

THE CITY COUNCIL OF NORTH ROYALTON, OHIO

ORDINANCE NO. 22-95

INTRODUCED BY: Mayor Antoskiewicz
Co-Sponsor: Marnecheck, Carbone-McDonald

AN ORDINANCE DECLARING THE IMPROVEMENT OF CERTAIN REAL PROPERTY TO BE A PUBLIC PURPOSE PURSUANT TO REVISED CODE SECTION 5709.40(B); DECLARING SUCH IMPROVEMENT TO BE EXEMPT FROM REAL PROPERTY TAXATION; DESIGNATING PUBLIC INFRASTRUCTURE IMPROVEMENTS TO BE MADE THAT WILL DIRECTLY BENEFIT SUCH PROPERTY; REQUIRING ANNUAL SERVICE PAYMENTS IN LIEU OF TAXES; DESIGNATING A MUNICIPAL PUBLIC IMPROVEMENT TAX INCREMENT EQUIVALENT FUND FOR THE DEPOSIT OF SUCH SERVICE PAYMENTS; AND AUTHORIZING COMPENSATION PAYMENTS TO THE NORTH ROYALTON CITY SCHOOL DISTRICT AND THE CUYAHOGA VALLEY CAREER CENTER, AND DECLARING AN EMERGENCY

WHEREAS: The development of commercial properties in the City of North Royalton, Ohio (the "City") will benefit the City and its residents by creating jobs, enlarging the property tax base, enhancing income tax revenues and stimulating collateral development in the City; and

WHEREAS: Pursuant to Ohio Revised Code Section 5709.40, .42, and .43 (together with related provisions of the Ohio Revised Code, the "TIF Act"), the City may, among other things, (i) declare the increase in assessed value of real property located in the City to be a public purpose, thereby exempting such increase from real property taxation for a period of time; (ii) specify public infrastructure improvements, made, to be made, or in the process of being made, that directly benefit such real property; (iii) provide for the making of service payments in lieu of taxes by the owners of such real property; (iv) establish a public improvement tax increment equivalent fund into which such service payments shall be deposited; (v) provide for the use of such service payments to pay the costs of such public infrastructure improvements (which costs may include, without limitation, the payment for or reimbursement of costs of the public infrastructure improvements incurred by the City, or any other public or private party in cooperation with the City); and (vi) provide for compensation payments to the affected school districts out of such service payments in lieu of taxes; and

WHEREAS: Tri Norwood Holdings, LLC has acquired and is developing parcels of real property (as depicted and described in Exhibit A attached hereto and incorporated herein by this reference, the "Site"), and the City has determined that certain public infrastructure improvements, as that term is defined in Ohio Revised Code Sections 5709.40(A)(7) (as more fully described on Exhibit B attached hereto and incorporated herein by this reference, the "Public Infrastructure Improvements"), made, to be made, or in the process of being made, that will directly benefit the Site; and

WHEREAS: The development of the Site will benefit the City and its residents by creating economic opportunities, enlarging the property tax base, stimulating collateral development in the City; and

WHEREAS: The City desires to grant a one hundred percent (100%) exemption from real property taxation for a period of thirty (30) years (the "TIF Exemption") for each improvement to the Site (as defined herein, the "Improvement"); and

WHEREAS: The City has determined that it is necessary and appropriate and in the best interests of the City to require the owners of the Site and their successors and assigns (collectively, with their successors and assigns, as owners of the Site, the "Owners") to make service payments in lieu of taxes with respect to the Improvement pursuant to Ohio Revised Code Section 5709.42; and

WHEREAS: The City has delivered notice of the proposed TIF Exemption to the Board of Education of the North Royalton City School District (the "School District") and to the Cuyahoga Valley Career Center (the "Career Center").

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NORTH ROYALTON, COUNTY OF CUYAHOGA AND STATE OF OHIO, THAT:

Section 1. Parcels of Real Property. The parcel of real property subject to the exemption granted by this Ordinance is identified and depicted in Exhibit A attached hereto and made a part hereof (the "Site," with each parcel comprising the Site, as currently or subsequently configured, including any lot splits or consolidations, being referred to individually as a "Parcel"). In the event of a conflict between the outline of the Site shown in the map set forth in such exhibit and the legal description of the Site, the outline of the Site shown in the map shall control.

Section 2. Tax Exemption. Pursuant to and in accordance with the TIF Act, this Council hereby finds and determines that 100% of the increase in assessed value of each Parcel comprising of the Site (which increase in assessed value is also hereinafter referred to as the “Improvement” as defined in the TIF Act) is hereby declared to be a public purpose and shall be exempt from taxation (the “TIF Exemption”) for a period commencing for each Parcel with the first tax year that begins after the effective date of this Ordinance and in which an Improvement attributable to a new structure on that Parcel would first appear on the tax list and duplicate of real and public utility property were it not for the exemption granted by this Ordinance and ending on the earlier of (A) thirty (30) years after such commencement or (B) the date on which the City can no longer require service payments in lieu of taxes (the “Exemption Period”), all in accordance with the requirements of the TIF Act.

Section 3. Designation of Public Infrastructure Improvements. This Council hereby designates the public infrastructure improvements described in Exhibit B attached hereto (the “Public Infrastructure Improvements”) and any other public infrastructure improvements hereafter designated by ordinance as public infrastructure improvements made, to be made, or in the process of being made that directly benefit, or that once made will directly benefit, the Site.

Section 4. Payment of Service Payments. As provided in Ohio Revised Code Section 5709.42, but only after the TIF Exemption is effective, the Owner of a Parcel shall be required to, and shall make, service payments in lieu of taxes with respect to the Improvement allocable thereto to the County Treasurer on or before the final due dates for payment of real property taxes. Each service payment in lieu of taxes 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 such Parcel as if it were not exempt from taxation pursuant to Section 1 hereof. If any reduction in the levies otherwise applicable to such Parcel is made by the county budget commission under Ohio Revised Code Section 5705.31, the amount of the service payment in lieu of taxes shall be calculated as if the reduction in levies had not been made. Any late payments of service payments in lieu of taxes shall be subject to penalty and bear interest at the then current rate established under Ohio Revised Code Sections 323.121(B)(1) and 5703.47, as the same may be amended from time to time, or any successor provisions thereto (the “Penalties and Interest”). Each Owner shall make any other payments in respect of such Parcel which are received by the County Treasurer in connection with any reduction required by Ohio Revised Code Section 319.302, as the same may be amended from time to time, or any successor provisions thereto (the “Property Tax Rollback Payments,” together with the service payments in lieu of taxes and the “Penalties and Interest,” are collectively referred to herein as the “Service Payments”).

Section 5. TIF Fund. The City hereby establishes, pursuant to and in accordance with the provisions of Ohio Revised Code Section 5709.43, within the City Treasury a municipal public improvement tax increment equivalent fund (the “Tax Increment Fund”), which may, at the option of the Director of Finance, be established as an account within an existing tax increment equivalent fund of the City, into which shall be deposited the Service Payments distributed to the City by the County Treasurer. Such Fund may be combined with other funds created by ordinances of this Council authorizing other such projects. Money in the Tax Increment Fund shall be used to finance the Public Infrastructure Improvements, and shall, to the extent provided in further ordinances of this Council, be pledged to the payment of debt service on any bonds, notes or other obligations issued to finance such Public Infrastructure Improvements as well as any reimbursement payments for reimbursement of any costs of the Public Infrastructure Improvements. The Tax Increment Fund shall be maintained in the custody of the City and shall receive all distributions of Service Payments required to be made to the City. Those Service Payments received by the City with respect to the Site, shall be used solely for the purposes authorized in the TIF Act, including, but not limited to, paying any costs of the Public Infrastructure Improvements, in a manner that is consistent with this Ordinance. For purposes of this Ordinance, “costs” of the Public Infrastructure Improvements payable from the Tax Increment Fund shall also include the items of “costs of permanent improvements” set forth in Ohio Revised Code Section 133.15(B), and incurred with respect to the Public Infrastructure Improvements, which “costs” specifically include any reimbursement payments for the reimbursement of the costs of the Public Infrastructure Improvements, and debt service on, and any administrative or other expenses relating to the issuance of, any bonds, notes, or other obligations issued to finance the Public Infrastructure Improvements. The Tax Increment Fund shall remain in existence so long as such Service Payments are collected and used for the aforesaid purposes, after which time the Tax Increment Fund shall be dissolved and any surplus funds remaining therein shall be transferred to the City’s General Fund, all in accordance with Ohio Revised Code Section 5709.43.

Section 6. Notices. The City hereby finds and determines that notice of this proposed Ordinance has been delivered to the School District and Career Center in accordance with Ohio Revised Code Sections 5709.40, 5709.83 and 5715.27, and hereby ratifies the giving of that notice.

Section 7. Compensation to School District and Career Center. Pursuant to Ohio Revised Code Sections 5709.40, 5709.42, 5709.43 and 5709.82, the City shall cause the County Treasurer to distribute a portion of the Service Payments to the School District and the Career Center in an amount equal to 100% of the real property taxes that the School District and Career Center, respectively, would have received, but for the TIF Exemption.

Section 8. Application for Real Property Tax Exemption and Remission; Further Authorizations. The City further hereby authorizes and directs the Mayor, the Director of Finance, or other appropriate officers of the

City, to sign and execute all documents and make such arrangements as are necessary and proper for collection of said Service Payments from the Owners of real property located in the Site, which are to be deposited into the Tax Increment Fund.

This Council further hereby authorizes and directs the Mayor or his designee to take such action and to execute and deliver, on behalf of the Council, such additional instruments, agreements, certificates, and other documents as may be in their discretion necessary or appropriate in order to carry out the intent of this Ordinance. Such documents shall be in the form not substantially inconsistent with the terms of this Ordinance, as the Mayor or his designee in their discretion shall deem necessary or appropriate.

Section 9. Notification of Adoption. The Director of Finance is hereby directed to deliver, not later than fifteen (15) days after the effective date of this Ordinance, a copy thereof to the Director of the Ohio Department of Development and to further deliver to such Director, not later than March 31 of each year during which the TIF Exemption remains in effect, a status report outlining the progress of the project herein described.

Section 10. Further Authorizations. The Mayor, Director of Finance, and the Law Director are hereby authorized to take all actions, including the execution of all documents or amendments, necessary to establish the TIF Exemption and to implement and administer the TIF Fund, and not substantially inconsistent with this Ordinance.

Section 11. Non-Discriminatory Hiring Policy. In accordance with Ohio Revised Code Section 5709.832, the City hereby determines that no employer located in the Site shall deny any individual employment based on considerations of race, religion, sex, disability, color, national origin or ancestry.

Section 12. Open Meeting. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Section 13. Effective Date. This Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health, safety and welfare of the city, and for the further reason that it is immediately necessary to implement the TIF Exemption authorized by this Ordinance is hereby declared to be an emergency measure as it pertains to the health, safety and welfare of the residents of the City of North Royalton

THEREFORE, provided this Ordinance receives the affirmative vote of two-thirds of all members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, from and after the earliest period allowed by law.

/s/ Paul F. Marnecheck
PRESIDENT OF COUNCIL

APPROVED: /s/ Larry Antoskiewicz
MAYOR

DATE PASSED: July 19, 2022

DATE APPROVED: July 25, 2022

ATTEST: /s/ Dana A. Schroeder
DIRECTOR OF LEGISLATIVE SERVICES

First reading June 21, 2022
Second reading July 5, 2022
Third reading July 19, 2022

YEAS: Marnecheck, Nickell, Krejci,
Dietrich, Carbone-McDonald, Wos

NAYS: none

ABSENT: Barath

EXHIBIT B

DESCRIPTION OF PUBLIC INFRASTRUCTURE IMPROVEMENTS

The Public Infrastructure Improvements that shall directly benefit all or a portion of the Site, include any and all “public infrastructure improvements,” as that term is defined in R.C. Section 5709.40(A)(8), and any and all “costs of permanent improvements,” as that term is defined in R.C. Section 133.15(B), including, but not limited to, payment of debt service payments on obligations issued to finance the costs of the Public Infrastructure Improvements. Without limiting the generality of the preceding sentence, the Public Infrastructure Improvements specifically may include the following:

1. Constructing, reconstructing, extending, opening, improving, widening, grading, draining, curbing and changing of the lines and traffic patterns of roads, highways (including the continued maintenance of those public roads and highways), streets, railways, bridges (including roadway, railway, and pedestrian), existing roadways adjacent to and providing access to property, sidewalks, bikeways, medians and viaducts, constructing and improving surface parking lots or parking structures and related improvements, providing lighting systems, together with all appurtenances therefore, and the continued maintenance of those improvements.
2. Constructing and reconstructing municipal facilities, including safety and service facilities, public fountains, public parks or public greenspaces, including grading, trees, park plantings, park accessories and related improvements, together with all appurtenances thereto.
3. Constructing, reconstructing and installing of public utility improvements, water distribution lines (including necessary site grading therefore), storm and sanitary sewers (including necessary site grading therefore, and the continued maintenance of those water and sewer lines), water and fire protection systems, and all appurtenances thereto, and the continued maintenance of those improvements.
4. Constructing and installing streetscape improvements including trees, tree grates, curbs, sidewalks, street and sidewalk lighting, trash receptacles, benches, newspaper racks, burial of overhead utility lines and related improvements, together with all appurtenances thereto; design and traffic studies preliminary to the foregoing.
5. Constructing and installing communications service facilities, including but not limited to cable and broadband service infrastructure improvements.
6. Stormwater and flood remediation projects including such projects on private property when determined to be necessary for public health, safety, and welfare.
7. Designing, engineering, constructing, and improving the new infrastructure for electric, gas, telephone, and cable service (including fiber optics), including aid to construction fees for gas, aid to construction fees for electric, including the provision of gas or electric service facilities owned by nongovernmental entities when such improvements are determined to be necessary for economic development purposes, with related site improvements and appurtenances thereto.
8. Acquisition and development of property, including acquisition in aid of industry, commerce, distribution, or research, demolition of blighted, dilapidated, or functionally obsolete structures for redevelopment opportunities, including demolition on private property when determined to be necessary for economic development purposes.
9. Enhancement of public waterways through improvements that allow for greater public access.
10. Environmental studies and remediation.
11. Acquiring real estate or interests in real estate, including related right-of ways, necessary to accomplish the improvements enumerated in clauses 1 through 9.
12. Any on-going administrative expenses relating to the Public Infrastructure Improvements and maintaining the service payments in lieu of taxes, including but not limited to engineering, architectural, legal, and other consulting and professional services.
13. All inspection fees and other governmental fees related to the foregoing.
14. Any other costs of public infrastructure improvements as permitted by law.