



Legislation Text

File #: 2791-2020, **Version:** 1

Background: This Council by its Ordinance 2189-2020 authorized the Director of Development to enter into an amended Economic Development Agreement (“Amended EDA”) with Hamilton Crossing, LLC (the “Company”) and members of the Development Team from the original Economic Development Agreement dated September 24, 2015. Pursuant to the Amended EDA, the parties desired for City Council to approve Tax Increment Financing (“TIF”) under Section 5709.40 (B) of the Ohio Revised Code to finance the design and construction of public infrastructure improvements that will directly benefit the property within the TIF area and will support the Company’s proposal to construct approximately \$75,000,000 to \$85,000,000 of Class A office, retail, and mixed use development on approximately ±96.21 acres of real property owned by the Company and its wholly owned subsidiaries located to the south of the N. Hamilton Road and State Route 161 interchange.

In order to implement the Amended EDA, Council approved Ordinance 2188-2020 to create a TIF under Section 5709.40 (B) of the Ohio Revised. In order to correct a technical error, this Ordinance will repeal and replace Ordinance 2188-2020 to ensure that the Eastland-Fairfield Career & Technical Schools are properly noticed and included in the list of school districts to which service payments will be distributed in the amount that the school districts would have received in real property taxes had the tax exemption not been granted.

This Ordinance will amend Ordinance 2117-2005, previously amended by Ordinance 0715-2009, to: 1) modify the authorized supplemented list of public infrastructure improvements, and 2) remove certain parcels from the existing Dublin-Granville North and Dublin-Granville South TIF districts. This Ordinance will also add the removed parcels and additional parcels currently not in a TIF to a new non-school TIF area known as “Dublin-Granville East” and provide for a 100% exemption from real property taxation on all improvements to the parcels within the new 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 TIF parcels. The applicable portion of those service payments will be distributed directly to the Columbus City School District, the New Albany Plain Local School District, and the Eastland-Fairfield Career & Technical Schools, in the same manner as usual, in the amount that the school districts 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 TIF fund established in this ordinance to be used to finance the infrastructure improvements directly benefiting the new TIF parcels. The Department of Development will submit for City Council consideration additional legislation to amend and restate the existing TIF Agreement with the Company to incorporate the new public infrastructure improvements and new TIF.

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 TIF parcels or would have otherwise received in the previously created TIF funds under Ordinance 2117-2005. Instead, the non-school portion of the new TIF revenue will be diverted to the new TIF fund.

To repeal and replace Ordinance 2188-2020 with this Ordinance; to amend Ordinance 2117-2005 as previously amended by Ordinance 0715-2009, to repeal and replace the authorized supplemented list of public infrastructure improvements and to remove parcels from the existing Dublin-Granville North and Dublin Granville South TIF districts; to create the “Dublin-Granville East” O.R.C. 5709.40(B) TIF area; to declare improvements to the TIF parcels to be a public purpose and exempt from real property taxation; to require the owners of the 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, the New Albany Plain Local School District, and the Eastland-Fairfield Career & Technical Schools; and to establish a municipal public improvement tax increment equivalent fund for the deposit of the remainder of those service payments.

WHEREAS, pursuant to Ordinance 2117-2005 passed December 12, 2005 and as amended by Ordinance 0715-2009 passed on June 8, 2009, this Council created using Section 5709.40(C) of the Ohio Revised Code the Dublin-Granville North and Dublin-Granville South Tax Increment Financing districts adjacent to the N. Hamilton Road and State Route 161 interchange and designated public infrastructure improvements to be financed by the TIFs; and

WHEREAS, Section 6 of Ordinance 2117-2005 authorizes any other public infrastructure improvements thereafter designated by ordinance as public infrastructure improvements made or to be made that benefit or serve the parcels in the TIFs created by Ordinance 2117-2005; and

WHEREAS, Council by its Ordinance 2189-2020 authorized the Director of Development to enter into an amended Economic Development Agreement (the “Amended EDA”) with Hamilton Crossing, LLC (the “Company”) and members of the Development Team establishing the desire of the parties to create the new “Dublin-Granville East” TIF area under Section 5709.40(B) of the Ohio Revised Code; and

WHEREAS, pursuant to Ordinance 2188-2020, Council established the Dublin Granville East TIF, but in order correct a technical error, Council will repeal and replace Ordinance 2188-2020 with this Ordinance; and

WHEREAS, Sections 5709.40 through 5709.43 of the Ohio Revised Code (collectively, the “TIF Statutes”) authorize the legislative authority of a municipal corporation, by ordinance, to declare the improvements to certain parcels of real property located within the municipal corporation 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 districts, and joint vocational school districts, establish a municipal public improvement tax increment equivalent fund for the deposit of the remainder of such Service Payments and payments from that fund; and

WHEREAS, in order to facilitate the Amended EDA, the City desires to amend Ordinance 2117-2005, as amended by Ordinance 0715-2009, to: 1) repeal and replace the authorized supplemented list of public infrastructure improvements and 2) remove certain undeveloped parcels from the Dublin-Granville North and Dublin-Granville South TIF districts so those removed parcels can be included in the new Dublin-Granville East TIF created herein, thereby allowing a full 30 year TIF on those undeveloped parcels to encourage development and support additional public infrastructure improvements; 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 3 of this ordinance and identified on Exhibit A hereto as the “Dublin-Granville East Parcels”) as permitted and provided for in 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 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 pursuant to Section 140.08, Sections 5709.12 and 5709.121, or under Sections 3735.65 through 3735.70 or 5709.61 through 5709.69 of the Ohio Revised Code; and

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

WHEREAS, pursuant to Section 5709.43(A) of the Ohio Revised Code, this Council has determined to establish a municipal public improvement 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 Districts in accordance with and within the time periods prescribed in Sections 5709.40 and 5709.83 of the Ohio Revised Code, as applicable; **NOW, THEREFORE**,

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

Section 1. Repeal and Replace Prior TIF Creation Ordinance. Ordinance 2188-2020, passed by this Council on October 6, 2020, is hereby repealed and is to be replaced with this Ordinance.

Section 2. Modify Eligible Public Infrastructure Improvements. That Supplemented Exhibit C to Ordinance 0715-2009, which amended and supplemented the public infrastructure improvements in Exhibit C to Ordinance 2117-2005, is hereby repealed and replaced with Supplemented Exhibit C-2 attached hereto in order to add improvements to the list of public infrastructure improvements that may be funded from payments in lieu of taxes that are collected from the various tax increment financing districts that were created pursuant to Ordinance 2117-2005.

Section 3. Removal of Parcels from Existing .40(C) TIFs. That Exhibit A to Ordinance 2117-2005 passed on December 12, 2005, is hereby repealed and replaced with Exhibit A attached hereto, to remove from the Dublin-Granville North and Dublin-Granville South TIF districts certain parcels to be included in the Dublin-Granville East TIF.

Section 4. Creation of a New TIF Area. The real property to be included in the new Dublin-Granville East TIF is identified and depicted as the “Dublin-Granville East TIF Parcels” on Exhibit A 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 5. Authorization of TIF Exemption. Pursuant to and in accordance with the provisions of Section 5709.40 (B) 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 (which increase in assessed value is hereinafter referred to as the “Improvement” as defined in Section 5709.40(A) of the Ohio Revised Code) is hereby declared to be a public purpose and will be exempt from taxation for a period commencing with the tax year in which an exempted improvement first appears on the tax list and duplicate of real and public utility property and that commences after 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 established in this Ordinance are subject and subordinate to any tax exemption applicable to the Improvement under Section 140.08, 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 6. Service Payments. Subject to any tax exemption applicable to the Improvement pursuant to Section 140.08, Sections 5709.12 and 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 annual 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 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 7. 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, a municipal public improvement tax increment equivalent fund (the “Dublin-Granville East TIF Fund” or the “TIF Fund”), into which there shall be deposited the Service Payments collected from the Parcels 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 8. Distribution of Service Payments. Pursuant to the TIF Statutes, the County Treasurer is requested to distribute the Service Payments and the Property Tax Rollback Payments as follows:

- a) to the School Districts, 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 the School Districts 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 public infrastructure improvements as authorized by this Ordinance and Section 5709.40 of the Ohio Revised Code.

All distributions required under this Section 6 are requested to be made at the same time and in the same manner as real property tax distributions.

Section 9. Public Infrastructure Improvements. This Council hereby designates the public infrastructure improvements described in Exhibit B attached hereto, and any other public infrastructure improvements hereafter designated by ordinance as public infrastructure improvements, as public infrastructure improvements made, to be made or in the process of being made by the City that directly benefit, or that once made will directly benefit, the Parcels.

Section 10. Further Authorizations. This Council ratifies the delivery of the notice of this Ordinance to the School Districts pursuant to Section 5709.40 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 5709.40(I) 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 11. 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 12. Effective Date. This ordinance shall take effect and be in force from and after the earliest date permitted by law.