

# Ordinance No. 1029-2021

By Council Members McCormack,  
Brancatelli and Kelley (by departmental  
request)

## AN EMERGENCY ORDINANCE

Authorizing the Director of Economic Development to enter into a Tax Increment Financing Agreement with KD 55 Public Square LLC, and/or its designee, to fund eligible project costs and project debt for the financing of the redevelopment of the 55 Public Square building; to provide for payments to the Cleveland Metropolitan School District; and to declare certain improvements to real property to be a public purpose.

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WHEREAS, under Section 5709.41 of the Revised Code, improvements to real property may be declared to be a public purpose where fee title to the real property was, at one time, held by the City of Cleveland and the real property is then leased or conveyed by the City; and

WHEREAS, pursuant to Ordinance authority, the City will have duly entered into the chain of title for the Property which is more particularly described in this ordinance (the “Real Property”) pursuant to the requirements of Section 5709.41 of the Revised Code prior to the passage of this ordinance; and

WHEREAS, the Real Property is to be developed in accordance with the Cleveland 2020 Citywide Plan, a copy of which is placed in **File No. 1029-2021-A**; and

WHEREAS, under Section 5709.41 of the Revised Code, the improvements declared to be a public purpose may be exempt from real property taxation; and

WHEREAS, under Section 5709.41 of the Revised Code, the owners of the improvements may be required to make annual service payments in lieu of taxes that would have been paid had the improvement not been exempt; and

WHEREAS, under Section 5709.41 of the Revised Code, the exemption may exceed 75% of the improvements for up to 30 years when a portion of the service payments so collected are distributed to the Cleveland Metropolitan School District (“District”) in an amount equal to the amount the District would have received had the improvement not been exempt; and

WHEREAS, the District has been notified of the intent to enter into the agreement authorized by this ordinance in compliance with Sections 5709.41(C)(4) and 5709.83 of the Revised Code; and

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

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

Section 1. That the improvements to be constructed by KD 55 Public Square LLC, and/or its designee, (“Redeveloper”), are declared to be a public purpose for purposes of Section 5709.41 of the Revised Code (the “Improvements”). The Real Property is more fully described below and as may subsequently be replatted, re-numbered, or revised, reserving to the City the beneficial interest in and title to the described easements of record:

**Parcel No. 1: Fee Simple (PPNs: 101-07-004, 006 and 007)**

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio and known as being Sublot Nos. 19, 20 and 21, part of Sublot Nos. 18 and 22, part of Alleys Nos. 1 and 2 (now vacated) all in Simon Perkins Subdivision of part of Original Two Acre Lot Nos. 55, 56 and 57, as shown by the recorded plat in Volume F of Deeds, Pages 264 and 265 of Cuyahoga County Records, part of Broome Court N.W. (now vacated), and part of Original Two Acre Lot Nos. 58 and 59, and bounded and described as follows:

Beginning at a point in the centerline of St. Clair Avenue N.W., 99 feet wide, at its intersection with the centerline of West 3rd Street, formerly Seneca Street, 99 feet wide, and from which point an iron monument found in the centerline of West 3rd Street bears South 34 deg. 03’ 42” East, 0.10 feet;

thence North 55 deg. 56’ 37” East along the centerline of St. Clair Avenue, 132.92 feet to a nail set at its intersection with the Northeasterly line of said Original Lot No. 57;

thence South 34 deg. 03’ 33” East along the Northeasterly line of said Original Lot No. 57, 49.50 feet to a drill hole set at its intersection with the Southeasterly line of St. Clair Avenue, and the principal place of beginning of the parcel herein described;

thence North 55 deg. 56’ 37” East along the Southeasterly line of St. Clair Avenue, 66.59 feet to a drill hole set at its intersection with the Southwesterly line of a parcel of land conveyed to First Union Real Estate Equity and Mortgage Investments by deed recorded in Volume 98-01915, Page 30;

thence South 34 deg. 03’ 23” East along the Southwesterly line of said land conveyed to First Union Real Estate Equity and Mortgage Investments, 173.74 feet to its intersection with the Southeasterly line of said land so conveyed;

thence North 55 deg. 53’ 12” East along the Southeasterly line of said land conveyed to First Union Real Estate Equity and Mortgage Investments, being also the centerline of vacated Broome Court N.W., formerly 16.5 feet wide, 142.80 feet to a nail set at its intersection with the Southwesterly line of a parcel of land acquired by the City of Cleveland by means of said vacation of Broome Court N.W.;

thence South 34 deg. 06’ 48” East along the Southwesterly line of said land acquired by the City of Cleveland, 8.25 feet to a nail set at its intersection with the Northwesterly line

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of a parcel of land conveyed to the City of Cleveland for the widening of West 2nd Place by deed recorded in Volume 9085, Page 430 of Cuyahoga County Records;

thence South 55 deg. 53'12" West along the Northwesterly line of said land conveyed to the City of Cleveland, 6.00 feet to a nail set at its intersection with the Southwesterly line of said land so conveyed;

thence South 34 deg. 03' 04" East along the Southwesterly line of said land conveyed to the City of Cleveland, 153.89 feet to its intersection with the Northwesterly line of Frankfort Avenue N.W., 45 feet wide, from which point a nail set bears North 55 deg. 55' 06" East, 6.00 feet;

thence South 55 deg. 55' 06" West along the Northwesterly line of Frankfort Avenue N.W., 286.76 feet to a drill hole set at its intersection with the Northeasterly line of West 3rd Street;

thence North 34 deg. 03' 42" West along the Northeasterly line of West 3rd Street, 253.05 feet to its intersection with the Southeasterly line of a parcel of land conveyed to Prime Properties Limited Partnership by deed recorded in Volume 91-4116, Page 33 of Cuyahoga County Records, and from which point a drill hole set bears South 55 deg. 54' 58" West 1.00 foot;

thence North 55 deg. 54' 58" East along the Southeasterly line of said land conveyed to Prime Properties Limited Partnership, being also the Southeasterly line of Sublot No. 17 in said Simon Perkins Subdivision and its Northeasterly prolongation, 83.41 feet to a drill hole set at its intersection with the Northeasterly line of said land so conveyed;

thence North 34 deg. 03' 33" West along the Northeasterly line of said land conveyed to Prime Properties Limited Partnership, being also the Northeasterly line of said Original Lot No. 57, 82.78 feet to the principal place of beginning, and containing 65,688 square feet or 1.5080 acres of land.

## **Parcel No. 2: Easement**

Easement for the purpose of keeping and maintaining any and all snow melting coils, pipes, tubing or like equipment as reserved in the Quit Claim Deed from 55 Public Square, Inc. to the City of Cleveland filed for record June 2, 1958 and recorded in Volume 9085, Page 430 of Cuyahoga County Records; the easement premises more accurately described as follows:

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio and known as being part of Original Two Acre Lot No. 59, and bounded and described as follows:

Beginning at a point in the Northwesterly line of Frankfort Avenue, N.W., 45 feet wide, at its intersection with the Southwesterly line of a parcel of land conveyed to the City of Cleveland by deed recorded in Volume 6488, Page 224 of Cuyahoga County Records;

thence South 55 deg. 55' 06" West along the Northwesterly line of Frankfort Avenue, 6.00 feet to its intersection with the Northeasterly line of a parcel of land conveyed to Robert F. Black, et al, Trustees of First Union Realty, by deed recorded in Volume 10664, Page 461 of Cuyahoga County Records;

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thence North 34 deg. 03' 04" West along the Northeasterly line of said land conveyed to Robert F. Black, et al, 153.89 feet to its intersection with the Southeasterly line of Broome Court N.W., 16.5 feet wide, now vacated;

thence North 55 deg. 53' 12" East along the Southeasterly line of Broome Court, now vacated, 6.00 feet to its intersection with the Southwesterly line of said land conveyed to the City of Cleveland;

thence South 34 deg. 03' 04" East along the Southwesterly line of said land conveyed to the City of Cleveland, 153.90 feet to the place of beginning.

## **Parcel No. 3: Easement**

Together with the rights in and to the Pedestrian Bridge Easement, the Utility Easement and the City Delivery Easement set forth in that Reciprocal Easement Agreement by and between 55 Public LLC and The City of Cleveland, Ohio, dated August 28, 2003 and recorded as Cuyahoga County Recorder's Document No. 200308290199 and described by metes and bounds as follows:

### **Pedestrian Bridge Easement Area:**

Situated in the City of Cleveland, County of Cuyahoga, and State of Ohio, and known as being part of Original Two Acre Lot 58 and part of Broome Court N.W. (now vacated), and bounded and described as follows:

Beginning at the most southerly corner of a parcel of land conveyed to CEI Venture LLC by deed recorded as A.F.N. 200102220641 of Cuyahoga County Records;

Thence North 55 degrees 53 minutes 12 seconds East along the southeasterly line of said land conveyed to CEI Venture LLC, 49.20 feet to its intersection with the southwesterly line of an overhead pedestrian bridge, and the principal place of beginning of the easement herein described;

Thence North 34 degrees 03 minutes 23 seconds West along the southwesterly line of said overhead bridge, 6.03 feet to its intersection with the southeasterly face of an existing building;

thence North 55 degrees 53 minutes 12 seconds East along the southeasterly face of said existing building, 8.30 feet to its intersection with the northeasterly face of said overhead bridge;

Thence South 34 degrees 03 minutes 23 seconds East along the northeasterly face of said overhead bridge, 6.03 feet to its intersection with the southeasterly line of said land conveyed to CEI Venture LLC;

Thence South 55 degrees 53 minutes 12 seconds West along the southeasterly line of said land conveyed to CEI Venture LLC, 8.30 feet to the principal place of beginning.

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## Utility Easement Area:

Situated in the City of Cleveland, County of Cuyahoga, and State of Ohio, and known as being part of Original Two Acre Lot 59 and part of Broome Court N.W. (now vacated), and bounded and described as follows:

Beginning at the most easterly corner of a parcel of land conveyed to CEI Venture LLC by deed recorded as A.F.N. 200102220641 of Cuyahoga County Records;

Thence South 55 degrees 53 minutes 12 seconds West along the southeasterly line of said land conveyed to CEI Venture LLC, 26.48 feet to a point;

Thence North 34 degrees 03 minutes 04 seconds West, 2.43 feet to a point in the northwesterly edge of an existing asphalt alley turnout;

Thence northeasterly along the curved northwesterly edge of said existing turnout, being the arc of a curve deflecting to the left, 9.91 feet to a point, said arc having a radius of 16.73 feet, a central angle of 33 degrees 56 minutes 28 seconds, and a chord which bears North 38 degrees 07 minutes 57 seconds East, 9.76 feet;

Thence North 16 degrees 08 minutes 38 seconds East along the westerly edge of said existing turnout, 15.25 feet to a point;

Thence North 1 degree 33 minutes 19 seconds West along the westerly edge of said existing turnout, 10.18 feet to its intersection with the northeasterly line of said land conveyed to CEI Venture LLC;

Thence South 34 degrees 03 minutes 04 seconds East along the northeasterly line of said land conveyed to CEI Venture LLC, 23.74 feet to the place of beginning.

## City Delivery Court Easement Area:

Situated in the City of Cleveland, County of Cuyahoga, and State of Ohio, and known as being part of Original Two Acre Lots 58 and 59 and part of Broome Court N.W. (now vacated), and bounded and described as follows:

Beginning at the most southerly corner of a parcel of land conveyed to CET Venture LLC by deed recorded as A.F.N. 200102220641 of Cuyahoga County Records;

Thence North 34 degrees 03 minutes 23 seconds West along the southwesterly line of said land conveyed to CEI Venture LLC, 6.03 feet to its intersection with the southeasterly line of an existing building;

Thence North 55 degrees 53 minutes 12 seconds East along the southeasterly line of said existing building, 58.13 feet to a point;

Thence easterly along the curved northerly line of an existing alley, being the arc of a curve deflecting to the left, 5.65 feet to a point, said arc having a radius of 3.60 feet, a central angle of 90 degrees 00 minutes 00 seconds, and a chord which bears South 79 degrees 06 minutes 48 seconds East, 5.09 feet;

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Thence North 55 degrees 53 minutes 12 seconds East along the northwesterly line of said existing alley, 59.59 feet to a point;

Thence northeasterly along the curved northwesterly line of said existing alley, being the arc of a curve deflecting to the left, 9.91 feet to a point, said arc having a radius of 16.73 feet, a central angle of 33 degrees 56 minutes 28 seconds, and a chord which bears North 38 degrees 07 minutes 57 seconds East, 9.76 feet;

Thence North 16 degrees 08 minutes 38 seconds East along the westerly line of said existing alley turnout, 15.25 feet to a point;

Thence North 1 degree 33 minutes 19 seconds West along the westerly line of said existing alley turnout, 10.18 feet to its intersection with the northeasterly line of said land conveyed to CEI Venture LLC;

Thence South 34 degrees 03 minutes 04 seconds East along the northeasterly line of said land conveyed to CEI Venture LLC, 23.74 feet to its intersection with the southeasterly line of said land so conveyed;

Thence South 55 degrees 53 minutes 12 seconds West along the southeasterly line of said land conveyed to CEI Venture LLC, 147.80 feet to the place of beginning.

Section 2. That one hundred percent (100%) of the Improvements are declared exempt from real property taxation for a period of thirty years, effective and commencing the first year the value of the Improvements are reflected on the tax duplicate; and that in no event shall the exemption period extend beyond 2053. The terms of the agreement, which shall not be materially changed without further legislative action by Council, will be as follows:

<b><u>Project Name:</u></b>	55 Public Square Redevelopment
<b><u>Project Address:</u></b>	55 Public Square, Cleveland. OH 44113
<b><u>Developer:</u></b>	KD 55 Public Square LLC and/or designee
<b><u>Project Manager:</u></b>	Cassie Slansky
<b><u>Ward/Councilperson:</u></b>	3-Kerry McCormack
<b><u>City Assistance:</u></b>	Non-School TIF

## **Project Summary and Discussion**

KD 55 Public Square LLC and/or designee, (“Developer”) is proposing a mixed use redevelopment located at 55 Public Square, Cleveland. OH 44113 (“Project Site”). In order to assist with the project financing, the Developer has requested the City impose a 5709.41, 30-Year, Non-School TIF. The TIF will support debt service related to the project and assist with the redevelopment of approximately 205 apartment units, 136,000 square feet of office space, 15,000 square feet of first floor commercial space, and parking for residents. The project will create and/or cause to create approximately 30 new W-2 jobs at the Project Site with an approximate payroll of \$1,000,000 and retain/cause to retain approximately 232 jobs.

KD 55 Public Square LLC is a single purpose entity controlled by the K&D Group. Established in 1984, K&D is one of the largest, private multi-family property manager and developer in Northeast Ohio. They are well known for their work in Cleveland which includes Terminal Tower, Residences at Leader, Residences at Halle, Reserve Square, Residences at Hanna, and Residences at 1717.

K&D’s newest project is the redevelopment of the historic 55 Public Square building, which they purchased in February, 2021. Existing tenants will continue to occupy the office space and majority of the

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commercial space will be occupied by a new restaurant, bar, coffee shop, and bank. The total project investment is expected to exceed approximately \$94 million.

## **Proposed City Assistance**

- This ordinance will authorize the Director of Economic Development to enter into a 30-year non-school Tax Increment Finance (TIF) agreement with KD 55 Public Square LLC and/or its designee. The City will have declared certain improvements with respect to the project to be a public purpose and exempt 100% of the improvements from real property taxes.
- The Developer agrees to make certain improvements to the parcel and make payments in lieu of taxes (PILOTs) equal to the taxes that would have been paid for the parcel but for the TIF. A portion of the PILOTs will be paid to the Cleveland Metropolitan School District in the amount the District would have otherwise received but for the TIF by the County (“District Payments”). The balance of the PILOTs will be utilized to fund eligible project costs and project debt. The developer will be responsible for any shortfall of PILOT payments for project costs.
- The TIF will be immediately effective on the residential after the expiration of the 15-year, 100% tax abatement.

## **Economic Impact**

- Creation of approximately 30 new full time jobs in the City of Cleveland
- Retention of approximately 232 full time jobs in the City of Cleveland
- Project estimates \$115,125 in new annual City tax revenue generated from residents and new employees

## **City Requirements**

- Subject to Chapter 187: MBE/FBE/CSB requirements
- Subject to Chapter 188: Fannie Lewis Cleveland Residential Employment Law
- Subject to a Workforce Development Agreement for all new jobs
- Subject to a Community Benefits Agreement

Section 3. That, under Section 5709.41 of the Revised Code, Redeveloper, or the owners of the Improvements, shall make service payments for a period of thirty years in lieu of the exempt taxes to the Cuyahoga County Fiscal Officer or Treasurer, or designee; the payments shall be charged and collected in the same manner, and shall be in an amount not less than the taxes that would have been paid had the Improvements not been exempt from taxation.

Section 4. That a portion of the service payments collected under this ordinance shall be distributed by the Cuyahoga County Fiscal Officer or Treasurer, or designee to the Treasurer of the District in the amount of the taxes that would have been payable to the District had the Improvements not been exempt from taxation.

Section 5. That the Director of Economic Development is authorized to enter into an agreement or agreements with Redeveloper to provide for the exemption and

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service payments described in this ordinance, including agreements securing the payments described in this ordinance, which agreement or agreements shall contain those terms contained in this ordinance.

Section 6. That when applicable under Section 5709.43 of the Revised Code, there is established an Urban Redevelopment Tax Increment Equivalent Fund into which shall be deposited Service Payments in Lieu of Taxes (“PILOTS” or “Service Payments”) that shall be used for financing the public purpose Improvements including project debt service, bond payments, and reimbursement of project construction costs, or for other economic development purposes as determined by the Director of Economic Development.

Section 7. That it is found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in open meetings of this Council, and any of its committees that resulted in formal action were in meetings open to the public in compliance with the law.

Section 8. That the contract or contracts authorized by this ordinance shall be prepared by the Director of Law.

Section 9. 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.

SMA:nl  
11-15-2021  
FOR: Interim Director Ebersole



**By Council Members McCormack, Brancatelli and Kelley  
(by departmental request)**

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Authorizing the Director of Economic Development to enter into a Tax Increment Financing Agreement with KD 55 Public Square LLC, and/or its designee, to fund eligible project costs and project debt for the financing of the redevelopment of the 55 Public Square building; to provide for payments to the Cleveland Metropolitan School District; and to declare certain improvements to real property to be a public purpose.

**READ FIRST TIME on NOVEMBER 15, 2021**

**REPORTS**

**and referred to DIRECTORS of Economic Development,  
City Planning Commission, Finance, Law;  
COMMITTEES on Development Planning and Sustainability, Finance**

CITY CLERK

READ SECOND TIME

CITY CLERK

READ THIRD TIME

PRESIDENT

CITY CLERK

APPROVED

MAYOR

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**PASSAGE RECOMMENDED BY  
COMMITTEE ON  
DEVELOPMENT, PLANNING AND  
SUSTAINABILITY**

FILED WITH COMMITTEE

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**PASSAGE RECOMMENDED BY  
COMMITTEE ON  
FINANCE**

FILED WITH COMMITTEE

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