



**CITY OF WESTLAKE, OHIO
ORDINANCE NO. 2016-33:**

AN ORDINANCE AUTHORIZING THE RELEASE OF THE LIEN OF SPECIAL ASSESSMENTS RELATING TO CERTAIN TOLEDO-LUCAS COUNTY PORT AUTHORITY, SPECIAL ASSESSMENT REVENUE BONDS, SERIES 2003 (CROCKER PARK PUBLIC IMPROVEMENT PROJECT), DATED AS OF DECEMBER 1, 2003, UPON THE HAPPENING OF CERTAIN EVENTS, TOGETHER WITH RELATED MATTERS, AND DECLARING AN EMERGENCY.

WHEREAS, in 2003, Crocker Park, LLC (the Developer), petitioned the City to undertake the construction of certain off-street parking and street improvements relating to the development known as "Crocker Park" (the Improvements) and, pursuant to City legislation related thereto, the City authorized and levied special assessments (the Special Assessments) on certain properties owned by the Developer (the Assessed Properties) to pay costs of the Improvements and certified the Special Assessments to the Cuyahoga County Auditor (now Fiscal Officer) for collection; and

WHEREAS, on December 9, 2003, the Toledo-Lucas County Port Authority (the Port Authority) issued its \$76,175,000 Special Assessment Revenue Bonds, Series 2003 (Crocker Park Public Improvement Project) (the Port Authority Bonds), for the purpose of paying costs of the Improvements; and

WHEREAS, the Port Authority Bonds are payable from Financing Payments (as defined in and made pursuant to) the Cooperative Agreement dated as of December 1, 2003 (the Cooperative Agreement), among the City, the Developer and the Port Authority, and in the Cooperative Agreement the City pledged to the Port Authority its right, title and interest in and to the Special Assessments to secure payment of debt charges on the Port Authority Bonds; and

WHEREAS, the Developer has proposed to prepay the Special Assessments and cause the redemption of all outstanding Port Authority Bonds pursuant Sections 4.01(e) and 9.02 of the Trust Indenture dated as of December 1, 2003 (the Indenture), between the Port Authority and The Huntington National Bank, as trustee (the Trustee), relating to the Port Authority Bonds; and

WHEREAS, upon the redemption of all of the outstanding Port Authority Bonds, and the release of the Indenture, the Special Assessments will no longer be payable; and

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WHEREAS, this Council desires, upon the City's receipt of appropriate evidence of the redemption of all outstanding Port Authority Bonds and release of the Indenture pursuant to the terms of the Indenture, to (i) deliver or cause to be delivered to the County Fiscal Officer written direction to remove the lien of the Special Assessments from the Assessed Properties and (ii) enter into the Agreement described in Section 1 in furtherance thereof;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WESTLAKE, COUNTY OF CUYAHOGA AND STATE OF OHIO, THAT:

Section 1: **Agreement Among City, County Treasurer, Port Authority and Developer.** The Mayor, the Director of Finance and Director of Law are each authorized to sign and deliver, in the name and on behalf of the City, the Agreement (the Agreement) among the City, the County Treasurer of the County of Cuyahoga, Ohio, the Port Authority and the Developer, in substantially the form as is now on file with the Clerk of Council, pursuant to which, among other matters, the City agrees to direct the Cuyahoga County Fiscal Officer to remove the lien of the Special Assessments from the Assessed Properties upon the meeting of certain conditions. The Agreement is approved, together with any changes or amendments that are not inconsistent with this Ordinance and not substantially adverse to the City and that are approved by the Mayor on behalf of the City, all of which shall be conclusively evidenced by the signing of the Agreement or amendments thereto.

Section 2: **Authorization of Payment to Trustee.** To provide for the redemption of all of the outstanding Port Authority Bonds, the Director of Finance is hereby authorized and directed to pay from the Special Assessment Bond Retirement Fund to the Trustee for deposit in an escrow account to be held by the Trustee, as escrow agent, the amount of money, if any, collected by the City in calendar year 2016 from Special Assessments and not previously paid to the Trustee as Financing Payments pursuant to the Cooperative Agreement, which amount, if any, is hereby appropriated for the payment of debt charges on the Port Authority Bonds and shall be deposited, held, invested and applied for that purpose as provided in the Indenture.

Section 3: **Authorization to Release Lien of Special Assessments.** Upon the receipt by the City of a copy of the signed certificate described in Paragraph F. of the Agreement and such other evidence of the redemption of all outstanding Port Authority Bonds and release of the Indenture as the Director of Finance may request, the Director of Finance is authorized and directed to deliver or cause to be delivered to the County Fiscal Officer written direction to remove the lien of the Special Assessments from the Assessed Properties.

Section 4: **Further Authorizations.** The Mayor, the Director of Finance, the Director of Law, the Clerk of Council and other City officials, as appropriate, each and all, are authorized and directed to sign any certificates, statements and other documents and instruments and to take such actions as are necessary or appropriate to consummate the transactions contemplated by this Ordinance.

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Section 5: Professional Services. The Director of Finance is hereby authorized and directed to provide for the payment of the services rendered and for reimbursement of expenses incurred, including such services of the City's Municipal Advisor, MAS Financial Advisory Services LLC, and Bond Counsel, Squire Patton Boggs (US) LLP, as may be required to effect the transactions contemplated by this Ordinance, except to the extent paid or reimbursed by the Developer, from any funds lawfully available and that are appropriated or to be appropriated for that purpose.

Section 6: Prior Acts Ratified and Confirmed. Any actions previously taken by City officials or agents of the City in furtherance of the matters set forth in this Ordinance are hereby approved, ratified and confirmed.

Section 7: Compliance with Open Meeting Requirements. This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council or committees, 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 the law.

Section 8: Captions and Headings. The captions and headings in this Ordinance are solely for convenience of reference and in no way define, limit or describe the scope or intent of any Sections, subsections, paragraphs, subparagraphs or clauses hereof. Reference to a Section means a section of this Ordinance unless otherwise indicated.

Section 9: Declaration of Emergency; Effective Date. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the City and for the further reason that this Ordinance must be immediately effective to enable the City to timely provide for the removal of the lien of the Special Assessments from the Assessed Properties upon the meeting of the conditions described in this Ordinance; wherefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

First Reading: 3/3/16

Second Reading: _____


Passed: 3/3/16


Michael F. Killeen
President of Council

Presented to Mayor: 3/4/16

Approved: 3/4/16

ATTEST:


Denise L. Rosenbaum, Clerk of Council


Dennis M. Clough, Mayor

I, Denise L. Rosenbaum, Clerk of Council of the City of Westlake do hereby certify that Ordinance/Resolution no. 2016-33 adopted 3/3/16 was duly posted on 3/4/16 and remained posted for a period of 15 days thereafter in not less than 2 of the most public places in the City as determined by the Charter of said City.