

Ordinance No. 2021-63Passed December 29, 2021

SPONSOR: FINANCE COMMITTEE

AN ORDINANCE CREATING A TAX INCREMENT FINANCING ("TIF") INCENTIVE DISTRICT PURSUANT TO SECTIONS 5709.40, 5709.42, AND 5709.43 OF THE REVISED CODE; AND DECLARING AN EMERGENCY.

WHEREAS, this Council, pursuant to Ordinance No. 2021-62 passed on December 29, 2021, authorized the Mayor to enter into a Development Agreement ("Development Agreement") with Testa Mogadore, LLC (the "Developer") to provide for the development of certain real property within the Village, including the installation of certain public infrastructure improvements as set forth in the Development Agreement, and to further provide for the Village to reimburse the Developer for the value of said public infrastructure improvements; and

WHEREAS, to facilitate development of certain real property within the Village, and to pay the costs of public infrastructure improvements that will benefit the same real property, this Council has determined to create the North Cleveland Avenue Incentive District (the "Incentive District") pursuant to Sections Ohio 5709.40, 5709.42 and 5709.43 of the Ohio Revised Code (collectively, the "TIF Act"), the boundaries of which shall be coextensive with the boundaries of, and will include, the parcels of real property within the Incentive District as specifically identified and depicted in Exhibit A attached hereto (as currently or subsequently configured, the "TIF Parcels", with each of those parcels referred to herein individually as a "TIF Parcel"); and

WHEREAS, this Council, by its Ordinance No. 61 -2021 passed on December 29, 2021, approved a written economic development plan pursuant to ORC Section 5709.40(A)(5)(f) (the "Economic Development Plan"), which Economic Development Plan is on file in the office of the Clerk-Treasurer; and

WHEREAS, in accordance with the requirements of the TIF Act, the Village Engineer has certified to this Council that (i) the Incentive District is less than 300 acres in size and enclosed by a contiguous boundary, and (ii) the public infrastructure serving the Incentive District is inadequate to meet the development needs of the Incentive District as evidenced by the Economic Development Plan; and

WHEREAS, in order to successfully develop the TIF Parcels, it is necessary to construct or to cause to be constructed certain public infrastructure improvements as defined in Section 5709.40(A)(7) of the Revised Code and as further described in Exhibit B attached hereto (the "Public Infrastructure Improvements") that will directly benefit the TIF Parcels; and

WHEREAS, the Public Infrastructure Improvements are a public purpose of the Village, and provide the conditions necessary to permit the Village to lawfully exempt improvements on the TIF Parcels from real property taxation as authorized herein; and

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WHEREAS, the development of the TIF Parcels will benefit the Village and its residents by creating housing and economic opportunities, increasing local employment opportunities, enlarging the property tax and income tax bases, and stimulating collateral development in the Village; and

WHEREAS, the Village has determined that it is necessary and appropriate and in the best interests of the Village to provide for service payments in lieu of taxes with respect to the improvements on the TIF Parcels, pursuant to Section 5709.42 of the Revised Code, to pay costs of the Public Infrastructure Improvements; and

WHEREAS, notice of this proposed ordinance has been delivered to the Portage County Commissioners in accordance with and within the time periods prescribed in Section 5709.40(E)(I) of the Ohio Revised Code; and

WHEREAS, the Village has delivered notice to all owners of all real property located within the Incentive District, pursuant to Section 5709.40 of the Ohio Revised Code; and

WHEREAS, the Village has delivered to the Mogadore Local School District (the "School District") and the Maplewood Career Center (the "Vocational School District") the written notification of this Ordinance required by Sections 5709.40, 5709.83 and 5715.27 of the Revised Code

NOW, THEREFORE BE IT RESOLVED, By the Council of the Village of Mogadore, Portage and Summit Counties, State of Ohio, that:

SECTION 1: This Council finds and determines that the development of the TIF Parcels will place additional demand on the Public Infrastructure Improvements within the Village. Pursuant to the TIF Act, this Council creates the Incentive District, the boundaries of which are coextensive with the boundaries of, and include, the TIF Parcels as specifically identified and depicted in Exhibit A.

SECTION 2: This Council 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 Village that directly benefit or serve, or that once made will directly benefit or serve, the TIF Parcels in the Incentive District.

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SECTION 3: Pursuant to and in accordance with the provisions of Section 5709.40(C) of the Ohio Revised Code, this Council hereby declares that 100% of the increase in assessed value of each TIF Parcel subsequent to the effective date of this ordinance (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 a public purpose and exempt from taxation for a period coextensive with the life of the Incentive District. The life of the Incentive District commences with the first tax year that begins after the effective date of this ordinance and in which an Improvement attributable to a new structure would first appear on the tax list and duplicate of real and public utility property for any TIF Parcel within that Incentive District were it not for the exemption granted in this ordinance and ends on the earlier of (a) 15 years after such commencement or (b) the date on which the Village can no longer require service payments in lieu of taxes (the "Exemption Period"), all in accordance with the requirements of the TIF Act.

SECTION 4: Pursuant to ORC Section 5709.42, the owner (each, an "Owner") of each TIF Parcel is hereby required to make annual service payments in lieu of taxes with respect to the Improvement to that TIF Parcel to the Portage 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 for real property taxes (collectively, the "Service Payments"), will 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 Section 3 of this Ordinance. The Service Payments, and any other payments with respect to each Improvement that are received by the Portage County Treasurer in connection with the reduction required by ORC Sections 319.302, 321.24, 323.152 and 323.156, 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"), will be deposited and distributed in accordance with Section 6 of this Ordinance.

SECTION 5: This Council, establishes, pursuant to and in accordance with the provisions of Section 5709.43 of the Ohio Revised Code, the North Cleveland Avenue Improvement Tax Increment Equivalent Fund (the "TIF Fund"), into which the Service Payments and the Property Tax Rollback Payments received from the Portage County Treasurer shall be deposited. The TIF Fund will be maintained in the custody of the Village and separate accounts within the TIF Fund for the Incentive District shall be created as determined by the Clerk-Treasurer. The Village may use amounts deposited into the TIF Fund only for the purposes authorized in the TIF Act and this Ordinance. The TIF Fund will exist 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 will be dissolved and any surplus funds remaining therein transferred to the Village's General Fund, all in accordance with the TIF Act.

SECTION 6: With respect to each year of the Exemption Period, the TIF Fund shall be used solely for the following purposes and in the following order:

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(i) First to the School District and the Vocational School District, a portion of the Service Payments received by the Village which equals 100% of what the School District and Vocational School District would have received if the Improvements had not been exempted from taxation by this Ordinance (the "School District Payments");

(ii) Second to the Village, a portion of the Service Payments received by the Village which equals 100% of what the Village would have received if the Improvements had not been exempted from taxation by this Ordinance, provided that all such payments to the Village shall be used solely to pay or reimburse costs of the Public Infrastructure Improvements; and

(iii) Third, with respect to each year of the Exemption Period, to the Developer, subject to the terms and conditions of the Development Agreement, the amount remaining after payments authorized by paragraphs (i) and (ii), above, provided that all such payments to the Developer shall be used solely to pay or reimburse costs of the Public Infrastructure Improvements, including the principal and interest on the advancement of such costs by the Developer or any loan or other financing acquired by the Developer in connection with the Public Infrastructure Improvements.

Should the Developer opt to use the service payments allocable to it to finance the design and construction of any of the Public Infrastructure Improvements or to reimburse itself for the advancement of any such costs, the Village shall cooperate with the Developer in procuring such financing, including executing any agreements or other documents associated with such financing, including (without limitation) cooperative agreements with a port authority if it issues debt with such financing, the assignment of the right to receive the service payments, and the entry of direct-payment arrangements for the Village to make debt service payments directly out of the TIF Fund to a trustee or lender.

SECTION 7: This Council further hereby authorizes and directs the Mayor, the Clerk-Treasurer, or other appropriate officers of the Village to sign and execute all documents and make such arrangements as are necessary and proper for (i) collection of the Service Payments to be deposited in the TIF Fund, (ii) payment of the School District Payments and Vocational School District Payments and (iii) carrying out the provisions of this Ordinance.

SECTION 8: Pursuant to Section 5709.40(1) of the Revised Code, the Clerk-Treasurer is hereby directed to deliver or cause to be delivered a copy of this Ordinance to the Director of the Ohio Development Services Agency (the "Director") within 15 days after its passage. On or before March 31 of each year that the exemption set forth in Section 2 remains in effect, the Mayor, or the Mayor's designee, or other authorized officer of this Village shall prepare and submit to the Director the status report required under Section 5709.40(1).

SECTION 9: This Council finds and determines that all formal actions of this Council and of any of its committees concerning and relating to the passage of this Ordinance were taken, and that all deliberations of this Council and of any committees that resulted in those formal actions were held, in meetings open to the public in compliance with the law.

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SECTION 10: This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the Village, and for the further reason that this Ordinance is required to be immediately effective in order to enable the Village to provide for the real property tax exemption, the Service Payments, and the related objectives provided for herein that are needed to benefit the Village and its residents by creating housing and economic opportunities, enlarging the property tax and income tax bases, and stimulating collateral development within the Village and provided it receives the approval of two-thirds of the members of Council, this Ordinance shall take effect and be in full force and effect immediately upon its passage and approval by the Mayor; otherwise, it shall take effect and be in force at the earliest period allowed by law.

Michael Roddish 12-29-21
President of Council Date

Paul C. [Signature] 12-29-21
Mayor Date

Attest:

[Signature]
Clerk-Treasurer