

**BOROUGH OF CARLISLE,  
Cumberland County, Pennsylvania**

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**ORDINANCE NO. 2253**

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**AN ORDINANCE OF THE BOROUGH OF CARLISLE, CUMBERLAND COUNTY, CREATING THE CARLISLE AUTO INDUSTRIES, INC. TAX INCREMENT DISTRICT; APPROVING A PROJECT PLAN FOR SUCH DISTRICT; DESIGNATING THE CUMBERLAND COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY AS THE ISSUER OF TAX INCREMENT REVENUE BONDS OR NOTES TO FINANCE COSTS OF THE PROJECT DESCRIBED IN SUCH PROJECT PLAN; ALLOCATING REAL PROPERTY TAX INCREMENTS IN SUCH DISTRICT TO SAID ISSUING AUTHORITY; AUTHORIZING EXECUTION AND DELIVERY BY THIS BOROUGH OF A TAX INCREMENT FINANCING AGREEMENT; AUTHORIZING AND DIRECTING THE PROPER OFFICERS OF THE BOROUGH TO TAKE AND TO AUTHORIZE ALL ACTS NECESSARY TO IMPLEMENT THE PROJECT PLAN AND SAID AGREEMENT; TERMINATING CERTAIN TAX ABATEMENTS WITH RESPECT TO PROPERTY IN SUCH DISTRICT; SETTING FORTH RELATED MATTERS; AND REPEALING ALL ORDINANCES AND RESOLUTIONS OR PARTS OF ORDINANCES OR RESOLUTIONS INsofar AS THE SAME ARE INCONSISTENT WITH THIS ORDINANCE.**

**WHEREAS**, the Pennsylvania Tax Increment Financing Act, 53 P.S. §6930.1, *et seq.*, as amended (the “Act”), authorizes local taxing bodies to cooperate in providing financing for public facilities and residential, commercial and industrial development and revitalization in their jurisdictions for the purposes of providing new employment opportunities, arresting and alleviating substandard conditions, increasing the tax base, and improving the general economy of the Commonwealth of Pennsylvania; and

**WHEREAS**, the Cumberland County Industrial Development Authority (the “Authority”), has made a formal presentation to the Council of this Borough regarding the establishment of a tax increment district in this Borough and the tax increment financing of certain improvements in and for or directly benefiting such proposed tax increment district, which presentation has included a description of the proposed boundaries of such tax increment district, the tentative plans for development of the district, and an estimate of the general impact of the proposed tax increment district on property values and tax revenues; and

**WHEREAS**, the Authority has submitted to the Council of this Borough a recommendation as to the boundaries of the proposed tax increment district, and has prepared and submitted the Project Plan (hereinafter identified) to the Council of this Borough and to the governing bodies of Cumberland County and the Carlisle Area School District that levy real property taxes within the boundaries of the proposed tax increment district; and

**WHEREAS**, the findings and recommendations concerning the proposed tax increment district have been incorporated in such Project Plan; and

**WHEREAS**, the Council of this Borough desires to create and to participate in the Carlisle Auto Industries, Inc. Tax Increment District and has given proper notice to Cumberland County and the Carlisle Area School District of its intent and desire to create such tax increment district, in compliance with the Act; and

**WHEREAS**, the Board of County Commissioners of Cumberland County and the Board of School Directors of the Carlisle Area School District each has adopted a resolution agreeing to participate in the tax increment district and have delivered copies of such resolutions, respectively, to the Council of this Borough, which are on file with the Secretary of this Borough; and

**WHEREAS**, a public hearing on the creation of the proposed tax increment district was duly convened and held on September 20, 2016, such date being not less than thirty (30) days following publication of a notice of such public hearing in at least one newspaper of general circulation in this Borough and the posting of a copy of such notice in the Borough offices, all in compliance with the Act; and

**WHEREAS**, at least three (3) weeks have passed since the date on which said public hearing was held; and

**WHEREAS**, the Council of this Borough has determined that it is in the best interest of the health, safety and welfare of the citizens of this Borough to create the proposed tax increment district and to implement the tax increment financing and the project described in such Project Plan; and

**WHEREAS**, any and all prerequisites to enactment of this Ordinance set forth in the Act have been satisfied.

**NOW, THEREFORE, BE IT ENACTED** by the Borough of Carlisle, Cumberland County, Pennsylvania, as follows:

## **1. DEFINITIONS**

The following capitalized words and terms, when used in this Ordinance, shall have the following meanings:

- (a) “**Act**” means the Tax Increment Financing Act of the Commonwealth of Pennsylvania, 53 P.S. §6930.1, *et seq.*, as amended.
- (b) “**Agreement**” or “**TIF Agreement**” means the Tax Increment Financing Agreement to be made by and among the Authority, the County, the School District and this Borough, with respect to the District and the use and application of the Tax Increment Revenues, such Agreement to be in the form approved in this Ordinance.
- (c) “**Authority**” means the Cumberland County Industrial Development Authority, or its lawful successor.
- (d) “**County**” means the County of Cumberland, Pennsylvania.
- (e) “**District**” or “**TIF District**” means the Carlisle Auto Industries, Inc. Tax Increment District created pursuant to this Ordinance.
- (f) “**District Creation Date**” means the date as of which the District shall come into existence, as specified in Section 3 of this Ordinance.
- (g) “**Finance Officer**” means the legally authorized agent of this Borough responsible by law for receipt and disbursement of the tax revenues of this Borough.
- (h) “**Project**” means the undertakings and activities of the Authority in implementation of the Project Plan.
- (i) “**Project Costs**” means expenditures and costs incurred or to be incurred for expenditures with respect to the Project that constitute “project costs” within the meaning of the Act.
- (j) “**Project Plan**” means the document prepared by or on behalf of the Authority in compliance with the Act and entitled “Carlisle Auto Industries, Inc. Tax Increment District Plan,” a copy of which is on file with the Secretary of this Borough, as the same may be amended from time to time in accordance with the Act.
- (k) “**School District**” means the Carlisle Area School District, Cumberland County, Pennsylvania, or its lawful successor.
- (l) “**Tax Increment**” or “**Tax Increment Revenues**” shall be deemed to include all incremental generally applicable real property tax revenues resulting from an increase in the total market value of taxable real property situated in the District, determined with reference to the aggregate market value of all taxable real property located within the District as of the District Creation Date, all as more fully set forth in the Agreement.

Special purpose real estate taxes, such as the County’s Library Tax or the Borough’s Fire Tax, shall not be included as Tax Increment Revenues for purposes of this Ordinance.

- (m) **“Tax Increment Fund”** means the fund established by the Authority with respect to the District and constituting the “tax increment fund” within the meaning of the Act, into which the Authority shall pay or cause to be paid all Tax Increment Revenues and any additional money received pursuant to an appropriation from the County, the Borough or the School District or from any other source, and from which the Authority shall disburse money, to pay Project Costs and to satisfy claims of holders of TIF Bonds. Unless otherwise permitted by the Agreement, such fund shall be established and maintained by the Authority with a bank, bank and trust company, trust company or national banking association appointed by the Authority to serve as depository.
- (n) **“TIF Bonds”** means bonds, notes or other obligations issued by the Authority to finance Project Costs (or to retire bonds, notes or other obligations previously issued for such purpose) and payable from Tax Increment Revenues.
- (o) **“Borough”** means the Borough of Carlisle, Cumberland County, Pennsylvania, or its lawful successor.

**2. BOUNDARIES OF THE DISTRICT**

The District shall contain the following adjoining full units of property assessed for real property tax purposes, all of which are located within the Borough:

The parcels of land designated as Cumberland County Tax Parcels:

06-19-1641-133; and

06-20-1800-001.

**3. CREATION AND TERM OF DISTRICT**

The District is hereby created as of the date of issuance of the TIF Bonds.

The District shall continue in existence until such time as all Project Costs and all TIF Bonds issued by the Authority and payable from Tax Increment Revenues are fully paid or until that date which is 20 years after the date of the initial issuance of all or any portion of the TIF Bonds (the “Creation Date”), unless an amendment shall be made to the Project Plan in

accordance with Section 5(a)(8) of the Act, 53 P.S. §6930.5(a)(8), extending the term of existence of the District.

The District shall not be dissolved as long as any of the TIF Bonds remain outstanding during the 20 year term of existence of the District.

#### **4. NAME OF DISTRICT**

The District shall be identified and known as the “Carlisle Auto Industries, Inc. Tax Increment District.”

#### **5. LEGISLATIVE FINDINGS**

The Council of this Borough makes the following findings:

(a) The District is a contiguous geographic area within an area which a planning commission (the Carlisle Borough Planning Commission) has designated as a “redevelopment area” in accordance with the Pennsylvania Urban Redevelopment Law, 35 P.S. §1701, *et seq.*

(b) The improvement of the area is likely to enhance significantly the value of the real property in the District.

(c) The aggregate value of equalized taxable property of the District, plus all existing tax increment districts within the Borough, does not exceed 10 percent of the total value of equalized taxable property within the Borough, nor does the same exceed 10 percent of the total value of equalized taxable property within the County or the School District.

(d) The area comprising the District as a whole has not been subject to adequate growth and development through investment by private enterprise and is not reasonably anticipated to be adequately developed without the adoption of the Project Plan.

(e) No individuals, families or small businesses will be displaced by the creation of the District or the public works or improvements and residential, commercial, or industrial development or revitalization within the District contemplated by the Project Plan.

(f) The Project Plan conforms to the Borough’s master plan.

(g) The Project Plan will afford maximum opportunity, consistent with sound needs of the community as a whole, for the rehabilitation or redevelopment of the District by private enterprise.

(h) The District is a “blighted area” containing characteristics described in Section 2 of the Urban Redevelopment Law and the Project is necessary to eliminate such conditions.

## **6. APPROVAL OF PROJECT PLAN**

The Council of this Borough hereby approves and adopts the Project Plan for the District prepared by the Authority.

## **7. DESIGNATION OF THE AUTHORITY AS THE ISSUING AUTHORITY**

The Authority is hereby designated as the authority charged with preparing, implementing, monitoring and directing the Project Plan and as the Issuing Authority, as defined in the Act, for any tax increment bonds or notes which may be necessary to finance Project Costs for the District. The Authority is authorized to undertake any and all methods of financing of Project Costs available pursuant to Section 9 of the Act and to cooperate with the private developer or developers of the land in the District in the implementation of the Project Plan and the contemplated financing.

## **8. ALLOCATION OF POSITIVE TAX INCREMENTS**

This Borough hereby allocates to the Authority **one hundred percent (100%)** of all Tax Increment Revenues of this Borough received from the District Creation Date until that time, after the completion of all improvements specified as part of the Project in the Project Plan and any amendments thereto made in accordance with the Act, when the Authority has received aggregate Tax Increment Revenues allocated to it by the participating local government units in an amount equal to the aggregate of all expenditures made or monetary obligations incurred for Project Costs, including the payment of all TIF Bonds.

## **9. DEPOSIT OF TAX INCREMENTS AND OTHER FUNDS ALLOCATED TO THE ISSUING AUTHORITY**

The Finance Director of this Borough shall pay over to the Authority, or shall cause to be paid over to the Authority, in each case for deposit in the Tax Increment Fund, on each settlement date provided by law for the payment of real property taxes levied by this Borough, out of all such taxes which have been collected, that portion which represents the Tax Increment Revenues which have been allocated by this Borough to the Authority. The Finance Director of this Borough is also authorized to pay over to the Authority for deposit into the Tax Increment Fund any additional moneys which the Council of this Borough from time to time may appropriate for the purpose of the payment of Project Costs, including payment of the TIF Bonds, and any moneys received by this Borough from time to time from any other sources to

the extent such moneys are intended or restricted for payment of Project Costs, including payment of the TIF Bonds.

#### **10. NO LERTA TAX ABATEMENTS.**

From and after the District Creation Date until such time as the District is dissolved, this Borough may not grant any tax exemptions pursuant to Local Economic Revitalization Tax Act (LERTA) with respect to any property located within the District, notwithstanding any ordinance of this Borough to the contrary.

#### **11. AGREEMENT AUTHORIZED**

This Borough shall enter into the Agreement with the Authority and the other local government units participating in the District for the purposes of, among other things, confirming the appointment of the Authority as the entity charged with preparing and implementing the approved Project Plan and issuing the TIF Bonds; confirming the allocation of Tax Increment Revenues to the Authority; setting forth the manner in which such allocated Tax Increment Revenues shall be paid to the Authority and applied by the Authority; and setting forth such further terms and provisions as may be deemed necessary or desirable for the implementation of the Project Plan, the issuance and sale of TIF Bonds and the security of TIF Bonds; provided that nothing in the Agreement shall constitute a pledge of the full faith, credit or taxing power of this Borough for the payment of Project Costs or the principal of or interest on any TIF Bonds.

The Agreement shall be for the duration of the term of the District and shall be substantially in the form submitted to the Council of the Borough at this meeting, which is hereby incorporated in this Ordinance by this reference, together with such changes as may be approved in accordance with the following paragraph of this Ordinance. A copy of the Agreement in the form submitted to the Council at this meeting shall be filed by the Secretary of the Borough with the minutes of this meeting.

The Agreement shall be executed and delivered on behalf of this Borough by the Mayor or Deputy Mayor of this Borough, and each such officer is hereby authorized and directed to execute and to deliver the Agreement in substantially the form approved in the preceding paragraph of this Ordinance, together with such changes thereto as such officer, following consultation with the Solicitor of this Borough, may approve, such officer's execution and delivery of the Agreement to constitute conclusive evidence of his or her approval of any such changes. The Secretary of this Borough is hereby authorized and directed to attest execution of the Agreement by the officers of this Borough and to affix the official seal of this Borough upon the Agreement.

## **12. AUTHORIZATION OF OFFICERS**

The Mayor or Deputy Mayor, and the Secretary of this Borough are hereby each authorized to execute and to deliver on behalf of this Borough such other instruments, documents and certificates as the Authority or any other party to the issuance, sale and delivery of TIF Bonds may reasonably request. Each such instrument, document and certificate shall be in such form and have such content as the officer of this Borough executing the same, following consultation with the Solicitor of this Borough, may approve, such officer's execution and delivery of the same to constitute conclusive evidence of such approval.

## **13. AMENDMENTS TO PROJECT PLAN AND DISTRICT.**

The Authority may propose, and the Council of this Borough may adopt, by Ordinance or in such other manner as shall be permitted by law, such amendments to the Project Plan and the District as are deemed advisable, but only in accordance with the Act.

## **14. SUCCESSORS IN OFFICE.**

Any reference in this Ordinance to any officer of this Borough shall be deemed to refer to his or her duly qualified successor in office, if applicable.

## **15. RATIFICATION OF CERTAIN PRIOR ACTIONS.**

This Borough approves, ratifies and confirms all action heretofore taken by its officers, its designated representative or representatives, and other persons on its behalf in connection with the undertakings herein contemplated, to the extent not inconsistent with this Ordinance.

## **16. SEVERABILITY.**

In the event any provision, section, sentence, clause or part of this Ordinance shall be held to be invalid, such invalidity shall not affect or impair any remaining provision, section, sentence, clause or part of this Ordinance, it being the intent of the Council of this Borough that such remainder shall be and shall remain in full force and effect.

## **17. REPEALER.**

All ordinances or resolutions and parts of ordinances or resolutions that are inconsistent with this Ordinance are hereby repealed.

**18. EFFECTIVE DATE.**

This Ordinance shall become effective immediately upon passage in accordance with the Borough's Home Rule Charter.

**DULY ENACTED** this 13<sup>th</sup> day of October, 2016, in lawful session duly assembled.

COUNCIL OF THE BOROUGH  
OF CARLISLE

ATTEST:

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Secretary

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(Deputy) Mayor

(SEAL)

CERTIFICATE

I, the undersigned, Secretary of the Borough of Carlisle, Cumberland County, Pennsylvania (the "Borough"), certify that: the foregoing is a true and correct copy of an Ordinance which duly was enacted by the Council of the Borough, in accordance with law, at a meeting duly held on October 13, 2016; said Ordinance has been certified and recorded by me, as Secretary of the Borough, in the book provided for the purpose of such recording; a notice of the enactment of said Ordinance was advertised in a newspaper of general circulation in the Borough not more than thirty (30) days nor less than 10 (ten) days prior to its enactment; the full text of said Ordinance has been made available for public examination at the offices of the Borough and the newspaper where the Ordinance was advertised; an attested copy of said Ordinance has been filed in the Ordinance book of the Borough; and said Ordinance has not been amended, altered or repealed, as of the date of this Certificate.

I further certify that the Council of the Borough met the advance notice and public comment requirements of the Sunshine Act, 65 Pa.C.S. §701 et seq., by advertising the time and place of said meeting, by posting prominently a notice of said meeting at the public building in which said meeting was held, and by providing a reasonable opportunity for public comment at said meeting prior to the enactment of said Ordinance.

IN WITNESS WHEREOF, I set my hand and affix the official seal of the Borough, this 13<sup>th</sup> day of October, 2016.

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Secretary

(SEAL)