

ORDINANCE NO: 25-O-02
SPONSOR: MAYOR ADAMSON
INTRODUCED: MAY 7, 2025

AN ORDINANCE AUTHORIZING THE CREATION OF A TAX INCREMENT FINANCING ("TIF") INCENTIVE DISTRICT (THE WATER 9 ON TURKEYFOOT LAKE INCENTIVE DISTRICT #2) PURSUANT TO SECTIONS 5709.40, 5709.42 AND 5709.43 OF THE REVISED CODE AND DECLARING AN EMERGENCY.

WHEREAS, Adkins PLX Holdings, LLC (the "Developer") intends to undertake certain improvements (the "Developer Improvements") to the real property identified and depicted in Exhibit A attached hereto (the "TIF Property"); and

WHEREAS, in order to successfully develop the TIF Property, it is necessary to construct or to cause to be constructed certain public infrastructure improvements as defined in Section 5709.40(A)(8) of the Ohio Revised Code and as further described in Exhibit B attached hereto (the "Public Infrastructure Improvements") that will directly benefit the TIF Property; and

WHEREAS, to facilitate development of the Developer Improvements, and to pay the costs of the Public Infrastructure Improvements that will benefit the TIF Property, this Council has determined to create The Water 9 on Turkeyfoot Lake Incentive District #2 (the "Incentive District") pursuant to Sections 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 TIF Property; and

WHEREAS, this Council, by its Resolution 25-R-____ passed on _____, 2025, approved a written economic development plan pursuant to Section 5709.40(A)(5)(f) of the Ohio Revised Code (the "Economic Development Plan"), which Economic Development Plan is on file in the office of the Clerk of this Council; and

WHEREAS, in accordance with the requirements of the TIF Act, the City 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, the City has determined that it is necessary and appropriate and in the best interests of the City to declare the Improvements, as defined below, to the TIF Property as public improvements and therefore exempt from real property taxation, and to further provide for service payments ("Service Payments") in lieu of taxes with respect to such Improvements, pursuant to Section 5709.42 of the

Ohio Revised Code, to pay costs of the Public Infrastructure Improvements; and

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

WHEREAS, the development of the TIF Property will benefit the City 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 City; and

WHEREAS, notice of this proposed ordinance has been delivered to the Summit County Council in accordance with and within the time periods prescribed in Section 5709.40(E)(1) of the Ohio Revised Code; and

WHEREAS, the City has delivered notice to all owners of all real property located within the Incentive District, pursuant to Section 5709.40(C) of the Ohio Revised Code, and the City has conducted the hearing required of it pursuant to Section 5709.40(C) at least 30 days prior to the adoption of this Ordinance; and

WHEREAS, the Property is located within the boundaries of the Coventry Local School District (the "School District"); and the Portage Lakes Joint Vocational School District (the "Joint Vocational School District"); and

WHEREAS, this Council has determined that it is in the best interest of the City for the City to enter into a compensation agreement with the School District and Developer whereby a portion of the Service Payments will be paid as compensation to the School District ("School Compensation Agreement"); and

WHEREAS, the School District has adopted, or will adopt, a resolution waiving the notice required under Sections 5709.41, 5709.83 and 5715.27 of the Ohio Revised Code, and has approved, or will approve, a compensation agreement with the City and Developer substantially in the form set forth on Exhibit C, attached hereto and incorporated herein by reference ("School Compensation Agreement").

NOW, THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NEW FRANKLIN, COUTY OF SUMMIT, AND STATE OF OHIO, THAT:

SECTION ONE:

This Council finds and determines that the Developer Improvements upon the TIF Property will place additional demand on the public infrastructure within the City. Therefore, 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 Property as specifically identified and depicted in Exhibit A.

SECTION TWO:

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 City that directly benefit or serve, or that once made will directly benefit or serve, the TIF Property in the Incentive District.

SECTION THREE:

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 the TIF Property, or any parcel or portion thereof, 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)(4) 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 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 parcel or portion of the TIF Property within that Incentive District were it not for the exemption granted in this ordinance and ends on the earlier of (a) 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 FOUR:

Pursuant to ORC Section 5709.42, the owner (each, an "Owner") of each parcel or portion of the TIF Property is hereby required to make annual service payments in lieu of taxes with respect to the Improvement to that parcel or portion of the TIF Property to the Summit County Fiscal Officer 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 Summit County Fiscal Officer 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", which, for purposes of collection into and distribution from the TIF Fund, as defined below, shall be included in the "Service Payments"), will be deposited and distributed in accordance with Section 6 of this Ordinance.

SECTION FIVE:

This Council, establishes, pursuant to and in accordance with the provisions of Section 5709.43 of the Ohio Revised Code, The Water 9 on Turkeyfoot Lake Incentive District #2 Tax Increment Equivalent Fund (the "TIF Fund"), into which the Service Payments received from the Summit County Fiscal Officer shall be deposited. The TIF Fund will be maintained in the custody of the City and separate accounts within the TIF Fund for the Incentive District shall be created as determined by the Finance Director. The City 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 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 City's General Fund, all in accordance with the TIF Act.

SECTION SIX:

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:

(i) First, pursuant to the Compensation Agreement, with respect to each year of the Exemption Period, to the School District and the Joint Vocational School District, a portion of the Service Payments received by the City which equals 55% of what the School District and Joint Vocational School District would have received if the Improvements had not been exempted from taxation by this Ordinance (the "School District Payments");

(ii) Second, with respect to each year of the Exemption Period, to the City, a portion of the Service Payments received by the City which equals 55% of what the City would have received if the Improvements had not been exempted from taxation by this Ordinance (the "City Payments"), provided that the City Payments shall be used solely as authorized by Section 5709.40 of the Ohio Revised Code;

(iii) Third, with respect to each year of the Exemption Period, to the Developer, subject to the terms and conditions of the Development Agreement, as the same is defined in Section 8, below, the remaining Service Payments received by the City after payment of the School District Payments and the City

Payments (the "Developer Payments"), provided that all such Developer Payments 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;

Prior to the distribution of funds provided for in subsections (i) to (iii), above, the School District, Joint Vocational School District, and City shall each receive from the Service Payments deposited into the TIF Fund 100% of the amount collected from any new or renewal levy that is approved by the voters for the benefit of each entity after the date of the adoption of the TIF Ordinances that is in excess of the amount attributable to the corresponding levy at the time of adoption of the TIF Ordinances..

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 City 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, the entry of direct-payment arrangements for the City to make debt service payments directly out of the TIF Fund to a trustee or lender. Furthermore, as part of such financing, the City shall cooperate to levy minimum service payments pursuant to Section 5709.91 of the Ohio Revised Code, and the filing of any declaration associated with the same.

SECTION SEVEN:

This Council hereby designates the Public Infrastructure Improvements described in Exhibit B as "public infrastructure improvements" (as defined in §5709.40(A)(8) of the Ohio Revised Code).

SECTION EIGHT:

This Council further hereby approves, and authorizes and directs the Mayor and any other appropriate officers of the City to sign and execute, the School Compensation Agreement and a development agreement between the City and the Developer in substantially the form set forth in Exhibit D, attached hereto and incorporated herein (the "Development Agreement"), with such modifications to the Compensation Agreement and Development Agreement as are not materially adverse to the City, which shall be conclusively evidenced by the full execution of the same by the Mayor. This Council further hereby authorizes and directs the Mayor and any other appropriate officers of the City 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, City Payments, and Developer Payments and (iii) carrying out the provisions of this Ordinance.

SECTION NINE:

Pursuant to Section 5709.40(I) of the Revised Code, the Clerk of this Council is hereby directed to deliver or cause to be delivered a copy of this Ordinance to the Director of the Ohio Department of Development (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 City shall prepare and submit to the Director the status report required under Section 5709.40(I).

SECTION TEN:

In accordance with ORC §5709.832, the Developer and its successors or assigns in interest to the property tax exemption authorized herein, shall not deny employment to any individual based solely on race, religion, sex, disability, color, national origin, or ancestry.

SECTION ELEVEN:

This Council hereby creates and establishes, pursuant to Section 5709.85 of the Ohio Revised Code, the City's tax incentive review council ("TIRC"), which shall annually review the exemptions provided pursuant to this Ordinance as required by R.C. Section 5709.85.

SECTION TWELVE:

This Council finds and determines that all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in open meetings of this Council and any deliberation of this Council and any other Committees that resulted in those formal actions were in meetings open to the public, in compliance with all legal requirements.

SECTION THIRTEEN:

This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the residents of the City, and for the further reason that this Ordinance is required to be immediately effective in order to enable the City to provide for the real property tax exemption, the Service Payments, and the related objectives provided for herein that are needed to benefit the City and its residents by creating economic opportunities, enlarging the property tax and income tax bases, and stimulating collateral development within the City; 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.

ADOPTED: _____

Kelly Kepler, Clerk

Kevin Powell, President
25-O-02

APPROVED: _____, 2025

Paul F. Adamson, Mayor

ENACTED EFFECTIVE: _____

ON ROLL CALL: Allman _____ Cotts _____ Jones _____
Powell _____ Shaffer _____ Stiles _____
Wolff _____

Publications on _____ and _____

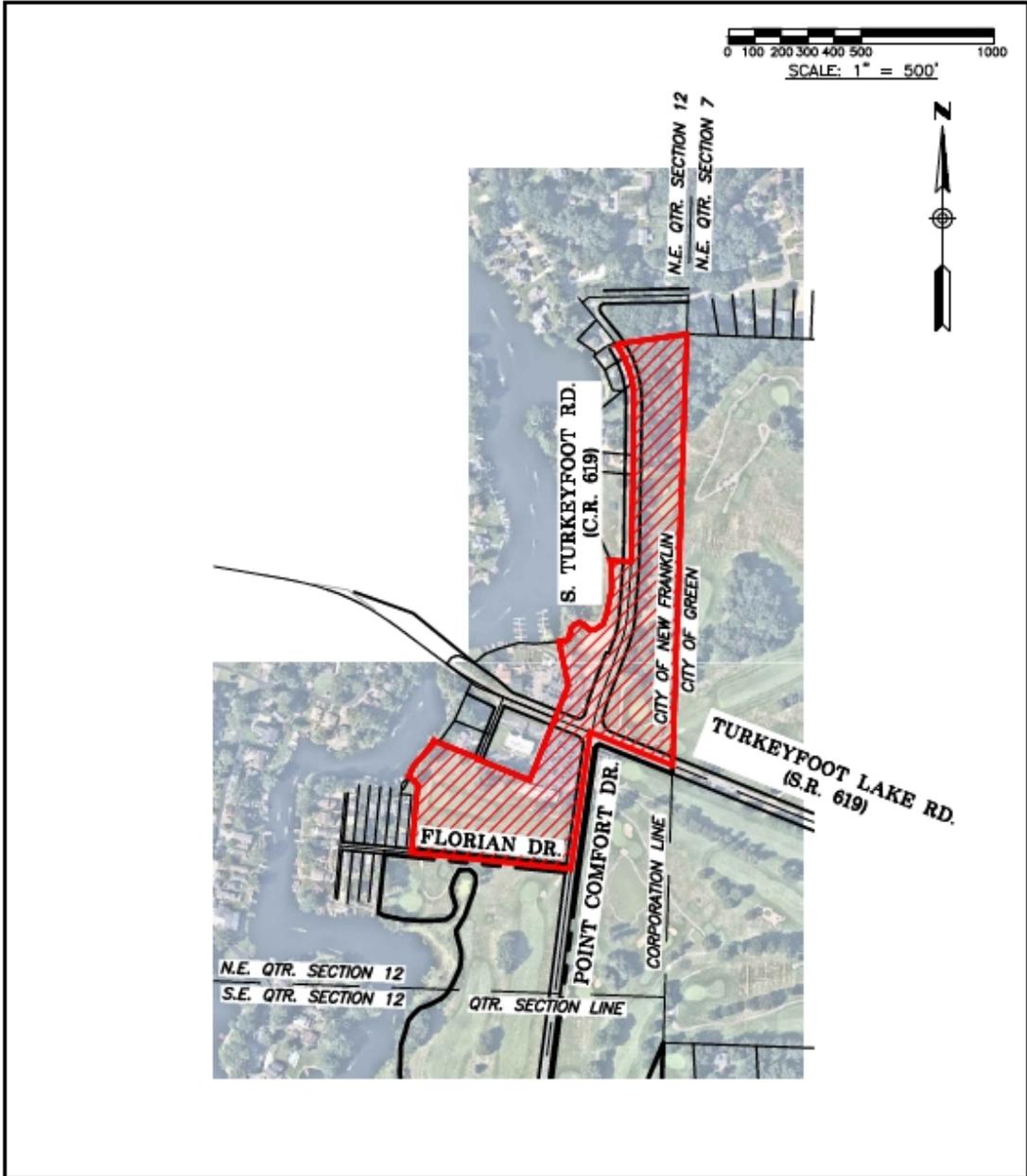
Kelly Kepler, Clerk

EXHIBIT A:

**IDENTIFICATION AND DEPICTION OF THE INCENTIVE DISTRICT
(The WATER 9 ON TURKEYFOOT LAKE INCENTIVE DISTRICT #2)**

The Water 9 on Turkeyfoot Lake Incentive District #2 shall consist of a portion of parcel no. 2601990.

The following map depicts the area included within The Water 9 on Turkeyfoot Lake Incentive District #2:



THE WATER 9
ON TURKEYFOOT LAKE
INCENTIVE DISTRICT #2

PREPARED BY:
GBC DESIGN, INC.

566 White Pond Dr. Akron, OH 44320-1123
Phone 330-896-0228 www.gbcdesign.com

DATE: APR. 22, 2023
PROJECT No. 55072E

EXHIBIT B

DESCRIPTION OF THE PUBLIC INFRASTRUCTURE IMPROVEMENTS

The Public Improvements consist of any "public infrastructure improvement" defined under ORC Section 5709.40(A)(8) (subject to the terms of this Exhibit B) and that directly benefits or serves parcels in the Incentive Districts and specifically include, but are not limited to, the following improvements that will directly benefit or serve parcels in the Incentive Districts and all related costs of those permanent improvements (including, but not limited to, those costs listed in ORC Section 133.15(B)):

- **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;
- **Water/Sewer.** Construction, reconstruction or installation of public utility improvements (including any underground municipally owned utilities), public utility water systems (including hydrants, and further including specifically any water system owned by Aqua Ohio) storm and sanitary sewers (including necessary site grading therefore), and all appurtenances thereto;
- **Utilities.** Construction, reconstruction or installation of gas, electric and communication service facilities and all appurtenances thereto;
- **Stormwater.** Construction, reconstruction and installation of stormwater and flood remediation facilities, including facilities on private property when determined to be necessary for public health, safety and welfare;
- **Streetscape/Landscape.** Construction or installation of streetscape and landscape improvements including trees, tree grates, signage, curbs, sidewalks, street and sidewalk lighting, 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; and
- **Professional Services.** Engineering, consulting, legal, administrative, and other professional services associated with the planning, design, acquisition, construction, and installation of the foregoing improvements.

Notwithstanding the foregoing, none of the following costs shall be reimbursable as "public infrastructure improvements" hereunder:

- Construction of any seawall by Developer;
- Demolition, including demolition on private property when determined to be necessary for public health, safety and welfare;
- Implementation of environmental remediation measures necessary to enable the construction of the Developer Improvements and the construction of public health facilities;
- Private, non-utility water and fire protection systems;
- Scenic fencing, trash receptacles, benches, and newspaper racks; and
- Developer's costs for the acquisition of the TIF Property.

EXHIBIT C

SCHOOL COMPENSATION AGREEMENT

See attached.

EXHIBIT D
DEVELOPMENT AGREEMENT

See attached.