

Ordinance No. 375-2019

Council Members: Cleveland, Brancatelli and Kelley (by departmental request)

An emergency ordinance terminating Contract No. CT 3002 LS 2015*013 with Cumberland TCC1 LLC for the development of Site C located between the Rock and Roll Hall of Fame and the Great Lakes Science Center; to enter into an agreement with the Rock and Roll Hall of Fame to develop Site C; and to authorize any other agreements that are necessary.

WHEREAS, under Ordinance No. 561-14, passed June 2, 2014, as amended by Ordinance No. 1507-14, passed December 8, 2014, and Ordinance No. 670-18, passed May 14, 2018, this Council authorized the Director of Port Control to enter into a 50-year Agreement of Lease For Phase I-Site Contract No. CT 3002 LS 2015*013 effective as of July 20, 2015, (“Lease”) with Cumberland TCC1 LLC (a wholly owned subsidiary of Cumberland TCC, LLC) (“Cumberland”) to commence development on an approximately 1.0 acre parcel of property between The Rock and Roll Hall of Fame Museum Inc. (“Rock Hall”) and Great Lakes Science Center parcels (“Site C”) by June 14, 2019; and

WHEREAS, the Rock Hall is contemplating an expansion of the their existing Museum facility containing space for exhibition, education, performance, office, library and archives, retail, food and beverage service facilities, and such other components consistent with a world-class visitor attraction and the Rock Hall’s mission to engage, teach and inspire through the power of rock and roll, with designated exterior public areas, boardwalk and plaza, to the extent included in the final plans (“Development Plan”); and

WHEREAS, due to unique development opportunities involving the expansion of the Rock Hall, Cumberland seeks approval to transfer its development rights to the Rock Hall through a separate agreement between those parties; and

WHEREAS under Section 4A of Ordinance No. 561-14 and Section 8.1 of the Lease, Cumberland agrees not to assign or transfer its rights in any portion of Site C to another entity in which Cumberland does not have management and operating control prior to Completion of the Improvements without prior written consent from City, as authorized by legislation enacted by Cleveland City Council; and

WHEREAS, in order to facilitate this transfer, the City needs to terminate the lease authorized under Contract No. CT 3002 LS 2015*013 with Cumberland and to enter into a new lease with the Rock Hall for development of Site C; and

WHEREAS, this Council approves the lease termination with Cumberland and the new lease with the Rock Hall; and

WHEREAS, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLEVELAND:

Section 1. That the Director of Port Control is authorized to terminate the Lease on Site C authorized under Contract No. CT 3002 LS 2015*013 with Cumberland prior to commencement of improvements.

Section 2. That, notwithstanding and as an exception to the provisions of Chapter 181 and 183 of the Codified Ordinances of Cleveland, Ohio, 1976, it is found and determined that Site C is no longer needed for the City's public use.

Section 3. That, notwithstanding and as an exception to the provisions of Chapters 181 and 183 of the Codified Ordinances of Cleveland, Ohio, 1976, the Director of Port Control is authorized to enter into a lease with the Rock Hall for the development of Site C ("Lease") and is more fully described in the legal description contained in File No. 375-2019-A.

Section 4. That the term of the Rock Hall's Lease shall be until May 11, 2042, which runs coterminous with the existing Rock Hall's lease with the City, with one option to renew for an additional 49 years, exercisable by the Rock Hall.

Section 5. That to uphold the Lease, the Rock Hall would be required to commence construction of the Development Plan by December 31, 2021, (unless extended no more than two years by meeting certain fundraising benchmarks approved by the Director of Port Control) and complete construction within 36 months of receipt of first permit.

Section 6. That, as consideration in lieu of an annual base rent, the Rock Hall will be responsible for the costs of all infrastructure installation as they deem necessary for implementation of the Development Plan. Infrastructure improvements may include, without limitation, those for communication, electric, sewage and water service to Site C. The Rock Hall agrees that its minimum investment in infrastructure improvements for implementation of the Development Plan shall be in an amount no less than \$1,950,000 (determined as the fair market value by calculating the present value lump sum upfront payment of the 2019 appraised rental stream for the Leased Premises). In the unlikely event the actual cost of infrastructure improvements that the Rock Hall deems necessary or desirable for implementation of the Development Plan do not exceed such minimum investment amount, the Rock Hall agrees to deposit the difference into a capital improvements fund for the North Coast Harbor Common Area Maintenance.

Section 7. That the Rock Hall Lease may authorize the Rock Hall to make improvements to Site C at its cost subject to the approval of appropriate City agencies and officials.

Section 8. That the Rock Hall agrees not to assign, convey, sell, pledge or transfer its rights in any portion of Site C, or any right or privilege created in the Lease, to another entity in which Rock Hall does not have management and operating control prior to Completion of the Improvements on Site C, and upon any attempt to do so (without prior written consent from the City), the Lease will immediately terminate.

Section 9. That the Rock Hall Lease shall be prepared by the Director of Law and approved by the Director of Port Control.

Section 10. That the Director of Port Control, the Director of Law, and other appropriate City officials are authorized to enter into any agreement necessary to implement this ordinance, or to execute any agreement, documents, instruments, or certificates, that are necessary.

Section 11. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed April 29, 2019.

Effective May 1, 2019.