

EMERGENCY

City of Cincinnati

SSB

An Ordinance No. 363

- 2020

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**DECLARING**, pursuant to Ohio Revised Code Section 5709.40(B), improvements to certain parcels of real property at the former Cast-Fab site, located west of Disney Street in the Oakley neighborhood of Cincinnati to be a public purpose and exempt from real property taxation for a period of 30 years.

WHEREAS, Local Oakley, LLC ("Developer") is redeveloping real property in Cincinnati located at the former Cast-Fab site west of Disney Street, as more particularly depicted and described in Attachment A, attached hereto (the "Property"), all or most of which Developer currently owns and/or controls, which redevelopment Developer currently anticipates will include multiple phases of mixed-use commercial development (the "Project"); and

WHEREAS, the Project necessitates the construction of various public infrastructure improvements, including, without limitation, public parking, utility, and right-of-way improvements; and

WHEREAS, Section 5709.40, *et seq.* of the Ohio Revised Code ("ORC") provide that City Council may (i) declare any Improvement (as defined in Section 5709.40 of the Ohio Revised Code) to one or more parcels of real property located in the City to be a public purpose, thereby exempting that Improvement from real property taxation for a period of time, (ii) designate public infrastructure improvements that directly benefit the parcels for which such Improvement is declared to be a public purpose, (iii) require the payment of service payments in lieu of taxes by the owner or owners of such parcel or parcels, and (iv) provide for the distribution of the applicable portion of those service payments to the overlapping city, local, or exempted village school district; and

WHEREAS, City Council wishes to use the authority granted pursuant to such ORC Sections in connection with certain improvements in the City, in order to encourage development of the Property; and

WHEREAS, ORC Section 5709.40(A)(4) and (8) define certain terms as follows:

"Improvement" means the increase in the assessed value of any real property that would first appear on the tax list and duplicate of real and public utility property after the effective date of an ordinance adopted under this section were it not for the exemption granted by that ordinance;

"Public infrastructure improvement" includes, but is not limited to, public roads and highways; water and sewer lines; the continued maintenance of those public roads and highways and water and sewer lines; environmental remediation; land acquisition,

including acquisition in aid of industry, commerce, distribution, or research; demolition, including demolition on private property when determined to be necessary for economic development purposes; stormwater and flood remediation projects, including such projects on private property when determined to be necessary for public health, safety, and welfare; the provision of: gas, electric, and communications service facilities, including the provision of gas or electric service facilities owned by nongovernmental entities when such improvements are determined to be necessary for economic development purposes; and the enhancement of public waterways through improvements that allow for greater public access; and

WHEREAS, the Board of Education of the Cincinnati City School District of the City of Cincinnati (the "Board of Education"), pursuant to that certain *Tax Incentive Agreement* effective as of April 28, 2020 (as may be amended, the "Board of Education Agreement"), has approved tax exemptions of up to 100% for periods not to exceed 30 years and has waived the statutory notification requirements for such exemptions; and

WHEREAS, the City has determined that it is necessary and appropriate, and in the best interest of the City, to provide for (i) exemption of Improvement to the Property from real property taxation under ORC Section 5709.40, *et seq.*, and (ii) the payment of semiannual service payments in lieu of taxes with respect to the Property; and

WHEREAS, ORC Section 5709.43 requires that the city council of a city that receives service payments in lieu of taxes under ORC Section 5709.40, *et seq.*, establish a municipal public improvement tax increment equivalent fund into which shall be deposited such service payments in lieu of taxes; now, therefore,

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

Section 1. That pursuant to Section 5709.40(B) of the Ohio Revised Code ("ORC"), this Council hereby creates the "Local Oakley TIF," the boundaries of which shall be coextensive with the boundaries of the parcels and shall include the parcels as specifically identified and/or described in Attachment A to this ordinance (the "Property"), which Property is located in the incorporated area of the City.

Section 2. That this Council hereby finds and determines that (i) additional public infrastructure including construction and maintenance of street improvements, water improvements, sewer improvements, parking facilities, and/or related improvements, is necessary as a result of and for the further development of the Property for creating jobs, increasing property values, providing adequate public services, and to preserve the health, safety,

and welfare of the current citizens of Cincinnati; (ii) the project(s) being, or to be, undertaken that place additional demand on the public infrastructure improvements designated in this ordinance include the mixed-use commercial development being undertaken by Local Oakley, LLC (including any affiliates thereof, "Developer"); and (iii) the proposed use of the Property includes commercial uses.

Section 3. That pursuant to and in accordance with the provisions of ORC Section 5709.40(B), this Council hereby declares any Improvement (as defined in ORC Section 5709.40) to the Property to be a public purpose and exempt from taxation for the time and in the amount set forth in Section 4 hereof and declares that the Improvement made to the Property will place direct additional demand on the public infrastructure improvements described in Section 2 hereof when such public infrastructure improvements are completed; therefore, such public infrastructure improvements will directly benefit the Property.

Section 4. That this Council finds and determines that 100% of the Improvement subsequent to the effective date of this ordinance is hereby declared to be a public purpose, and shall be exempt from real property taxes commencing on the first day of the tax year in which an Improvement first appears on the tax duplicate of real and public utility property and ending on the earlier to occur of (a) 30 years after such date or (b) the date on which the City can no longer require service payments to be paid with respect to the Improvements in accordance with ORC Section 5709.40, *et seq.*

Section 5. That this Council hereby designates the public infrastructure improvements identified in Attachment B to this ordinance as the "public infrastructure improvements" made (or to be made) that directly benefit the Property pursuant to ORC Section 5709.40(B).

Section 6. That this Council hereby expresses its intention to enter into such agreements as may be necessary or appropriate to construct such public infrastructure improvements (including, without limitation, (i) Service Agreement(s) between the City and Developer or its successor(s)-in-interest as to the Property (“Owner”), and (ii) a cooperative agreement among the City, Owner, and the Port of Greater Cincinnati Development Authority (the “Port”)), and further hereby requires the owners of the Property to make semiannual service payments in lieu of taxes to the County Treasurer on or before the final dates for payment of real property taxes. Such requirements, along with such other provisions as are deemed appropriate by this Council and as are agreed to by the owners of the Property, may be included in Service Agreements which may (but are not required to) be entered into between the City and the respective owners of the Property. To the extent necessary to secure such obligations, this Council hereby pledges such service payments to secure any obligations of the City or the Port issued to finance the public infrastructure improvements described in Sections 2 and 5 hereof. The payments in lieu of taxes provided for in ORC Section 5709.42 shall be paid to the County Treasurer, for payment by the County Treasurer to the City.

Section 7. That there has previously been established the City, Municipal Public Improvement Tax Increment Equivalent Fund (the “Fund”), into which Fund all service payments in lieu of taxes made by the owners of the affected parcels of land pursuant to this ordinance shall be deposited.

Section 8. That moneys deposited in the Fund shall be used only for the purposes set forth in ORC Section 5709.43, with respect to the public infrastructure improvements described in Attachment B to this ordinance, and for making compensation payments to the affected school districts as provided in ORC Section 5709.40, *et seq.*, and in the *Tax Incentive Agreement*

between the City and the Board of Education of the Cincinnati City School District of the City of Cincinnati effective as of April 28, 2020.

Section 9. That the proper City officials are hereby authorized to do all things necessary and proper to carry out the actions contemplated herein, including, without limitation, filing any required applications for tax exemption with the Hamilton County Auditor and State Tax Commissioner.

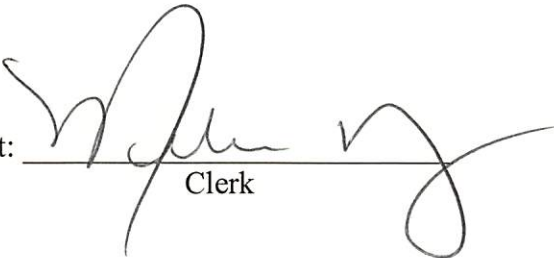
Section 10. That, pursuant to ORC Section 5709.40(I), the Clerk is hereby directed to deliver a copy of this ordinance to the Director of the Department of Development Services of the State of Ohio within 15 days after its adoption, and, on or before March 31 of each year that the exemption set forth herein remains in effect, the Clerk or other authorized officer of this City shall prepare and submit to the Director of the Department of the Ohio Development Services Agency of the State of Ohio the status report required under ORC Section 5709.40(I).

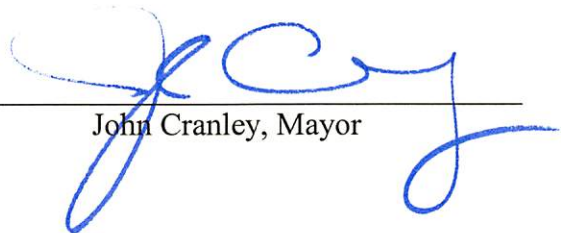
Section 11. That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action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

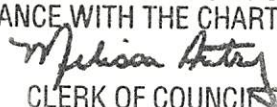
Section 12. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is to enable construction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

earliest possible time in order to advance development of the Property in a timely and financially efficient manner, for the economic welfare of the people of the City.

Passed: October 28, 2020

Attest:   
Clerk

  
John Cranley, Mayor

I HEREBY CERTIFY THAT ORDINANCE NO 303-2020  
WAS PUBLISHED IN THE CITY BULLETIN  
IN ACCORDANCE WITH THE CHARTER ON 11-10-2020  
  
CLERK OF COUNCIL