



Legislation Text

File #: 1664-2022, **Version:** 1

Background: City Council passed Ordinance No. 1447-2020 on July 6, 2020 as amended by Ordinance No. 2563-2020 passed November 23, 2020 (together, the “TIF Ordinance”) creating and then later expanding the “Rickenbacker-317 TIF,” requiring the deposit of service payments generated by parcels subject to the TIF Ordinance (the “Service Payments”) into a special TIF fund, and designating authorized public improvements to be financed by those Service Payments. Within the Rickenbacker-317 TIF, 1489 Rohr Holding, LLC (the “Developer”) and its affiliate own Franklin County Tax Parcel Nos. 495-303782, 495-303783, 495-303784, and 495-303785 (collectively, the “Site”). Pursuant to Ordinance No. 1460-2020 passed by City Council on June 6, 2020, the City entered into a Tax Increment Financing Agreement dated as of December 31, 2020 (the “Prior TIF Agreement”) with the Developer. Under the Prior TIF Agreement, the City agreed to reimburse the Developer for its costs of certain regional roadway, sewer, and water public improvements (the “Public Improvements”) benefiting the development of the Rickenbacker-317 TIF using the Service Payments from the Site (the “Site TIF Revenue”). Provided, if the Developer desired to pledge the Site TIF Revenue to a port authority to issue bonds prior to the commencement of the design and construction of those Public Improvements, the parties agreed a separate cooperative agreement would be necessary.

This Ordinance approves and authorizes a new Tax Increment Financing and Cooperative Agreement (the “Cooperative Agreement”) by and among the City, the Columbus-Franklin County Finance Authority (the “CFCFA”), the Development Finance Authority of Summit County (“DFA”) and the Developer pursuant to which the CFCFA and DFA will issue bonds to finance a portion of the Public Improvements. The City will pledge: (1) the “Minimum Service Payment Obligation” received by the City pursuant to Section 5709.91 of the Ohio Revised Code and (2) the Site TIF Revenue to repaying those bonds, with such pledge of superior in priority to any claim of the Site TIF Revenue by the Developer pursuant to the Prior TIF Agreement. This Ordinance will also appropriate and authorize the expenditure of the Site TIF Revenue and the Minimum Service Payment Obligation pursuant to the Cooperative Agreement. It further authorizes the Director of the Department of Development to agree to the terms of a Declaration of Covenants and Imposition of Continuing Priority Lien to ensure the Site owner(s) will make the Minimum Service Payment Obligation in sufficient amounts to finance the annual minimum bond repayment after receipt of any annual Site TIF Revenue.

Emergency Justification: Emergency legislation is necessary to allow the Developer to maintain its project schedule and allow for the timely sale of bonds to finance the Public Improvements.

Fiscal Impact: No funding is required for this legislation. The City is appropriating and authorizing the expenditure of: (1) the minimum service payment obligation received by the City pursuant to Section 5709.91 of the Ohio Revised Code, and (2) the service payments in lieu of taxes generated by the parcels owned by the 1489 Rohr Holding, LLC or its affiliates, subject to the Rickenbacker-317 TIF Ordinance, and deposited or to be deposited in the Rickenbacker-317 Municipal Public Improvement Tax Increment Equivalent Fund, all in accordance with the Tax Increment Financing Agreement and Cooperative Agreement.

To appropriate and authorize the expenditure of: (1) the minimum service payment obligation received by the City pursuant to Section 5709.91 of the Ohio Revised Code, and (2) the service payments in lieu of taxes generated by the parcels owned by the 1489 Rohr Holding, LLC or its affiliates, subject to the Rickenbacker-317 TIF, and deposited in the Rickenbacker-317 Municipal Public Improvement Tax Increment Equivalent Fund pursuant to the Tax Increment Financing Agreement and Cooperative Agreement (the “Cooperative Agreement”); to authorize the Director of the Department of Development (the “Director”) to execute and deliver the Cooperative Agreement by and among the City of Columbus, the Columbus-Franklin County Finance Authority, the Development Finance Authority of Summit County, and 1489 Rohr Holding, LLC for the bond financing of certain regional roadway, sewer, and water public improvements; to authorize the Director or other appropriate officers of the City to agree to the terms of a Declaration of Covenants and

Imposition of Continuing Priority Lien and to deliver such other agreements and instructions and to take such other action necessary to a secure the bonds; and to declare an emergency.

WHEREAS, 1489 Rohr Holding, LLC (the “Developer”) and its affiliate have acquired certain real property identified as Franklin County Auditor Tax Parcel ID Nos. 495-303782, 495-303783, 495-303784, and 495-303785 (the “Site”) that are subject to the TIF Ordinance on which they plan to develop multiple warehouse and distribution centers (the “Private Project”) and develop certain regional roadway, sewer, and water public improvements (the “Public Improvements”) surrounding, through, and to the Site; and

WHEREAS, pursuant to Ordinance No. 1447-2020 passed July 6, 2020 as amended by Ordinance No. 2563-2020 passed November 23, 2020 (collectively the “TIF Ordinance”), this Council created the “Rickenbacker-317 TIF” and the Rickenbacker-317 municipal public improvement tax increment equivalent fund (the “TIF Fund”) under Ohio Revised Code Sections 5709.40 to 5709.43 as well as designated certain public improvements to be financed from service payments generated from the parcels subject to the TIF Ordinance (the “Service Payments”) and deposited into the TIF Fund; and

WHEREAS, pursuant to Ordinance No. 1460-2020 passed by City Council on July 6, 2012, this Council appropriated and authorized the expenditure of the Service Payments and property tax rollback payments generated from the Site (the “Site TIF Revenue”) in accordance with the Tax Increment Financing Agreement dated as of December 31, 2020 (the “Prior TIF Agreement”) by and among the City and the Developer to reimburse the Developer for costs incurred by the Developer for the Public Improvements that benefit the development of the Rickenbacker-317 TIF; and

WHEREAS, the Columbus-Franklin County Finance Authority (“CFCFA”) and the Development Finance Authority of Summit County (“DFA”) are willing to issue bonds to finance the Public Improvements provided that the City and the Developer each approve and enter into a Tax Increment Financing Agreement and Cooperative Agreement (the “Cooperative Agreement”) with the CFCFA and DFA, and

WHEREAS, in accordance with the Cooperative Agreement, the City agrees to pledge (1) the “Minimum Service Payment Obligation” received by the City as defined and enacted pursuant to Section 5709.91 of the Ohio Revised Code, and (2) the Site TIF Revenue to repayment of the bonds; and

WHEREAS, the Developer agrees to subordinate its claim to the Site TIF Revenue under the Prior TIF Agreement to repayment of the bonds, and execute a Declaration of Covenants and Imposition of Continuing Priority Lien (the “Declaration”), which the Developer shall record against the property to ensure the Minimum Service Payment Obligation is paid by the Site owner(s) in order to secure the bonds; 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 enter into the foregoing Cooperative Agreement and Declaration, and to deliver such other agreements and instructions and to take such other action necessary, to allow the Developer to maintain its project schedule, to expedite the development of the Private Project, and to secure the timely sale of bonds to finance the Public Improvements, all for the preservation of the public health, peace, property, and safety, that preservation; **NOW, THEREFORE**,

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

Section 1. That the Director of the Department of Development (the “Director”), or his or her designee, for and in the name of the City, is hereby authorized to execute and deliver the Cooperative 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 of said Cooperative Agreement by the Director or designee.

Section 2. That the Director or other appropriate officers of the City are authorized (1) to agree to the terms of and deliver the Declaration, subject to approval by the City Attorney's Office, and (2) to take all actions as may be necessary to implement this Ordinance and the transactions contemplated by the Cooperative Agreement and the Declaration including, but not limited to, executing other subsequent agreements such as guaranteed maximum reimbursement agreements or certifying the Minimum Service Payment Obligation on the real and public utility tax list and duplicate with the Auditor of Franklin County, Ohio in the manner and amounts and on the property as provided for in the Declaration.

Section 3. That (1) the Minimum Service Payment Obligation received by the City and (2) the Site TIF Revenue deposited into the TIF Fund (7435) created by the TIF Ordinance, shall be deemed appropriated for the purposes set forth in the Cooperative Agreement and Declaration and authorized to be expended therefrom in accordance with the Cooperative Agreement and Declaration, and the City Auditor is authorized to make payments to the CFCFA and DFA or each of their designees from the TIF Fund in accordance with the Cooperative Agreement and Declaration 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 make annual transfers of \$5,000 from the TIF Fund (7435) to the Business Tax Incentive Fund (2229), subject to the authorization of the Director, for the City TIF Administrative Fee in accordance with the Cooperative Agreement and Ordinance 3221-2018.

Section 5. This ordinance is hereby declared to be an emergency measure and shall take effect and be in full 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.