

Ordinance No. 1299-2023

**By Council Members Hairston and Griffin
(by departmental request)**

AN EMERGENCY ORDINANCE

To amend various ordinances authorizing five Tax Increment Financing projects to extend the exemption from taxation for certain parcels in the City for an additional thirty years and to supplement the development and the public improvements to be made to benefit those and other parcels; and declaring an emergency.

WHEREAS, pursuant to Sections 5709.40, 5709.42, and 5709.43 of the Revised Code (collectively, the “TIF Act”), this Council passed Ordinance No. 2247-02, on December 16, 2002, to authorize the Lower Euclid Tax Increment Financing (“TIF”) project; passed Ordinance No. 1219-11, on October 10, 2011, as amended by Ordinance No. 1550-13, passed November 25, 2013, to authorize the Optima 777 dba Westin Cleveland Hotel TIF project; passed Ordinance No. 306-14, on October 6, 2014, to authorize the Hilton TIF project; passed Ordinance No. 1780-05, on January 9, 2006, as amended by Ordinance No. 766-11, passed June 6, 2011, and Ordinance No. 123-13, passed March 18, 2013, to authorize the Steelyard Commons TIF project; and passed Ordinance No. 2006-06, on June 11, 2007, to authorize the Veterans Administration TIF project (each, a “TIF Ordinance”, and together, the “TIF Ordinances”), thereby declaring improvements to parcels of certain real property located in the City (as described and depicted in the TIF Ordinances and referred to therein as the “Real Property” or the “Property” and referred to herein as the “Property”), to be a public purpose, exempting those improvements from real property taxation for a period of 30 years, specifying public infrastructure improvements (as described in the TIF Ordinances and referred to therein as the “Infrastructure Improvements”) to be made to benefit the Property, providing for the making of service payments in lieu of taxes (the “Service Payments”) by the owner(s) thereof, establishing a municipal public improvement tax increment equivalent funds into which those Service Payments were to be deposited, and providing for payments to the Cleveland Metropolitan School District (the “CMSD”) out of the Service Payments; and

WHEREAS, this Council desires to amend the TIF Ordinances to (a) specify additional development and public infrastructure improvements benefiting the Property, (b) authorize additional uses of the Service Payments collected pursuant to the TIF Ordinances, (c) extend, for 30 additional years, the exemption from taxation of

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improvements to the Property granted pursuant to the TIF Ordinances, and (d) further provide for payments to the CMSD out of those Service Payments; and

WHEREAS, notice of this amendment to the TIF Ordinances has been timely delivered to the CMSD in accordance with Sections 5709.40 and 5709.83 of the Revised Code;

WHEREAS, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

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

Section 1. That the City is an “impacted city” under Section 1728.01 of the Revised Code, that, pursuant to the authority granted by Section 757.70 of Am. Sub. H.B. No. 33 of the 135th General Assembly, satisfactory provision has been made for the public improvement needs of the Property and that the public improvements, made, to be made, or in the process of being made within the City as described on Exhibit A to this Ordinance that do not directly benefit the Property are in support of urban redevelopment within the meaning of Section 5709.41 of the Revised Code.

Section 2. That this Council finds and determines that, with respect to each individual TIF Ordinance, the Service Payments made by owners of the Property under that TIF Ordinance pursuant to Section 5709.42 of the Revised Code exceeded one million five hundred thousand dollars (\$1,500,000) in or prior to calendar year 2022 under that TIF Ordinance, or is reasonably expected to exceed that amount in a future year under that TIF Ordinance, in compliance with ORC 5709.51(A)(1).

Section 3. That the TIF Ordinances are hereby amended, pursuant to Section 5709.51 of the Revised Code, to extend the exemption from taxation of improvements to the Property for a period of thirty (30) years from the end of the applicable exemption period for each parcel of the Property as determined by the TIF Ordinances, as amended by this Ordinance (the “Extension Period”).

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Section 4. That all the above referenced, previously approved TIF Ordinances shall retroactively comply with this new ordinance. This new ordinance shall be applicable to extend the exemption from taxation for the Property as previously approved under the TIF Ordinances.

Section 5. That the City shall distribute to the School District from the Service Payments received from the Owners of the Property, pursuant to Section 5709.51(A)(3) of the Revised Code, for each year of the Extension Period for each parcel of the Property, compensation equal in value to the amount of taxes that would be payable to the School District from that parcel if the Improvements to that parcel of the Property had not been exempted from taxation for the Extension Period.

Section 6. That, under the TIF Ordinances, Council created the following named TIF Agreements or Projects: Lower Euclid TIF; Optima 777 dba Westin Cleveland Hotel TIF; Hilton TIF; Steelyard Commons TIF; and Veterans Administration TIF, all of which TIF projects and TIF Ordinances shall be hereby consolidated under this new ordinance and under a new program called the “O.R.C. 5709.51 TIF 30-year Extension Program” (“30-year TIF Extension Program”).

Section 7. That except as provided herein, all other provisions of the TIF Ordinances shall remain in full force and effect. City officials are further authorized to provide such information and to execute, certify or furnish such other documents, and to do all of the things as are necessary for and incidental to carrying out the provisions of this Ordinance.

Section 8. That the Director of Finance is authorized to accept revenue generated by this TIF Extension Ordinance and deposit the revenue into Fund No. 17 SF 030. Such fund shall constitute the municipal public improvement tax increment equivalent fund or urban redevelopment tax increment equivalent fund, as applicable, for each TIF Ordinance. Subject to the satisfaction of any contractual obligations in effect on the date of this Ordinance, the Service Payments deposited into a municipal

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public improvement tax increment equivalent fund may be used for those public improvements identified on Exhibit A hereto and subsequently approved by City Council. Subject to the satisfaction of any contractual obligations in effect on the date of this Ordinance, Service Payments deposited into an urban redevelopment tax increment equivalent fund may be used for any urban redevelopment purpose within the City and subsequently approved by City Council.

Section 9. That the Clerk of Council is hereby directed to deliver a copy of this Ordinance to the Director of the Department of Development of the State of Ohio within fifteen days after its passage.

Section 10. That this Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this Ordinance were taken in an open meeting of this City Council or any of its committees, and that all deliberations of this City Council and of any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law, including Section 121.22 of the Revised Code.

Section 11. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

SMa:nl
11-13-2023
FOR: Director McNair

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EXHIBIT A

PUBLIC IMPROVEMENTS

The public improvements in support of urban redevelopment authorized by this ordinance consist of any “public infrastructure improvement” defined under ORC 5709.40(A)(8) and specifically include, but are not limited to, any of the following improvements and all related costs of those permanent improvements (including, but not limited to, those costs listed in ORC 133.15(B)), together with such improvements hereafter approved by City Council Ordinance:

- **Roadways.** Construction, reconstruction, extension, opening, improving, widening, grading, draining, curbing or changing of the lines and traffic patterns of roads, highways, streets, intersections, bridges (both roadway and pedestrian), sidewalks, bikeways, medians and viaducts accessible to and serving the public, and providing signage (including traffic signage and informational/promotional signage), lighting systems, signalization, and traffic controls, and all other appurtenances thereto.
- **Parking Facilities.** The construction or reconstruction of off-street parking facilities.
- **Water/Sewer.** Construction, reconstruction or installation of public utility improvements (including any underground municipally owned utilities), storm and sanitary sewers (including necessary site grading therefore), water and fire protection systems, and all appurtenances thereto.
- **Environmental/Health.** Implementation of environmental remediation measures necessary to enable the construction of private improvements and the construction of public health facilities.
- **Utilities.** Construction, reconstruction, burial or installation of gas, electric and communication service facilities and all appurtenances thereto, including, but not limited to those associated with improvements described in “Roadways” above.
- **Stormwater.** Construction, reconstruction, relocation, modification and installation of stormwater and flood remediation projects and facilities, both for storm water quantity and quality, including the payment and reimbursement for such projects and facilities on private property when determined to be necessary for public health, safety and welfare.
- **Demolition.** Demolition, including demolition on private property when determined to be necessary for public health, safety and welfare.
- **Parks.** Construction or reconstruction of one or more public parks and park or recreational facilities, including grading, trees and other park plantings, park accessories and related improvements, multi-use trails and bridges, together with all appurtenances thereto.
- **Streetscape/Landscape.** Construction or installation of streetscape and landscape improvements including trees, tree grates, signage, curbs, sidewalks, scenic fencing, street and sidewalk lighting, trash receptacles, benches, newspaper racks, burial of overhead utility lines and related improvements, together with all appurtenances thereto, including, but not limited to streetscape improvements in conjunction with and along the roadway improvements described in “Roadways” above.
- **Real Estate.** Acquisition of real estate or interests in real estate (including easements) (a) necessary to accomplish any of the foregoing improvements or (b) in aid of industry, commerce, distribution or research.
- **Professional Services.** Engineering, consulting, legal, administrative, and other professional services associated with the planning, design, acquisition, construction and installation of the foregoing improvements and real estate.

