

EESW

An Ordinance No. 95

- 2024

DECLARING improvements to certain real property located at 221 E. Fourth Street in the Central Business District of Cincinnati to be a public purpose and exempt from real property taxation for a period of thirty years pursuant to Ohio Revised Code Section 5709.41; and **AMENDING** Ordinance No. 412-2002 to remove such real property from the operation of that ordinance.

WHEREAS, the City entered into a Memorandum of Understanding dated February 12, 2024 (the "MOU") with Acabay Atrium One, L.P. and Acabay Atrium Two, L.P. (together, "Developer"), pertaining to the potential redevelopment of an office tower into dense multi-family housing (the "Project"), on certain real property owned by Developer and located at 201 E. Fourth Street in Cincinnati, commonly known as Atrium I; and

WHEREAS, Developer also owns a neighboring tower located at 221 E. Fourth Street in Cincinnati, commonly known as Atrium II, which property is more particularly described on Attachment A hereto (the "Exempt Property"); and

WHEREAS, the City is in the process of reviewing Developer's financial assistance application for the potential Project; and

WHEREAS, if the City determines to incentivize the Project, a potential source of financial assistance could be from service payments in lieu of taxes collected pursuant to a tax increment financing exemption on the Exempt Property, created by the City pursuant to Ohio Revised Code ("R.C.") Section 5709.41 (the "Exemption"); and

WHEREAS, in order to determine what level of financial assistance to the Project is even possible, the Administration through the Department of Community and Economic Development ("DCED") recommends creating the Exemption, with the understanding that the City is entitled to retain all service payments in lieu of taxes until such time as the City enters into a development agreement with Developer relating to the Project; and

WHEREAS, pursuant to the MOU, and subject to further approvals by Council and the Administration, the City intends to enter into a development agreement with Developer to (i) create and/or preserve jobs and improve the economic welfare of the people of the City, consistent with Section 13 of Article VIII of the Ohio Constitution, and (ii) increase the availability of quality housing, consistent with Section 16 of Article VIII of the Ohio Constitution; and

WHEREAS, pursuant to Ordinance No. 296-1982, passed on July 8, 1982, Council approved and adopted the Cincinnati 2000 Plan as an urban renewal plan for the Central Business District of Cincinnati, which plan has been amended from time to time (as amended, the "CBD Urban Renewal Plan"); and

WHEREAS, in furtherance of such urban redevelopment and pursuant to Article XVIII, Section 3 of the Ohio Constitution; the Charter and ordinances of the City; Plan Cincinnati; and the CBD Urban Renewal Plan, the City of Cincinnati acquired fee title to the Exempt Property and the City conveyed fee title of the Exempt Property to a third party in support of redevelopment activities; and

WHEREAS, the Exempt Property is located within the boundaries of the District 2 – Downtown South/Riverfront District Incentive District, which was created by Ordinance No. 412-2002, passed by Council on December 18, 2002, as subsequently amended (the “TIF District Ordinance”); and

WHEREAS, in order to effectuate the Exemption and in accordance with R.C. Section 5709.916(E), the City desires to amend the TIF District Ordinance to exclude the Exempt Property; and

WHEREAS, R.C. Sections 5709.41, 5709.42, and 5709.43 provide that Council may, in furtherance of its redevelopment activities: (i) declare by ordinance to be a public purpose any Improvement (as defined in R.C. Section 5709.41) to a parcel of real property and thereby authorize the exemption of such Improvement from real property taxation for a period of time if (a) the City held fee title to the parcel at any time prior to the adoption of the ordinance, and (b) the parcel is leased, or the fee of the parcel is conveyed, to any person either before or after the adoption of the ordinance; (ii) require the payment of service payments in lieu of taxes by the owner or owners of the parcel; and (iii) establish an urban redevelopment tax increment equivalent fund for the deposit of those service payments; and

WHEREAS, DCED estimates that the Exemption could provide an annual net benefit to Developer in an amount greater than \$100,000 in the event the City and Developer enter into a development agreement related to the Exemption provided for herein; and

WHEREAS, the City has determined that it is necessary and appropriate, in furtherance of the City’s redevelopment activities, and in the best interests of the City, to provide for exemption of the Improvement to the Exempt Property from real property taxation, and for the payment of semiannual service payments in lieu of taxes with respect to the Exempt Property, pursuant to R.C. Sections 5709.41 through 5709.43; now, therefore,

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

Section 1. That, pursuant to and in accordance with the provisions of Ohio Revised Code (“R.C.”) Section 5709.41, Council hereby declares that 100 percent of the increase in the assessed value of the Improvement (as defined in R.C. Section 5709.41) on the real property located at 221 E. Fourth Street in Cincinnati, which property is more particularly described on Attachment A to this ordinance (the “Exempt Property”), is a public purpose and exempt from real property

taxation, commencing on the effective date of this ordinance and ending after the Improvement has been exempted from real property taxation for thirty years, or on the date on which the City can no longer require service payments to be paid on the Improvement, all in accordance with the requirements of R.C. Sections 5709.41 through 5709.43 (the “Exemption”).

Section 2. That Council hereby confirms, pursuant to and in accordance with the provisions of R.C. Section 5709.42, that the owners from time to time of all or any portion of the Exempt Property shall be required to pay service payments in lieu of taxes (“Service Payments”), with respect to the Improvement to the Exempt Property.

Section 3. That any and all Service Payments received by the City shall be deposited into Fund No. 763, Urban Redevelopment Tax Increment Equivalent Fund II, established by Ordinance No. 217-2015 (the “Fund Ordinance”).

Section 4. That Council hereby confirms, pursuant to and in accordance with the provisions of R.C. Section 5709.43, that the Service Payments shall be applied in accordance with the Fund Ordinance.

Section 5. That, to facilitate the redevelopment project, Council hereby authorizes the City Manager, upon request of and in consultation with the property owner, to prepare (or cooperate in the preparation of) and file an application for the Exemption.

Section 6. That Council hereby confirms that the obligation of the owner or owners of the Exempt Property to pay Service Payments is a covenant running with the land and is subject to that certain Tax Incentive Agreement between the Board of Education of the Cincinnati City School District and the City, effective as of April 28, 2020.

Section 7. That Ordinance No. 412-2002, passed on December 18, 2002, as subsequently amended (the "TIF District Ordinance"), is hereby amended to remove the Exempt Property from the property tax exemption area created thereby.

Section 8. That the TIF District Ordinance, except as amended herein, shall remain in full force and effect.

Section 9. That the proper City officials are hereby authorized to take all necessary and appropriate actions to fulfill the terms of this ordinance, including, without limitation, executing any and all ancillary agreements and other documents.

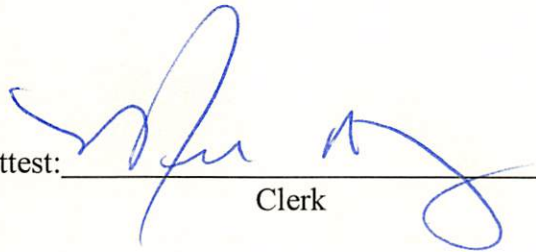
Section 10. That, pursuant to R.C. Section 5709.41(E), the Clerk of Council is hereby directed to deliver a copy of this ordinance to the Director of the State of Ohio Department of Development ("ODOD"), 77 South High Street, 29th Floor, Columbus, Ohio 43215, within fifteen days after its passage, and that, on or before March 31 of each year that the Exemption remains in effect, the City Manager is authorized to prepare and submit to the Director of ODOD the status report required under R.C. Section 5709.41(E).

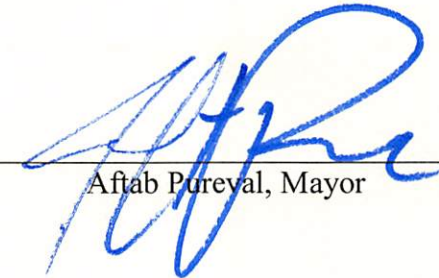
Section 11. That it is hereby found and determined that all formal actions of Council concerning and relating to the passage of this ordinance were taken in an open meeting of this Council, and that all deliberations of Council and of any of its committees that resulted in such formal action were taken in meetings open to the public, in compliance with all legal requirements, including R.C. Section 121.22.

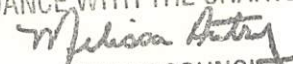
Section 12. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is

to enable the redevelopment activities related to the Exempt Property to commence at the earliest possible time, for the economic welfare of the people of the City of Cincinnati.

Passed: MARCH 13, 2024

Attest: 
Clerk


Aftab Pureval, Mayor

I HEREBY CERTIFY THAT ORDINANCE NO. 95-9024
WAS PUBLISHED IN THE CITY BULLETIN
IN ACCORDANCE WITH THE CHARTER ON 3/20/2024

CLERK OF COUNCIL