



Legislation Text

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BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF JONESBORO, STATE OF ARKANSAS, AN ORDINANCE TO BE ENTITLED:

AN ORDINANCE CREATING A REDEVELOPMENT DISTRICT PURSUANT TO ARK. CODE ANN. §§ 14-168-301 ET SEQ., SPECIFICALLY INCLUDING WITHOUT LIMITATION ARK. CODE ANN. § 14-168-305; DESIGNATING THE BOUNDARIES OF SUCH PROPOSED REDEVELOPMENT DISTRICT; ESTABLISHING A SPECIAL FUND FOR THE REVENUE AND EXPENDITURES GENERATED ON ACCOUNT OF SUCH REDEVELOPMENT DISTRICT; ADOPTING A PROJECT PLAN FOR SUCH REDEVELOPMENT DISTRICT; ADOPTING A PLAN TO INCLUDE TAX INCREMENT FINANCING IN SUCH PROJECT PLAN; AUTHORIZING THE ISSUANCE OF REDEVELOPMENT BONDS PURSUANT TO ARK. CODE ANN. § 14-168-314 THROUGH ARK. CODE ANN. § 14-168-320; AND FOR OTHER PURPOSES (**NOTE: THE PROJECT PLAN WAS AMENDED BY ORD-04:271 ON DECEMBER 20, 2004; ORD-05:183 ON NOVEMBER 1, 2005; RES-12:219 ON DECEMBER 4, 2012**)

WHEREAS, the City of Jonesboro, Arkansas (the "City") is authorized and empowered under Amendment No. 78 to the Constitution of the State of Arkansas and the provisions of Ark. Code Ann. §§ 14-168-301 et seq. (the "Authorizing Legislation"), specifically including without limitation Ark. Code Ann. § 14-168-305, to create a redevelopment district, designate the boundaries of such proposed redevelopment district and establish a special fund for the revenue and expenditures generated on account such redevelopment district;

WHEREAS, the City, upon its own initiative and upon request by TURTLE CREEK PARTNERS, LLC, an Arkansas limited liability company and property owner within the City (the "Developer"), wishes to create a redevelopment district, and designate the boundaries of such proposed redevelopment district, and

WHEREAS, the City held a public hearing at which all interested parties desiring to be heard in connection with this matter were afforded a reasonable opportunity to express their views on the proposed creation of such redevelopment district and its proposed boundaries (the "Hearing"), and

WHEREAS, the City published notice of the Hearing in Jonesboro Sun, a newspaper of general circulation in the City on July 3, 2004, which was more than fifteen (15) days prior to the Hearing, and

WHEREAS, prior to the City publishing such notice, the City sent a copy of the notice by first-class mail to the chief executive officer of all local governmental and taxing entities having the power to levy taxes on property located within the proposed redevelopment district and to the school board of any school district which includes property located within the proposed redevelopment district, such persons being Craighead County Judge, Dale Haas, Jonesboro Mayor, Hubert Brodell, and Jonesboro School District Superintendent, Dr. Bill Beasley.

WHEREAS, after hearing the request of the Developer the City Council held the Hearing and determined the creation of the proposed redevelopment district and the designation of the boundaries of such proposed redevelopment district is in the best interests of the City of Jonesboro, Arkansas and will promote and protect the public health, safety, welfare and morality.

NOW, THEREFORE, IT IS HEREBY ORDAINED by the City Council of the City of Jonesboro, Arkansas:

SECTION 1: The City hereby creates a redevelopment district, as of this 19th day of July, 2004, pursuant to Ark. Code Ann. §§ 14-168-301 *et seq.*, specifically including without limitation Ark. Code Ann. § 14-168-305, and designates the boundaries of such redevelopment district to be as set forth in Exhibit A.

SECTION 2: The redevelopment district described in Section 1 shall be henceforth named, known as and referred to as "The Turtle Creek Redevelopment District of the City of Jonesboro, Arkansas #1" (the "Turtle Creek District").

SECTION 3: The City hereby finds the creation of the Turtle Creek District will benefit the real property within the Turtle Creek District because the creation of the Turtle Creek District will encourage the commercial development of the real property within the Turtle Creek District thereby eliminating and preventing the development and spread of slums or blighted, deteriorated and deteriorating areas, and discouraging the loss of commerce, industry and employment, and increasing employment.

SECTION 4: There is hereby created, established and designated a special fund to be known as "The Turtle Creek Redevelopment District of the City of Jonesboro, Arkansas #1 Special Fund" (the "Special Fund"). The Special Fund shall be a separate fund set apart from any other funds or accounts of the City, and shall be used only for the benefit of the Turtle Creek District as provided in this Ordinance and any subsequent ordinances or resolutions concerning the Turtle Creek District and no revenues or sums contained in the Special Fund shall be commingled with revenues or sums of any other funds or accounts of the City. The Special Fund shall receive all tax increment revenues and other revenues designated by the City for the benefit of the Turtle Creek District, and all such tax increment revenues and other revenues shall be deposited in the Special Fund and all project costs related to the Turtle Creek District shall be paid from the Special Fund. The Special Fund may be assigned to and held by a trustee for the benefit of bondholders if the City elects to use tax increment financing for the benefit of the Turtle Creek District. The funds deposited in the Special Fund may be used for any lawful purpose authorized under the Authorizing Legislation (hereafter "Project Costs"), including for any of the following purposes, including without limitation expenditures made in preparation of the Project Plan, as defined below, and made, or estimated to be made, or monetary obligations incurred, or estimated to be incurred, by the City, which are listed in the Project Plan as costs of public works or improvements within the Turtle Creek District, plus any costs incidental thereto; provided the following list of purposes and uses shall not limit in any way the potential uses of such funds:

(A) Capital costs, including, but not limited to, the actual costs of the construction of public works or improvements, new buildings, structures and fixtures, the demolition, alteration, remodeling, repair or reconstruction of existing buildings, structures, and fixtures, environmental remediation, parking and landscaping, the acquisition of equipment and site clearing, grading and preparation;

(B) Financing costs, including, but not limited to, all interest paid to holders of evidences of indebtedness issued to pay for project costs, all costs of issuance, and any redemption premiums, credit enhancement or other related costs;

(C) Real property assembly costs, meaning any deficit incurred resulting from the sale or lease as lessor by the City of real or personal property within the Turtle Creek District for consideration which is less than its cost to the City;

(D) Professional service costs, including, but not limited to, those costs incurred for architectural, planning, engineering and legal advice and services;

(E) Imputed administrative costs, including, but not limited to, reasonable charges for the time spent by City employees in connection with the implementation of a project plan;

(F) Relocation costs, including, but not limited to, those relocation payments made following condemnation and job training and retraining;

(G) Organizational costs, including, but not limited to, the costs of conducting environmental impact and other studies, and the costs of informing the public with respect to the creation of the Turtle Creek District and the implementation of project plans;

(H) The amount of any contributions made in connection with the implementation of a project plan;

(I) Payments made, in the discretion of the City, which are found to be necessary or convenient to the creation of the Turtle Creek District or the implementation of project plans; and

(J) That portion of costs related to the construction of environmental protection devices, storm or sanitary sewer lines, water lines or amenities or streets or the rebuilding or expansion of streets, the construction, alteration, rebuilding or expansion of which is necessitated by the project plan for the Turtle Creek District, whether or not the construction, alteration, rebuilding or expansion is within the area encompassing the Turtle Creek District.

SECTION 5: Jonesboro Mayor, Hubert Brodell, is hereby designated by the City to make decisions and handle the affairs of the Turtle Creek District.

SECTION 6: The project plan attached hereto as Exhibit B is hereby adopted as the project plan for the Turtle Creek District (the "Project Plan").

SECTION 7: The City hereby finds the Project Plan is economically feasible based on the information and data contained in the Project Plan.

SECTION 8: The Issuance of Redevelopment Bonds is Hereby Authorized. Under the authority of the Constitution, Authorizing Legislation and laws of the State, including particularly but without limitation Ark. Code Ann. §§14-168-314 and 14-168-315, for the purpose of paying the Project Costs, including but not necessarily limited to interest prior to and during the carrying out of the Project described in the Project Plan, it is hereby found and determined that it is necessary and appropriate for the City to issue redevelopment bonds, and there is hereby authorized the issuance of redevelopment bonds of the City to be designated "City of Jonesboro, Arkansas Tax Increment Financing Revenue Redevelopment Bonds (Turtle Creek Redevelopment District Project), Series 2004" in the aggregate principal amount of not to exceed \$20,000,000 (the "Series 2004 TIF Bonds"). The final amount and terms of the Series 2004 TIF Bonds shall be subject to the further approval by Resolution of the City Council.

(A) The Series 2004 TIF Bonds shall be special limited obligations of the City and the principal of and the interest on and any redemption premium on the Series 2004 TIF Bonds shall be secured by (i) a pledge of and payable solely from the positive tax increments and other revenues to be deposited into the Special Fund established under Section 4 above and (ii) a lien on the public improvements and public works financed by the Series 2004 TIF Bonds. The Series 2004 TIF Bonds may be issued in one or more series each with such designations as shall be set forth in the Indenture, defined below, shall bear interest at the rates specified in the

Indenture hereinafter authorized, not to exceed 7.75% per annum at any time, and shall mature no later than twenty-five (25) years from their date of issuance or the date of termination of the Turtle Creek District, whichever is earlier. The Series 2004 TIF Bonds shall be issued in registered form and may be issued in such denominations as prescribed in the Indenture, hereinafter defined. The Mayor is hereby authorized and directed to approve the form of the Series 2004 TIF Bonds with terms, conditions and provisions that are required by the Authorizing Legislation together with such other usual and customary terms and conditions as are not contradictory thereto, and further approved by Jack, Lyon & Jones, P.A. ("Bond Counsel"). The Mayor is hereby authorized to execute and deliver the Series 2004 TIF Bonds, and the City Clerk is hereby authorized and directed to execute and deliver the Series 2004 TIF Bonds and to affix the seal of the City thereto, and the Mayor and the City Clerk are hereby authorized and directed to cause the Series 2004 TIF Bonds to be authenticated by the trustee named in the Indenture (the "Trustee").

(B) To prescribe the terms and conditions upon which the Series 2004 TIF Bonds are to be secured, executed, authenticated, issued, accepted and held, the Mayor and the City Clerk are hereby authorized and directed to execute, acknowledge and deliver a Trust Indenture (the "Indenture"), and the Mayor and the City Clerk are hereby authorized and directed to cause the Indenture to be accepted, executed, and acknowledged by the Trustee. The Mayor is hereby authorized to confer with the Trustee, the Underwriter (as defined below) and Bond Counsel in order to complete the Indenture with terms, conditions and provisions which are usual and customary as approved by the Mayor and Bond Counsel.

(C) Crews & Associates, Inc., is hereby engaged as the Underwriter (the "Underwriter") of the Series 2004 TIF Bonds. To prescribe the terms and conditions upon which the Series 2004 TIF Bonds are to be sold to the Underwriter, the Mayor is hereby authorized and directed to execute a Bond Purchase Agreement (the "Bond Purchase Agreement") by and between the City, the Turtle Creek District and Underwriter. The Mayor is hereby authorized to confer with the Underwriter and Bond Counsel in order to complete the Bond Purchase Agreement with terms, conditions and provisions that are usual and customary as approved by the Mayor and Bond Counsel.

(D) In order to ensure the continuing exemption of interest on the Series 2004 TIF Bonds from the income of the holders thereof, the Mayor is hereby authorized and directed to execute, in conjunction with the Turtle Creek District, a Tax Compliance Agreement (the "Tax Compliance Agreement"), by and between the City, the Turtle Creek District, the Developer and the Trustee. The Mayor is hereby authorized to confer with the Trustee and Bond Counsel in order to complete the Tax Compliance Agreement with terms, conditions and provisions which are usual and customary as approved by the Mayor and Bond Counsel.

(E) In order to accomplish the purposes of the Turtle Creek District and in order to ensure the payment of the Series 2004 TIF Bonds it may be necessary for the City to enter into a payment in lieu of taxes agreement with the Developer (the "PILOT Agreement") pursuant to the provisions of Ark. Code Ann. §14-168-313. Pursuant to the PILOT Agreement, the Developer will agree to the payment of a fee in lieu of taxes beginning prior to the first assessment date following completion of the Project in order to make scheduled payments on the Series 2004 TIF Bonds issued by the City. The Mayor is hereby authorized to confer with the Trustee, Underwriter and Bond Counsel in order to determine the need for and if needed to complete the PILOT Agreement with Terms, conditions and provisions which are usual and customary as approved by the Mayor and Bond Counsel.

(F) In connection with the offer and sale of the Series 2004 TIF Bonds, the Mayor and City staff are hereby authorized to assist the Underwriter in the completion of a Preliminary Official Statement and an Official Statement describing, among other matters, the City, the Turtle Creek District, the Special Fund and the Project Plan. The Mayor is hereby authorized to "deem final" the Preliminary Official Statement for purposes of Rule

15c2-12 of the U.S. Securities and Exchange Commission (the "Commission").

(G) In order to ensure compliance with the continuing disclosure requirements of Rule 15c2-12 of the Commission, the Mayor is hereby authorized and directed to execute, in conjunction with the Turtle Creek District and the Trustee as dissemination agent, a Continuing Disclosure Agreement (the "Continuing Disclosure Agreement"), by and between the City, the Turtle Creek District, the Developer and the Trustee. The Mayor is hereby authorized to confer with the Trustee and Bond Counsel in order to complete the Continuing Disclosure Agreement with terms, conditions and provisions which are usual and customary as approved by the Mayor and Bond Counsel.

(H) All actions heretofore taken by the City and its officers and staff in connection with the offer and sale of the Series 2004 TIF Bonds are hereby in all respects ratified and approved.

(I) The Mayor and City Clerk, for and on behalf of the City, are hereby authorized and directed to do any and all things necessary to effect the execution and delivery of the Series 2004 TIF Bonds, the Indenture, the Bond Purchase Agreement, the PILOT Agreement, the Tax Compliance Agreement, the Preliminary Official Statement, the Official Statement, the Continuing Disclosure Agreement and the performance of all other acts of whatever nature necessary to effect and carry out the authority conferred by this Ordinance, including to perfect the lien of the Indenture, as authorized by this Ordinance, in the Special Fund and in the public improvements and public works financed by the Series 2004 TIF Bonds. The Mayor and the City Clerk are hereby authorized and directed, for and on behalf of the City, to execute all papers, documents, certificates and other instruments that may be necessary or required under any of such documents or generally required for the carrying out of such authority or to evidence the exercise thereof.

SECTION 9: A copy of this ordinance duly certified by the City Clerk shall be filed in the office of Circuit Clerk and Ex-Officio Recorder of Craighead County at Jonesboro, Arkansas.

SECTION 10: Severability. In the event any portion of this Ordinance is declared or adjudged to be invalid or unconstitutional, such declaration or adjudication shall not affect the remaining portions of this Ordinance, which shall remain in full force and effect as if the portion so declared or adjudged invalid or unconstitutional were not originally a part of this Ordinance.

SECTION 11: Repealer. All ordinances and resolutions, and parts thereof, which are in conflict with any provision of this Ordinance are hereby repealed to the extent of such conflict.

ADOPTED: July 19, 2004