Ordinance No. 553-2024
AS AMENDED

By Council Member Griffin
(by departmental request)

AN EMERGENCY ORDINANCE

Authorizing the Director of Finance and Mayor to terminate the On-Site Parking Garage (Gateway East) Base Lease no longer needed for the City's use and convey the property for the purpose of creating and preserving jobs and employment opportunities in the City, and appropriating certain funds to satisfy the City's contribution to capital repairs on the property.
~~East) Base Lease as no longer needed for public use and appropriating certain funds to satisfy the City's capital repair obligations.~~

WHEREAS, on October 15, 1992, the City and Gateway Economic Development Corporation of Greater Cleveland ("Gateway") entered into a Base Lease for a term of up to 45 years for the purpose of the City constructing the On-Site Parking Facility to provide parking facilities for the public in downtown Cleveland, including patrons of the Gateway Sports Complex; and

WHEREAS, the Director of Finance has requested the termination of the base lease of the On-Site Gateway Parking Garage (also known as "Gateway East"), which is no longer needed for public use by the City and which shall be conveyed to the Cleveland-Cuyahoga County Port Authority (the "Port Authority") for the purpose of creating and preserving jobs and employment opportunities that are available to residents or otherwise promote economic development within its jurisdiction as authorized by Article VIII Section 13 of the Ohio Constitution (the "Conveyance"); and

WHEREAS, in connection with the Conveyance, the City, the Port Authority and the Cleveland Guardians Baseball Company, LLC will enter into a cooperative agreement (the "Cooperative Agreement") to enable the lease and operation of Gateway East and payment to the City of approximately $2,000,000 per full year for 13 years, said payment to fund the City's required contribution to repayment of Ballpark Improvement Project Bonds and to the extent not needed for bond debt service payments, for capital repairs at Progressive Field, pursuant to the Term Sheet attached to the agreement entered into among the City, the County of Cuyahoga, Gateway Economic Development Corporation of Greater Cleveland, and the Cleveland Guardians as authorized by Ordinance No. 844-2021, passed November 29, 2021 (the "Term Sheet"); and"

~~WHEREAS, in exchange for termination of the Base Lease, the City will receive $2,000,000 per year for 13 years, said payment to fund the City's required capital repair contribution; and~~

WHEREAS, funds remaining unexpended following the expiration of the City's various series Parking Facilities Revenue Bonds are available to fund deferred maintenance costs; 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 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 Gateway East ~~the On-Site Gateway Parking Garage (Gateway East)~~ is no longer needed for public use by the City and its Conveyance will further promote economic development within the City as authorized by Article VIII Section 13 of the Ohio Constitution.

Section 2. That the Director of Finance and the Mayor are authorized to enter into an agreement to terminate the Base Lease entered into between the City and Gateway as of October 15, 1992, and to release all right, title and interest in Gateway East ~~the On-Site Gateway Parking Garage (Gateway East)~~ to Gateway.

Section 3. That the Director of Finance is authorized to pay up to $2,000,000 to the Cleveland-Cuyahoga County Port Authority as deferred maintenance expenses for Gateway East out of Fund ~~No.~~ Nos. 65 SF 001 and 65 SF 006.

Section 4. That the Director of Finance is authorized to receive payment of approximately $26,000,000 in total, subject to acceleration in certain cases, to be paid as (i) approximately $2,000,000 per full year for 13 years and (ii) additional payments

from the Port Authority pursuant to the Cooperative Agreement, to the extent permitted by law, relating to the lease, operation, including any sale of sponsor signage, and the sale of Gateway East. The payments received pursuant to (i) above are to be placed into Fund No. 65 SF 001, and this Council hereby appropriates said funds to be used to pay the City's required contribution pursuant to the Term Sheet. The payments received pursuant to (ii) above are to be placed into Fund No. 65 SF 001.

~~Section 4. That the Director of Finance is authorized to receive payment of $2,000,000 per year for 13 years, subject to acceleration in certain cases; to place said payments into Fund No. 65 SF 001, and this Council hereby appropriates said funds to be used to pay the City's required contribution for capital repairs at Progressive Field, pursuant to the Term Sheet attached to the Cooperative Agreement entered into among the City, the County of Cuyahoga, Gateway Economic Development Corporation of Northeast Ohio, and the Cleveland Guardians as authorized by Ordinance No. 844-2021, passed November 29, 2021. In addition to the foregoing, the Director of Finance is authorized to receive additional payments, to the extent permitted by law, relating to the operation of the garage and the sale of sponsor signage at the garage; and to place such payments into Fund No. 65 SF 001.~~

Section 5. That the Director of Finance is authorized in the name and on behalf of the City to sign and deliver The Cooperative Agreement ~~a cooperative agreement~~, an amended Parking Facilities Agreement covering both teams utilizing Gateway, and all other necessary documents and agreements, all to be approved as to form and correctness by the Director of Law, to effectuate the transaction described more fully in File No. 553-2024-B ~~File No. 553-2024~~.

Section 6. That is found and determined that all formal actions of this Council and of any of its committees concerning and relating to the passage of this Ordinance

were taken, and that all deliberations of this Council and any of its committees that resulted in these formal actions were held in meetings open to the public, in compliance with all legal requirements, including, without limitation, Section 121.22 of the Revised Code.

Section 7. That each section and each part of each section of this Ordinance is declared to be an independent section or part of a section and, notwithstanding any other evidence of legislative intent, it is declared to be the controlling legislative intent that if any such section or part of a section or any provision thereof, or the application thereof to any person or circumstance, is held to be invalid, the remaining sections or parts of sections and the application of such provisions to any other person or circumstance, other than those as to which it is held invalid, shall not be affected thereby, and it is declared to be the legislative intent that the other provisions of this Ordinance would have been passed independently of such section, or parts of a section, so held to be invalid.

Section 8. 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.

DDR:nl
5-13-2024
FOR: Director Abonamah

Ord. No. 553-2024 AS AMENDED

REPORT
after second Reading

By Council Member Griffin (by departmental request)

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~~East) Base Lease as no longer needed for public use and appropriating certain funds to satisfy the City's capital repair obligations.~~

READ FIRST TIME **REPORTS**

and referred to _____

_____

by the council _____

_____

CITY CLERK

READ SECOND TIME

by the council _____

_____

CITY CLERK

READ THIRD TIME

by the council _____

_____

PRESIDENT

_____

CITY CLERK

APPROVED

_____

MAYOR

Recorded Vol. _____ Page _____
Published in the City Record _____