

EMERGENCY

City of Cincinnati

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An Ordinance No. \_\_\_\_\_

- 2021

**DECLARING** improvements to certain real property located at 312 Main Street in the Central Business District of Cincinnati, to be constructed pursuant to a *Development Agreement* between the City of Cincinnati and Fort Wash Hills, LLC, to be a public purpose and exempt from real property taxation for a period of 30 years pursuant to Section 5709.41 of the Ohio Revised Code.

WHEREAS, as authorized by Ordinance No. 43-2019, passed by this Council on February 6, 2019, the City of Cincinnati and Fort Wash Hills, LLC (“Developer”) entered into a *Development Agreement* dated April 22, 2019, which the parties amended pursuant to a *First Amendment to Development Agreement* dated June 11, 2021 (as amended, the “Development Agreement”), pertaining to real property located at 312 Main Street in Cincinnati, more particularly described on Attachment A to this ordinance (the “Property”); and

WHEREAS, the City executed the Development Agreement in order to create 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

WHEREAS, the City executed the Development Agreement in furtherance of a program of redevelopment the City undertook pursuant to Article XVIII, Section 3 of the Ohio Constitution, the Charter and ordinances of the City, and Plan Cincinnati (2012); and

WHEREAS, pursuant to the Development Agreement, (i) the City acquired fee title to the Property; and (ii) the City subsequently re-conveyed the Property to Developer, to enable Developer to undertake its redevelopment obligations under the Development Agreement; and

WHEREAS, the 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; and

WHEREAS, Ohio Revised Code 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 Ohio Revised Code 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, 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 (i) provide for

exemption of the Improvement to the Property from real property taxation, and for the payment of semiannual service payments in lieu of taxes with respect to the Property (“Service Payments”), pursuant to Ohio Revised Code Sections 5709.41 through 5709.43; and (ii) enter into a *Service Agreement* with Developer, in substantially the form attached to the Development Agreement, to establish certain terms and conditions regarding the payment of the Service Payments as further described therein; 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 Section 5709.41, Council hereby declares that 100% of the increase in the assessed value of the Improvement (as defined in Ohio Revised Code Section 5709.41) to the real property located at 312 Main Street in Cincinnati, as more particularly described on Attachment A to this ordinance (the “Property”), is a public purpose and exempt from real property taxation commencing on the first day of the tax year in which an Improvement of at least \$2,500,000 resulting from the redevelopment activities on the Property first appears on the tax duplicate of real and public utility property, and ending after the Improvement has been exempted from real property taxation for 30 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 Ohio Revised Code Sections 5709.41 through 5709.43.

Section 2. That Council hereby confirms, pursuant to and in accordance with the provisions of Ohio Revised Code Section 5709.42, that the owners from time to time of all or any portion of the Property shall be required to pay service payments in lieu of taxes (“Service Payments”) with respect to the Improvement, subject to the specific terms and conditions provided for in the *Service Agreement* to be entered into with respect to the Property, in substantially the form attached to the *Development Agreement* between the City and Fort Wash Hills, LLC (“Developer”) pertaining to the development of the Property, as amended by

the *First Amendment to Development Agreement* (the “Service Agreement,” and, as amended, the “Development Agreement,” respectively).

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 Ohio Revised Code Section 5709.43, that the Service Payments shall be applied in accordance with the Development Agreement and the Service Agreement and shall be used 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 Developer, to prepare (or cooperate in the preparation of) and file an application for the real property tax exemption granted in Section 1 of this ordinance.

Section 6. That Council confirms its approval in all respects of the Development Agreement and the Service Agreement, which provide for, among other things, (i) covenants running with the land of the owner or owners, from time to time, of the Property, including covenants relating to the obligation to pay Service Payments; and (ii) compensation to the Board of Education of the Cincinnati City School District pursuant to its *Tax Incentive Agreement* with the City effective as of April 28, 2020.

Section 7. That the proper City officials are hereby authorized to take all necessary and appropriate actions to fulfill the terms of this ordinance, the Development Agreement, and the Service Agreement, including, without limitation, executing any and all ancillary agreements and other documents.

Section 8. That, pursuant to Ohio Revised Code Section 5709.41(E), the Clerk of this Council is hereby directed to deliver a copy of this ordinance to the Director of the State of Ohio Development Services Agency (“ODSA”), 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 set forth in Section 1 hereof remains in effect, the City Manager is authorized to prepare and submit to the Director of ODSA the status report required under Ohio Revised Code Section 5709.41(E).

Section 9. 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 this 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 Ohio Revised Code Section 121.22.

Section 10. 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 construction of the improvements to the Property described in the Development Agreement to commence at the earliest possible time, for the economic welfare of the people of the City of Cincinnati.

Passed: \_\_\_\_\_, 2021

\_\_\_\_\_  
John Cranley, Mayor

Attest: \_\_\_\_\_  
Clerk

**ATTACHMENT A**  
to Ordinance

SITUATED IN SECTION 18, TOWN 4, FRACTIONAL RANGE 1 BETWEEN THE MIAMIS, THE CITY OF CINCINNATI, HAMILTON COUNTY, OHIO BEING PART OF LOTS 85 AND 86 OF THE ORIGINAL PLAN OF CINCINNATI AND BEING ALL OF FORT WASH HILLS, LLC AS RECORDED IN OFFICIAL RECORD 13813, PAGE 2043 OF THE HAMILTON COUNTY RECORDER'S OFFICE CONTAINING 0.2547 ACRES AND BEING FURTHER DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHWEST CORNER OF SAID LOT 85 OF THE ORIGINAL PLAN OF CINCINNATI, SAID CORNER BEING ON THE INTERSECTION OF THE EAST RIGHT OF WAY OF MAIN STREET (66' RW) AND THE NORTH RIGHT OF WAY OF THIRD STREET (RW VARIES); THENCE, DEPARTING THE NORTH RIGHT OF WAY OF SAID THIRD STREET AND WITH THE EAST RIGHT OF WAY OF SAID MAIN STREET, NORTH 10° 04' 25" WEST, 67.90 FEET TO THE NORTHWEST CORNER OF 300 MAIN, LTD. AS RECORDED IN OFFICIAL RECORD 7238, PAGE 1629, SAID CORNER BEING REFERENCED BY A SET CROSS NOTCH BEING SOUTH 79° 55' 35" WEST, 3.00 FEET, SAID CORNER BEING THE TRUE POINT OF BEGINNING;

THENCE, FROM THE TRUE POINT OF BEGINNING THUS FOUND, DEPARTING SAID 300 MAIN, LTD AND WITH THE EAST RIGHT OF WAY OF SAID MAIN STREET, NORTH 10° 04' 25" WEST, 75.22 FEET TO THE SOUTHWEST CORNER OF CITY OF CINCINNATI LAND (KNOWN AS HAMMOND ALLEY, NOT DEDICATED), AS RECORDED IN PRIOR REGISTERED LAND CERTIFICATE #73800 AND BEING REFERENCED BY A SET CROSS NOTCH AT SOUTH 80° 24' 34" WEST, 3.00 FEET;

THENCE, DEPARTING THE EAST RIGHT OF WAY OF SAID MAIN STREET AND WITH THE SOUTH LINE OF SAID CITY OF CINCINNATI LAND, NORTH 80° 24' 34" EAST, 182.77 FEET TO A SET CROSS NOTCH ON THE WEST RIGHT OF WAY OF HAMMOND STREET;

THENCE, DEPARTING SAID CITY OF CINCINNATI LAND AND WITH THE WEST RIGHT OF WAY OF SAID HAMMOND STREET, SOUTH 10° 03' 55" EAST, 43.62 FEET TO THE NORTH LINE OF NAP WILLIAMS OFFICE BUILDING LLC AS RECORDED IN OFFICIAL RECORD 9392, PAGE 4745, AND BEING REFERENCED BY A SET CROSS NOTCH BEING NORTH 80° 22' 15" EAST, 6.00 FEET;

THENCE, DEPARTING THE WEST RIGHT OF WAY OF SAID HAMMOND STREET AND WITH SAID NAP WILLIAMS OFFICE BUILDING LLC THE FOLLOWING TWO COURSES: SOUTH 80° 22' 15" WEST, 82.68 FEET;

THENCE, SOUTH 10° 04' 25" EAST, 30.71 FEET TO THE NORTHEAST CORNER OF SAID 300 MAIN, LTD, SAID CORNER BEING REFERENCED BY A SET CROSS NOTCH BEING SOUTH 10° 04' 25" EAST, 3.00 FEET;

THENCE, DEPARTING SAID NAP WILLIAMS OFFICE BUILDING LLC AND WITH SAID 300 MAIN, LTD, SOUTH 79° 55' 35" WEST, 100.08 FEET TO THE TRUE POINT OF BEGINNING CONTAINING 0.2547 ACRES OF LAND, MORE OR LESS.

BASIS OF BEARINGS: STATE PLANE COORDINATES (3402) OHIO SOUTH ZONE, NAD83(2011). THE ABOVE DESCRIPTION WAS PREPARED FROM A CONSOLIDATION PLAT MADE ON JUNE 11, 2019 UNDER THE DIRECTION OF JEFFREY O. LAMBERT, PROFESSIONAL SURVEYOR #7568 IN THE STATE OF OHIO.