

**Meeting of Council
November 22, 2021**

**SECOND READING
EMERGENCY ORDINANCE**

Ord. No. 844-2021 AS AMENDED

Ordinance No. 844-2021

**Council Member Kelley
(by departmental request)**

AN EMERGENCY ORDINANCE

Authorizing execution of a cooperative agreement with the County of Cuyahoga, Gateway Economic Development Corporation of Greater Cleveland, and/or Cleveland ~~Indians~~ Guardians Baseball Company, LLC relating to the financing, operations, repair, upkeep, and construction of appropriate modernizations of Progressive Field, and authorizing contribution of City funding.

WHEREAS, Progressive Field (the “Ballpark”), since 1994, has served as the home to Major League Baseball in our community; and

WHEREAS, Gateway Economic Development Corporation of Greater Cleveland (“Gateway”) and Cleveland ~~Indians~~ Guardians Baseball Company, LLC (the “Team”) will enter into an Amended and Restated Operating Lease whereby the Team will continue to play major league baseball in downtown Cleveland for at least through 2036; and

WHEREAS, the Director of Economic Development approves Gateway and the Team entering into an Amended and Restated Operating Lease and the cooperative arrangements described below; and

WHEREAS, the City, the County of Cuyahoga, Ohio (the “County”), Gateway, and the Team, collectively (the “Parties”) are committed to preserving and improving the Ballpark, enabling it to continue to provide the outstanding fan and community experience and to receive the substantial economic benefit derived therefrom; and

WHEREAS, to that end, the Parties desire to undertake certain cooperative arrangements as are necessary and appropriate to provide for the financing, operations, repair, upkeep, and construction of appropriate modernizations needed to protect and preserve this valuable asset in the City (collectively, the “Project”); and

WHEREAS, the appropriate modernizations will be accomplished pursuant to a schedule of Ballpark improvements prepared by the Team and approved by Gateway, the City and County, with the City and County providing two-thirds of the contributions and the Team providing one-third contributions toward an improvement fund solely dedicated to these modernizations (the “Ballpark Improvement Fund”); and

WHEREAS, the cooperative activities of the City and the County will include contribution of certain funds for the repair, upkeep and appropriate modernizations and other cooperative activities, including but not limited to the City making the Gateway East Garage available for the Team for purchase for twenty-four months; and

WHEREAS, the cooperative activities of the Team will include the operations required to field a Major League Baseball franchise and paying for each of the following: (1) routine maintenance and certain operating expenses associated with the Ballpark, (2) annual rent, (3) property taxes, and (4) one-third of the funding for the Ballpark Improvement Fund, plus any cost overruns over the original funding amount; and

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WHEREAS, the City intends to enter into a Cooperative Agreement among the City, the County, Gateway, and/or the Team (“Cooperative Agreement”) to implement the Project and in furtherance of the Public Purposes described herein; 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. Determinations by Council. This Council finds and determines as follows:

Public Purpose. The Council finds that cooperative activities detailed in the Term Sheet contained in **File No. 844-2021-A** (the “Term Sheet”) will support and enhance the Ballpark as the home to Major League Baseball in Cleveland, enabling it to continue to provide the outstanding fan and community experience and that continued substantial economic benefit will be derived therefrom.

Section 2. City Contributions. The Director of Finance is authorized to remit the appropriate funds necessary to meet the City’s annual contribution amounts set forth in the Term Sheet.

Section 3. Authorization of Cooperative Agreement; Additional Documents. The Director of Finance is authorized, in the name and on behalf of the City and on a date the Director deems appropriate, to sign and deliver a Cooperative Agreement in accordance with terms and conditions contained in the Term Sheet, except as required by the terms of this ordinance and except for any terms and conditions not approved by the Director of Law, together with such changes that are not adverse to the City as may be approved by the Director of Finance signing the same on behalf of the City. The determination that the Cooperative Agreement is not adverse to the City shall be conclusively evidenced by the signing and delivery of that Cooperative Agreement by the Director of Finance.

The Mayor, the Director of Finance, the Clerk, the Director of Law and other City officials are authorized to sign and deliver and accept delivery of such instruments, certificates and documents as are necessary or appropriate to consummate the transactions authorized by this Ordinance and the Cooperative Agreement.

The Mayor, the Director of Finance, the Director of Law and other City officials, as appropriate, are authorized to make the necessary arrangements on behalf of the City to accomplish those acts contemplated in the Cooperative Agreement. The Clerk of Council or other appropriate official of the City shall furnish a true transcript of proceedings certified by the Clerk or other official, of all proceedings had with reference to the authorization of the Cooperative Agreement.

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Section 4. Purchase of Gateway East Garage. No purchase of the Gateway East Garage shall be permitted unless authorized by City Council, pursuant to the term sheet and the same rights to the spaces in the garage afforded by the Parking Facilities Agreement, as amended, shall continue following said purchase by the Team.

Section 5. Interpretation. Any provisions of the Codified Ordinances of the City which are inconsistent with the provisions of this Ordinance shall not apply to matters authorized herein. Nothing in this Ordinance is intended to, and no provision hereof shall be applied in any manner as would, impair the obligation of contract of the City with respect to any outstanding bonds, certificates of indebtedness, other obligations, indentures, or other agreements or contracts made or entered into by the City.

Section 6. Validity. It is found and determined, and is hereby represented and recited, that all applicable provisions of the City's Charter and the rules of this Council have been fully complied with and this Ordinance was passed in conformity therewith.

Section 7. Severability. Each section of this Ordinance and each subdivision or paragraph of any section is hereby declared to be independent, and the finding or holding of any section or any subdivision or paragraph of any section to be invalid or void shall not be deemed or held to affect the validity of any other section, subdivision or paragraph of this Ordinance.

Section 8. Compliance with Open Meeting Law. 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 those formal actions were in meetings open to the public, in compliance with all applicable legal requirements.

Section 9. Emergency. 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.

SKM:nl
9-27-2021
FOR: Interim Director Gentile

THERE IS NO LEGAL OBJECTION TO THIS LEGISLATION IF AMENDED AS FOLLOWS:

1. In the title, line 5, strike "Indians" and insert "Guardians".
2. In the second whereas clause, line 2, strike "Indians" and insert "Guardians".
3. In the sixth whereas clause, line 2, after "approved by" insert "Gateway,".
4. In Section 4, line 2, after "City Council" insert "pursuant to the Term Sheet".

Date: 11/22/2021 (Signed):


Kevin Roberts
Assistant Director of Law

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