

EMERGENCY

City of Cincinnati

SSB

An Ordinance No. 264

- 2021

AWB

AUTHORIZING the City Manager to execute a *Development Agreement* with East End Development LLC pertaining to the redevelopment of property located south of Columbia Parkway along Walworth Avenue in the East End neighborhood of Cincinnati, pursuant to which the City will assign special assessment revenue and service payments in lieu of taxes received by the City to the Port of Greater Cincinnati Development Authority to facilitate the redevelopment project, which consists of environmental remediation and construction of various public improvements including public infrastructure, an extension of Walworth Avenue, and related improvements in support of a housing subdivision and related private improvements.

WHEREAS, the City and East End Development LLC (“Developer”) are parties to that certain *Property Sale and Development Agreement* dated April 1, 2020, pursuant to which the City conveyed certain real property south of Columbia Parkway at the then-existing terminus of Walworth Avenue for consolidation with Developer’s abutting property (collectively, the “Project Site”); and

WHEREAS, Developer and the City desire to enter into a *Development Agreement*, substantially in the form of Attachment A hereto (the “Development Agreement”), pertaining to Developer’s redevelopment of the Project Site into a housing subdivision consisting of (i) site preparation and related development to create buildable lots for the eventual construction of 39 single-family homes (the “Private Improvements”) at a total estimated cost of \$4,612,366.27 for the Private Improvements; and (ii) environmental remediation and construction of various public improvements including utility infrastructure and an extension of Walworth Avenue and related improvements in support of the Private Improvements (the “Public Infrastructure Improvements”); and jointly with the Private Improvements, the “Project”), at a total estimated cost of approximately \$13,965,354.19 for the Public Infrastructure Improvements; and

WHEREAS, on December 18, 2019, this Council passed Ordinance No. 540-2019 (the “TIF Ordinance”), pursuant to which the City declared that the Improvement (as defined in Ohio Revised Code (“ORC”) Section 5709.40(A)(4)) to the Project Site constitutes a public purpose and exempted 100% of the Improvement from real property taxation for a period of 30 years pursuant to ORC Section 5709.40(B) (the “TIF Exemption”); and

WHEREAS, the Project Site is located in the TIF District known as “District 26 - Eastern River Incentive District” (the “District”), established by Ordinance No. 512-2019, passed by this Council on December 18, 2019; and

WHEREAS, the City anticipates that it will keep the Project Site within the District and, by separate ordinance, layer the TIF Exemption over the exemption provided by the District, stating that the TIF Exemption will have priority over the District exemption; and

WHEREAS, pursuant to the TIF Ordinance, the current and future owners of the Project Site are required to make service payments in lieu of taxes in an amount equal to the amount of real property taxes that would have been paid on the Project Site had the TIF Exemption not been granted (the “Statutory Service Payments”); and

WHEREAS, 100% of the owners of a portion of the Project Site (the “Assessed Property”) executed and filed with Council a *Petition* for Special Assessments proposing the necessity of levying special assessments to pay a portion of the costs of the Public Infrastructure Improvements; and

WHEREAS, pursuant to Resolution No. 23-2021 passed by this Council on March 17, 2021, and Ordinance Nos. 101-2021 and 103-2021 passed by this Council on March 31, 2021 (collectively, the “Assessment Legislation”), the City has levied special assessments pursuant to ORC Chapter 727 against the Assessed Property (the “Assessment”); and

WHEREAS, the City anticipates that the Assessment revenue and the Statutory Service Payments will be used (as applicable): (i) to pay certain administrative fees to the Hamilton County, Ohio Auditor and the City; (ii) to make payments to the Board of Education of the Cincinnati School District under the City’s Agreement with the School Board dated July 2, 1999, as amended; (iii) to facilitate a bond issuance by the Port of Greater Cincinnati Development Authority to finance a portion of the Public Infrastructure Improvements (the “Bonds”); and (iv) to be retained by the City and used for any lawful purpose, in each case in the manner set forth in the Development Agreement; and

WHEREAS, the City and the Bank of New York Mellon Trust Company, N.A., as trustee, have entered into that certain *Trust Agreement* dated as of May 1, 1996 (as amended and supplemented the “City Trust Agreement”), pursuant to which the City has pledged the Special Funds (as defined in the City Trust Agreement) to repay various obligations of the City; and

WHEREAS, the City anticipates that it will pledge a portion of the Special Funds to further secure the obligation to pay amounts due with respect to the Bonds, to be evidenced by bonds issued by the City pursuant to a separate ordinance, and in the manner set forth in the Development Agreement; and

WHEREAS, the City will receive substantial economic and non-economic benefits from the Project in that the Project will create additional housing, stimulate economic growth in the East End neighborhood of Cincinnati and in surrounding areas, and enable the Project Site to be put to its highest and best use, for the benefit of the people of the City; and

WHEREAS, Section 16 of Article VIII of the Ohio Constitution provides that it is in the public interest and a proper public purpose for the City to enhance the availability of adequate housing and to improve the economic and general well-being of the people of the City of Cincinnati by providing or assisting in providing housing; and

WHEREAS, the City believes that the Project will promote urban redevelopment in the East End neighborhood of Cincinnati, is in the vital and best interests of the City and the health, safety, and welfare of its residents, and is in accordance with the public purposes and provisions of applicable federal, state, and local laws and requirements; now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio:

Section 1. That the City Manager is hereby authorized to execute a *Development Agreement* with East End Development LLC (“Developer”), in substantially the form attached as Attachment A to this ordinance (the “Development Agreement”), pertaining to a redevelopment project located south of Columbia Parkway along Walworth Avenue, as more particularly described in the Development Agreement (the “Project” and the “Project Site”, as applicable).

Section 2. That the proper City officials are hereby authorized to take all necessary and proper actions to fulfill the terms of this ordinance, the Development Agreement, any and all Project-related documents described in or contemplated by the Development Agreement (including, without limitation, a cooperative agreement, as more particularly described therein), and all ancillary agreements, amendments, and other documents related to the Project and/or the Project Site, all as deemed necessary or appropriate by the City Manager.

Section 3. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to enable the parties to execute the Development Agreement as soon as possible so that the parties can promptly move forward with financing the Project, thereby creating additional housing and other significant economic benefits to the City at the earliest possible time.

Passed: June 23, 2021

Attest: [Signature]
Clerk

[Signature]
John Cranley, Mayor

I HEREBY CERTIFY THAT ORDINANCE NO 264-2021
WAS PUBLISHED IN THE CITY BULLETIN
IN ACCORDANCE WITH THE CHARTER ON 7-6-2021
[Signature]
CLERK OF COUNCIL