



LEGISLATIVE COVER MEMO

Introduction: April 1, 2024

Public Hearing: April 15, 2024

Effective Date: May 15, 2024

Agenda Item: **Ordinance 2024-06**

DECLARING THE IMPROVEMENT OF CERTAIN REAL PROPERTY LOCATED IN THE CITY OF FRANKLIN, WARREN COUNTY, OHIO TO BE A PUBLIC PURPOSE; DECLARING SUCH PROPERTY TO BE EXEMPT FROM REAL PROPERTY TAXATION; DESIGNATING SPECIFIC PUBLIC INFRASTRUCTURE IMPROVEMENTS THAT, ONCE MADE, WILL DIRECTLY BENEFIT THE PARCELS FOR WHICH IMPROVEMENT IS DECLARED TO BE A PUBLIC PURPOSE; REQUIRING ANNUAL SERVICE PAYMENTS IN LIEU OF TAXES; ESTABLISHING A MUNICIPAL PUBLIC IMPROVEMENT TAX INCREMENT EQUIVALENT FUND; AUTHORIZING PAYMENTS TO THE FRANKLIN CITY SCHOOL DISTRICT AND THE WARREN COUNTY CAREER CENTER; AUTHORIZING THE EXECUTION OF A TAX INCREMENT FINANCING AGREEMENT; AND PROVIDING RELATED AUTHORIZATIONS PURSUANT TO OHIO REVISED CODE SECTIONS 5709.40(B), 5709.42, 5709.43, 5709.832 AND 5709.85.

Submitted by: Jonathan Westendorf, City Manager

Scope/Description:

This Ordinance authorizes a Tax Increment Financing (TIF) Agreement between the City of Franklin and FRANKLIN WATKINS GLEN, LLC. The development is located in the City of Franklin, consisting of Warren County Auditor parcel number 0836200056, for the construction of new restaurant, convenience store, and fuel station operating as a Sheetz. The Property is currently located within the City's "Community Reinvestment Area #3". Community Reinvestment Area #3 authorizes exemptions from real property taxes for 100% of the assessed value of improvements on the Property for a period of up to 15 years. The owner of the parcel will make annual service payments in lieu of taxes with respect to any Improvement to the Warren County Treasurer, which Service Payments will be distributed, in part, to the Franklin City School District, and the Warren County Career Center in amounts equal to the real property taxes that the School Districts, to reimburse the Developer for costs of the Public Infrastructure Improvements, and for such other purposes as may be authorized by law.

Exhibits: Exhibit A: Description of Property
Exhibit B: Description of the Public Infrastructure Improvements

Recommendation: Approval.

CITY OF FRANKLIN, OHIO
ORDINANCE 2024-06

DECLARING THE IMPROVEMENT OF CERTAIN REAL PROPERTY LOCATED IN THE CITY OF FRANKLIN, WARREN COUNTY, OHIO TO BE A PUBLIC PURPOSE; DECLARING SUCH PROPERTY TO BE EXEMPT FROM REAL PROPERTY TAXATION; DESIGNATING SPECIFIC PUBLIC INFRASTRUCTURE IMPROVEMENTS THAT, ONCE MADE, WILL DIRECTLY BENEFIT THE PARCELS FOR WHICH IMPROVEMENT IS DECLARED TO BE A PUBLIC PURPOSE; REQUIRING ANNUAL SERVICE PAYMENTS IN LIEU OF TAXES; ESTABLISHING A MUNICIPAL PUBLIC IMPROVEMENT TAX INCREMENT EQUIVALENT FUND; AUTHORIZING PAYMENTS TO THE FRANKLIN CITY SCHOOL DISTRICT AND THE WARREN COUNTY CAREER CENTER; AUTHORIZING THE EXECUTION OF A TAX INCREMENT FINANCING AGREEMENT; AND PROVIDING RELATED AUTHORIZATIONS PURSUANT TO OHIO REVISED CODE SECTIONS 5709.40(B), 5709.42, 5709.43, 5709.832 AND 5709.85.

WHEREAS, Ohio Revised Code (“R.C.”) Section 5709.40(B) provides that this Council may, under certain circumstances, (i) declare improvement to parcels of real property located in the City of Franklin (the “City”) to be a public purpose, thereby granting to that improvement an exemption from real property taxation; (ii) designate specific 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 parcels for which improvement is declared to be a public purpose; and

WHEREAS, Pursuant to R.C. Section 5709.40(D)(1), said exemption may be up to one hundred percent (100%) of such improvement for up to thirty (30) years without approval of the board of education of a city, local or exempted city school district within the territory of which the improvement is or will be located if payments in lieu of taxes, as provided for in R.C. Section 5709.42, shall be paid to such school district in the amount of the taxes that would have been payable if the improvement had not been exempted from taxation; and

WHEREAS, the real property described in Exhibit A attached hereto and incorporated herein by reference (the “Property”) is located in the State of Ohio (the “State”), County of Warren (the “County”), and the City, with each parcel of the Property referred to herein as a “Parcel” (whether as presently appearing on County tax duplicates or as subdivided or combined and appearing on future tax duplicates); and

WHEREAS, the Property is currently located within the City’s “Community Reinvestment Area #3” a community reinvestment area (“CRA”) established under “pre-1994” rules pursuant to R.C. Sections 3735.65 through 3735.70, pursuant to City Resolution 1981-17, passed April 6, 1981, as amended by Resolutions 1994-42, passed May 16, 1994, and 1998-20, passed April 6, 1998 (collectively, as amended, the “CRA Ordinance”); and

WHEREAS, pursuant to the CRA Ordinance and in connection with the development of the Property, the City shall, upon receipt of an application for exemption from the Developer, grant exemptions from real property taxes for 100% of the assessed value of new structures constructed on the Property for a period of up to 15 years (the “CRA Exemption”); and

WHEREAS, it is the intention of this Council that the TIF Exemption (as defined herein) shall be subordinate to the CRA Exemption; and

WHEREAS, pursuant to R.C. Sections 5709.40(B) and 5709.42, this Council has determined that it is necessary and appropriate and in the best interests of the City to require the current and future owners (each such owner individually, an “Owner,” and collectively, the “Owners”) of each of the Parcels comprising the Property to make annual service payments in lieu of real property taxes (“Service Payments,” as further defined by Section 3 hereof) in the same amount as the Owners would have made but for the TIF Exemption (as defined herein) authorized by this Ordinance; and

WHEREAS, the current Owner of the Property, intends to construct, or cause the construction of, a new restaurant, convenience store, and fuel station at the Property (collectively the building and related site improvements that are actually constructed shall be referred to as the “Project”); and

WHEREAS, in support of the Project, the City desires to facilitate the construction of the public infrastructure improvements described in Exhibit B attached hereto and incorporated herein by this reference (the "Public Infrastructure Improvements"); and

WHEREAS in connection with the construction of the Public Infrastructure Improvements, the City has determined to provide for the execution and delivery of a tax increment financing agreement between the City and the current Owner, Franklin Watkins Glen, LLC (the "TIF Agreement"); and

WHEREAS, pursuant to Ohio Revised Code Sections 5709.40 and 5709.83, notice of this proposed Ordinance has been delivered to the Boards of Education of the Franklin City School District (the "School District"), and the Warren County Career Center (the "Career Center"); and

WHEREAS, this Council has determined that payments in lieu of taxes shall be paid to the School District and the Career Center pursuant to R.C. Section 5709.42 in the amount of the real property taxes that the School District and the Career Center each would have received if such increase in the assessed value of the Property had not been exempted from real property taxes pursuant to this Ordinance..

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Franklin, Warren County, State of Ohio that:

Section 1. The Public Infrastructure Improvements described in Exhibit B attached hereto intended to be made or caused to be made by the City are hereby designated as public infrastructure improvements that, once made, will directly benefit the Property.

Section 2. One-hundred percent (100%) of the increase in the assessed value of each Parcel (as each may be subdivided or combined) (each of which increase in assessed value is an "Improvement" as defined in R.C. Section 5709.40) shall be a public purpose and shall be exempt from real property taxation for a period commencing for each Parcel with the first year for which an exemption is claimed by any DTE 24 exemption application, or any successor exemption application as the same may be updated by the State of Ohio, filed by the City with respect to such Parcel, and ending for each Parcel 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, all in accordance with the requirements of R.C. Sections 5709.40, 5709.42 and 5709.43 (the "TIF Exemption"). Notwithstanding any other provision of this Ordinance, the TIF Exemption granted pursuant to this Section 2 and the payment obligations established pursuant to Section 3 of this Ordinance are subject and subordinate to any CRA Exemptions applicable to the Improvements approved by the City pursuant to the CRA Ordinance during the time that any CRA Exemption may be applicable to any Parcel within the Property, irrespective of the person or entity that files the DTE 24 exemption application pursuant to R.C. Section 5709.911.

Section 3. As provided in R.C. Section 5709.42, the Owner of any Parcel with an Improvement exempt under Section 2 hereof is required hereby to make annual payments in lieu of taxes to the County Treasurer of Warren County, Ohio (the "County Treasurer") on or before the final dates for payment of real property taxes. Each such payment (including interest and penalties) 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 Improvements if they were not exempt from taxation (with the payments in lieu of tax, including any penalties and interest, being the "Service Payments"). Pursuant to Ohio Revised Code Sections 5709.40, 5709.42, 5709.43, and 5709.82, the County Treasurer shall first distribute a portion of the Service Payments to the School District and to the Career Center in an amount equal to 100% of the real property taxes that the School District and the Career Center would have received, but for the TIF Exemption, and then shall remit all remaining Service Payments to the City for deposit in the Franklin Municipal Public Improvement Tax Increment Equivalent Fund (the "TIF Fund") established in Section 4 herein.

This Council hereby authorizes the City Manager or other appropriate officers of the City to provide such information and certifications and execute and deliver, or accept delivery of such instruments as are necessary and incidental to collect those Service Payments and to make such arrangements as are necessary and proper for payment of the Service Payments. Any late payments shall be subject to penalty and bear interest at the then current rate established under R.C. Sections 323.121 and 5703.47, as may be amended from time to time, or any successor provisions thereto, as the same may be amended from time to time. The Service Payments shall be allocated and deposited in accordance with Sections 3 and 4 of this Ordinance.

Section 4. This Council hereby establishes, pursuant to and in accordance with the provisions of R.C. Section 5709.43, the TIF Fund, into which shall be deposited all of the Service Payments distributed to the City with respect to the Improvements to Parcels of the Property by or on behalf of the County Treasurer, as provided in R.C. Section 5709.42, and hereby appropriates all of the moneys deposited in the TIF Fund from time to time to pay any costs associated with the Public Infrastructure Improvements approved by the City, including, but not limited to, the “costs of permanent improvements” described in R.C. Section 133.15(B).

The TIF Fund shall remain in existence so long as Service Payments are collected and used for the aforesaid purposes, subject to the limits set forth in Section 2 hereof, after which said TIF Fund shall be dissolved in accordance with R.C. Section 5709.43(D). Upon dissolution, any incidental surplus money remaining in the Fund shall be transferred to the City general fund as provided in R.C. Section 5709.43(D).

Section 5. This Council hereby approves the TIF Agreement with Franklin Watkins Glen, LLC and authorizes the City to execute, deliver, and perform the TIF Agreement. The City Manager is hereby authorized and directed, for and on behalf of the City, to execute and deliver the TIF Agreement, substantially in the form now on file with this Council, and attached hereto as Exhibit C, incorporated by reference, with such modifications to the form of the TIF Agreement as shall be approved by the City Manager, shall not be materially adverse to the City, and shall be consistent with this Ordinance, all of which shall be conclusively evidenced by the City Manager’s signature on the TIF Agreement. The City Manager is further hereby authorized to execute and deliver any additional agreements or instruments as the City Manager shall deem necessary to carry out the purposes of this Ordinance and the TIF Agreement, and the City Manager is hereby authorized to perform its obligations under any of those agreements or instruments.

Section 6. This Council hereby authorizes the City Manager or other appropriate officers of the City to take such actions as are necessary or appropriate to implement the transactions contemplated by this Ordinance, including the filing of one or more applications for exemption and any related forms in accordance with R.C. Section 5709.911.

Section 7. In accordance with Ohio Revised Code Section 5709.832, the City hereby determines that no employer located in the Property shall deny any individual employment based on considerations of race, religion, sex, disability, color, national origin or ancestry.

Section 8. This Council hereby finds and determines that notice of this proposed Ordinance has been delivered to the School District in accordance with R.C. Section 5709.83, and hereby ratifies the giving of that notice.

Section 9. The City hereby creates the Franklin Tax Incentive Review Council with the membership of that Council constituted in accordance with Section 5709.85 of the Ohio Revised Code. That Council shall, in accordance with Section 5709.85 of the Ohio Revised Code, review annually all exemptions from taxation resulting from the declarations set forth in this Ordinance and any other such matters as may properly come before that Council, all in accordance with Ohio Revised Code Section 5709.85.

Section 10. The Clerk of this Council is hereby directed to deliver, not later than 15 days after the effective date of this Ordinance, a copy thereof to the Director of the Department of Development of the State of Ohio and to further deliver to such Director, not later than March 31 of each year during which the tax exemption remains in effect, a status report outlining the progress of the project herein described.

Section 11. It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were passed in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including R.C. Section 121.22.

Section 12. This Ordinance shall take effect and be in force at the earliest date permitted by law.

ADOPTED: April 15, 2024

ATTEST: _____
Khristi Dunn, Clerk of Council

APPROVED: _____
Brent Centers, Mayor

CERTIFICATE

I, the undersigned Clerk of Council for the Franklin City Council, do hereby certify that the foregoing is a true and correct copy of Ordinance 2024-06 passed by that body on April 15, 2024.

Khristi Dunn, Clerk of Council

APPROVED AS TO FORM:

Ben Yoder, Law Director

DESCRIPTION OF PROPERTY

The Property is the real property situated in the City of Franklin, County of Warren, State of Ohio that as of the date of this Ordinance is identified by the County Auditor of Warren County, Ohio as having tax parcel identification number 08362000560, as that real property may be subdivided, combined and be designated with different parcel numbers from time to time, and as depicted in the below map:



DESCRIPTION OF THE PUBLIC INFRASTRUCTURE IMPROVEMENTS

The Public Infrastructure Improvements may include, but are not limited to the following:

1. Constructing, reconstructing, extending, opening, improving, widening, grading, draining, curbing and changing of the lines and traffic patterns of roads, highways, streets, railways, bridges (including roadway, railway, and pedestrian), the continued maintenance of those public roads and highways, existing roadways adjacent to and providing ingress and egress to the 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, including, specifically, constructing and improving infrastructure along North State Route 123;
2. Constructing and reconstructing 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), the continued maintenance of those water and sewer lines, water and fire protection systems, and all appurtenances thereto;
4. Constructing one or more public buildings, structures, or improvements for the purpose of providing public services, including administration, public works, parks and recreation, safety services, and other government services or for providing space for recreation, community events, community gathering, or other public activity or recreational purposes, together with all appurtenances thereto;
5. 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;
6. Designing, engineering, constructing, and improving the new infrastructure for electric, gas, telephone, and cable service, including aid to construction fees for gas, aid to construction fees for electric, with related site improvements and appurtenances thereto;
7. Acquiring real estate or interests in real estate, including related right-of ways, necessary to accomplish the improvements enumerated in clauses 1 through 6;
8. Demolition and excavation necessary to accomplish the improvements enumerated in clauses 1 through 6;
9. Professional fees related to the foregoing, including architectural, engineering, contract administration, and legal costs;

10. All inspection fees and other governmental fees related to the foregoing; and
11. Any other costs for the aforesaid Public Infrastructure Improvements as permitted by law.

The Public Infrastructure Improvements above specifically include the costs of financing the Public Infrastructure Improvements, including 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 the debt service on, and other expenses relating to the issuance of, any bonds, notes, or other obligations issued to finance the Public Infrastructure Improvements.

All of the Public Infrastructure Improvements described above are hereby determined to be “public infrastructure improvements” as defined in Ohio Revised Code Section 5709.40(A)(8) and are intended to benefit the real property described in Exhibit A.