Ordinance 2600-2020 (the “1996 Polaris TIF”).

The General Assembly enacted Revised Code Section 5709.51 in 2019, which allows municipal legislative authorities to extend TIFs with annual service payments of at least \$1.5 million in the immediately preceding calendar year for an additional 30 year period. The 1996 Polaris TIF meets this threshold, and the Developer has requested that the 1996 Polaris TIF be extended for an additional 30 year period (the “Extension Period”) in order to provide for the funding of additional public infrastructure for the continued development of Polaris. The Department of Development has submitted for City Council Consideration Ordinance 2600-2020 to authorize a 30 year extension pursuant to O.R.C. § 5709.51.

In consideration of this extension, and in addition to the income tax benefits to the City and its residents that are generated by the jobs and economic activity generated by Polaris, the Developer has offered the following benefits to the City: (1) the City has the right to retain and utilize 12.5% of the revenue from the 1996 Polaris TIF during the Extension Period to use for costs as determined by the City (which must be eligible TIF costs under State law), (2) the Developer will commit to using good faith efforts to award at least 30% (in total value) of construction, design and engineering contracts to qualified minority and women-owned businesses within the City for projects that will be reimbursed pursuant to the Agreement, (3) the Developer will commit to causing 20% of the “Subsequent Apartments” to be subject to the City’s workforce housing restrictions on rent and income with 5% at 60% AMI, 5% at 80% AMI and 10% at 100% AMI (“Subsequent Apartments” are defined as any residential rental apartments constructed on property currently owned by the Developer or its affiliates as designated on the Exhibit A-1 attached to the Agreement for the first 1,000 market rate residential apartments for which original construction was commenced by the Developer or its affiliates after the adoption of this ordinance), and (4) in each calendar year from and including 2021, through and including 2027, the City will have the ability to allocate an additional \$500,000 per year from TIF proceeds to eligible projects (\$3,500,000 total).

This ordinance approves the Second Amendment to the Original Agreement as amended by the First Amendment to provide for the foregoing benefits to the City, to make other technical modifications to streamline payments of TIF revenue, to govern the payments and uses of TIF revenue generated by the TIF Extension, and to memorialize the parties’ further economic development agreements and obligations pertaining to Polaris.

### **Fiscal Impact**

No funding is required for this legislation. The City is appropriating and authorizing the expenditure of TIF revenues to be deposited in the Polaris TIF Fund No. 4402 as a result of the extension (Ordinance 2600-2020) in accordance with the Agreement.

To authorize the Director of Development to amend and execute 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 this Ordinance hereby authorizing the “Second Amendment” to the Original Agreement (collectively, the “Agreement”) to provide funding for public infrastructure improvements necessary for the continued development of Polaris and the surrounding area from the Polaris TIF, to provide for goals for disadvantaged business inclusion, to provide for use of TIF revenue for projects determined by the City, to provide for affordable and workforce housing commitments, to govern the uses of TIF revenue generated by the TIF extension, and to make certain other technical modifications.

**WHEREAS**, Ordinance 3106-96, passed by this Council on December 16, 1996 pursuant to Ohio Revised Code (“ORC”) Section 5709.40 (as subsequently amended to add additional territory to the TIF area by Ordinance No. 0627-2004 passed by City Council on April 5, 2004, Ordinance No. 1560-2005 passed by its City Council on December 12, 2005, Ordinance No. 1914-2008 passed by City Council on December 1, 2008, and Ordinance 1582-2013 passed by City Council July 1, 2013 and to remove territory from the TIF area by Ordinance No. 1847-2015 passed by City Council on July 13, 2015 and Ordinance 3313-2018 passed December 10, 2018, as amended, the “1996 Polaris TIF Ordinance”), declared improvements to certain parcels of real property that are part of the Polaris development (as identified on Exhibit A to Ordinance No. 2600-2020 as the Polaris I “Parcels” to be extended, the “1996 TIF Parcels”) to be a public purpose, required the owners of such parcels to make service payments in lieu of taxes (“Service Payments”) and otherwise established a tax increment financing program for those parcels and the Polaris development; and

**WHEREAS**, 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 this Ordinance hereby authorizing the “Second Amendment” to the Original Agreement collectively, (the “Agreement”) to provide funding for public infrastructure improvements necessary for the continued development of Polaris and the surrounding area from the Polaris TIF; and

**WHEREAS**, City Council by Ordinance 1555-2017 passed June 19, 2017 determined, pursuant to Section 6 of House Bill 384 enacted by the 131st General Assembly, that satisfactory provision had been made for the public improvement needs of the 1996 TIF Parcels; and .

**WHEREAS**, this Council further determined that certain public improvements identified generally on Exhibit B of Ordinance 1555-2017 (the “Neighborhood Public Improvements”) will be in support of urban redevelopment within the meaning of Section 5709.41 of the Ohio Revised Code; and

**WHEREAS**, the Developer has requested that City Council extend the TIF exemption for the 1996 TIF Parcels for an additional 30 year period (the “Extension Period”) pursuant to Revised Code Section 5709.51 (the “TIF Extension”); and

**WHEREAS**, the Original Agreement and First Amendment limits the City the opportunity to utilize Service Payments for TIF eligible projects at the City’s direction and, as a benefit to the City and its residents, the Developer has offered to amend the Original Agreement and First Amendment to provide that the City has the right to retain 12.5% of the annual Service Payments received from the 1996 TIF Parcels for each year during the Extension Period to utilize for eligible projects and Neighborhood Public Improvements as directed by the City; and

**WHEREAS**, as a further benefit to the City and its residents, in order to ensure opportunities for qualified minority and women-owned businesses within the City to participate in projects at Polaris, the Developer has offered to use good faith efforts to award at least 30% (in total value) of construction contracts to such qualified minority and women-owned businesses within the City for projects whose costs will be reimbursed pursuant to the Agreement; and

**WHEREAS**, in order to provide for additional housing opportunities for low and moderate income families in the Polaris area as a further benefit to the City and its residents, the Developer has offered to cause 20% of the “Subsequent Apartments” to be subject to the City’s workforce housing restrictions on rent and income (“Subsequent Apartments” are

defined as any residential rental apartments constructed on property currently owned by the Developer or its affiliates as designated on the Exhibit A-1 attached to the Agreement for the first 1,000 market rate residential apartments for which original construction was commenced by the Developer or its affiliates after the adoption of this ordinance); and

**WHEREAS**, as a further benefit to the City and its residents the City shall have priority to direct \$500,000 per year in TIF funds beginning in 2021 through and including 2027 that the City may use for any eligible projects and Neighborhood Public Improvements; and

**WHEREAS**, in consideration of City Council's approval of the TIF extension, and in order to provide for the foregoing benefits to the City and its residents (collectively, the "City Benefits"), the City and the Developer desire to amend the Original Agreement and First Amendment to provide for the Developer's commitment to provide such City Benefits and to govern the payments and uses of TIF revenue generated by the TIF Extension; **NOW, THEREFORE**,

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

**Section 1.** This Council hereby authorizes the Director of Development, for and in the name of the City, to execute the Second Amendment to the Original Agreement and First Amendment, as defined herein, (the Original Agreement, as amended by the First Amendment and Second Amendment, becoming 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 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, in order to include the City Benefits, make other technical amendments to the Agreement that are not substantially adverse to the City, and to govern the payments and uses of TIF revenue generated by the TIF Extension.

**Section 2.** The Director of Development and other appropriate officers of the City are hereby authorized and directed to take such actions, execute such agreements and documents, and make such arrangements, subject to approval by the City Attorney's Office, that are consistent with the purpose of this ordinance or contemplated by the Agreement and necessary and proper to implement this ordinance.

**Section 3.** That the service payments in lieu of taxes and property tax rollback payments deposited into the Polaris TIF Fund No. 4402 as a result of the TIF Extension shall be deemed appropriated for the purposes set forth in the Agreement and authorized to be expended therefrom in accordance with the Agreement, and the City Auditor is authorized to make payments to the Developer or its designee from the Polaris TIF Fund No. 4402 in accordance with the Agreement upon order of the Director of Development 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.** This ordinance shall take effect and be in force from and after the earliest date permitted by law.