



City of Cincinnati

801 Plum Street
Cincinnati, OH 45202

Agenda - Final

Budget and Finance Committee

Chairperson David Mann
Vice Chair Chris Seelbach
Councilmember Steve Goodin
Councilmember Jan-Michele Kearney
Councilmember Liz Keating
Councilmember Greg Landsman
Councilmember Betsy Sundermann
Councilmember Wendell Young

Monday, August 2, 2021

1:00 PM

Council Chambers, Room 300

AGENDA

1. [202102306](#) MOTION, dated 6/15/2021, submitted by Councilmember Kearney, WE MOVE that the City of Cincinnati allocate \$2.5 million from the Fleet Replacement funds in the capital budget to remove the West Fork Incinerator in South Cumminsville. These bonded capital dollars should be allocated from the 40% portion of the fleet replacement funds that are not allocated to police and fire vehicles.

Sponsors: Kearney
Attachments: [Motion 202102306](#)

2. [202102292](#) COMMUNICATION, submitted by Councilmember Mann, from Melancthon W. Chatfield, regarding a property at 3500 Glenway Avenue, owned by The Hyde Park Lumber Company, requesting the City of Cincinnati forgive any and all current or back taxes.

Sponsors: Mann
Attachments: [Communication](#)

3. [202102269](#) REPORT, dated 6/23/2021, submitted by Paula Boggs Muething, City Manager, regarding Motion for spin bicycles and Red Bike program expansion. (See Doc. #202101653)

Sponsors: City Manager
Attachments: [Report- Red Bike and Spin Bicycles](#)

4. [202102324](#) ORDINANCE submitted by Paula Boggs Muething, City Manager, on 6/23/2021, AUTHORIZING the City Manager to apply for, accept, and appropriate a Victims of Crime Act Grant in an amount up to \$42,000 from the State of Ohio, Office of the Attorney General, for the purpose of providing funds for the Homicide Unit's Victims' Assistance Practitioner in the State Victims Assistance Act and the federal Victims of Crime Act grant programs; and AUTHORIZING the Director of Finance to deposit the grant funds in Law Enforcement Grant Fund 368, Project Account No. 22VALU.

Sponsors: City Manager

Attachments: [Transmittal](#)
[Ordinance](#)

5. [202102349](#) ORDINANCE (EMERGENCY) submitted by Paula Boggs Muething, City Manager, on 6/23/2021, AUTHORIZING the City Manager to accept and appropriate a grant in the amount of up to \$70,000 from the Interact for Health COVID-19 Relief Fund for the purpose of providing support for Cincinnati Health Department dental and vision school-based health centers; and AUTHORIZING the Finance Director to deposit the grant funds into Public Health Research Fund 350.

Sponsors: City Manager

Attachments: [Transmittal - Interact for Health COVID-19 Relief Fund Grant](#)
[ORD - Interact Health COVID-19 Relief Grant](#)

6. [202102350](#) ORDINANCE submitted by Paula Boggs Muething, City Manager, on 6/23/2021, AUTHORIZING the City Manager to apply for, accept, and appropriate a grant from the United States Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, FY2021 Patrick Leahy Bulletproof Vest Partnership Program, which would provide the Cincinnati Police Department with reimbursement of up to \$146,000 for bulletproof vest body armor expenditures, related to the projected departmental expenditures in Fiscal Years 2022 and 2023 for bulletproof vest body armor that is approximated to be \$292,000; and AUTHORIZING the Director of Finance to deposit the grant funds into Law Enforcement Grant Fund 368, Project Account No. 22VEST.

Sponsors: City Manager

Attachments: [Transmittal - FY 2021 Patrick Leahy Bulletproof Vest Partnership Grant](#)
[ORD - FY 2021 Patrick Leahy Bulletproof Vest](#)

7. [202102351](#) ORDINANCE submitted by Paula Boggs Muething, City Manager, on 6/23/2021, AUTHORIZING the City Manager to partner with the HOPE Community Center in applying for and accepting, as a sub-recipient, a grant from the Ohio Department of Public Safety, Office of Criminal Justice Services, FY 2021 Edward Byrne Memorial Justice Assistance Grant, for resiliency training for local law enforcement.
- Sponsors:** City Manager
- Attachments:** [Transmittal - FY 2021 Edward Byrne Memorial Justice Assistance Grant](#)
[ORD - OCJS JAG HOPE Grant](#)
8. [202102469](#) MOTION, submitted by Councilmembers Kearney and Keating, WE MOVE that City Council allocate to Boys & Girls Clubs of Greater Cincinnati \$2,250,000 for the creation of a Boys and Girls Club in the community of Roll Hill from the Carryover Budget of fiscal year 2021, or from another source immediately identified by City Administration, including reserve funds. (STATEMENT ATTACHED).
- Sponsors:** Kearney and Keating
- Attachments:** [Motion](#)
9. [202102443](#) MOTION Submitted by Councilmember Kearney. WE MOVE that City Council allocate \$40,000 to the community of Mt Adams to purchase a greenspace parcel at the intersection of Parkside Place and Martin Drive.
- Sponsors:** Kearney
- Attachments:** [Motion](#)

SUPPLEMENTAL AGENDA

10. [202102507](#) ORDINANCE (EMERGENCY) submitted by Paula Boggs Muething, City Manager, on 8/2/2021, PROVIDING FOR THE ISSUANCE OF NOTES IN THE PRINCIPAL AMOUNT OF \$2,000,000 BY THE CITY OF CINCINNATI IN ANTICIPATION OF THE ISSUANCE OF BONDS, AND TO PROVIDE FUNDS FOR ECONOMIC DEVELOPMENT IMPROVEMENTS.
- Sponsors:** City Manager
- Attachments:** [Transmittal](#)
[Attachment](#)

11. [202102538](#) ORDINANCE (EMERGENCY) submitted by Paula Boggs Muething, City Manager, on 8/2/2021, AUTHORIZING the establishment of capital improvement program project account no. 980x164x221648, "8th and Overlook Permanent Improvements," for the purpose of providing resources to facilitate commercial business district capital improvements; AUTHORIZING the transfer and return to source of the sum of \$100,000 from capital improvement program project account no. 980x162x171640, "West Price Hill Mixed-Use Development," to the unappropriated surplus of Urban Development Bond Fund 862; AUTHORIZING the transfer and appropriation of the sum of \$100,000 from the unappropriated surplus of Urban Development Bond Fund 862 to the newly established capital improvement program project account no. 980x164x221648, "8th and Overlook Permanent Improvements," for the purpose of providing resources for right of way improvements related to signage, beautification, and safety and security, and to facilitate permanent improvements on property adjacent to the 8th Street and Overlook intersection in the West Price Hill neighborhood; and DECLARING expenditures from capital improvement program project account no. 980x164x221648, "8th and Overlook Permanent Improvements," to be for a public purpose because the project will stabilize and revitalize this business district in the West Price Hill neighborhood.

Sponsors: City Manager

Attachments: [Transmittal](#)
[Ordinance](#)

12. [202102539](#) ORDINANCE (EMERGENCY) submitted by Paula Boggs Muething, City Manager, on 8/2/2021, ESTABLISHING new capital improvement program project account no. 980x233x222346, "River Road Rehab (PID 108937) ODOT Grant," for the purpose of rehabilitating River Road from Anderson Ferry Road to Fairbanks Avenue (HAM-50-14.21 PID 108937); AUTHORIZING the City Manager to accept and appropriate a grant in the amount of up to \$1,350,000 from the Federal Highway Administration (Assistance Listing Number 20.205), as administered by the Ohio Department of Transportation, to newly created capital improvement program project account no. 980x233x222346, "River Road Rehab (PID 108937) ODOT Grant," for the purpose of providing grant resources for the HAM-50-14.21 PID 108937 project, which will rehabilitate River Road from Anderson Ferry Road to Fairbanks Avenue in the Riverside community; and further AUTHORIZING the City Manager to do all things necessary to cooperate with the Director of the Ohio Department of Transportation in order to complete the HAM-50-14.21 PID 108937 Project.

Sponsors: City Manager

Attachments: [Transmittal](#)
[Ordinance](#)

13. [202102540](#) ORDINANCE (EMERGENCY) submitted by Paula Boggs Muething, City Manager, on 8/2/2021, AUTHORIZING the establishment of new capital improvement program project account no. 980x162x221645, "OTR Affordable Housing FHAct50 - TIF," for the purpose of providing resources for Logan Commons and Willkommen II, two affordable Low-Income Housing Tax Credit housing developments located in Over-the-Rhine; AUTHORIZING the transfer and appropriation of \$2,350,000 from the unappropriated surplus of Downtown/OTR West Equivalent Fund 482 to newly established capital improvement program project account no. 980x162x221645, "OTR Affordable Housing FHAct50 - TIF," to provide resources for construction and development costs associated with the Logan Commons and Willkommen II housing developments; and further DECLARING that expenditures from capital improvement program project account no. 980x162x221645, "OTR Affordable Housing FHAct50 - TIF," will serve a public purpose because the project will create additional affordable housing in the Over-the-Rhine neighborhood.

Sponsors: City Manager

Attachments: [Transmittal](#)
[Ordinance](#)

14. [202102544](#) ORDINANCE (EMERGENCY) submitted by Paula Boggs Muething, City Manager, on 8/2/2021, AUTHORIZING the City Manager to apply for, accept, and appropriate a grant in an amount up to \$700,000 from the United States Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, assistance listing #16.738, for the purpose of developing and expanding the newly formed Crime Gun Intelligence Center by adding dedicated crime analysts and a project coordinator, and collaborating with regional training in the National Integrated Ballistic Information Network; and AUTHORIZING the Finance Director to deposit the grant funds into Law Enforcement Grant Fund 368, Project Account No. 21CGIC.

Sponsors: City Manager

Attachments: [Transmittal](#)
[Ordinance](#)

15. [202102545](#) ORDINANCE (EMERGENCY) submitted by Paula Boggs Muething, City Manager, on 8/2/2021, AUTHORIZING the City Manager to apply for, accept, and appropriate a grant of an amount up to \$290,309 from the United States Department of Justice, Bureau of Justice Assistance, Edward Byrne Memorial Justice Assistance Grant Program Local Solicitation (ALN #16.738); and further AUTHORIZING the Director of Finance to deposit the grant funds into Justice Assistance Grant Fund 368, project account no. 21JAG.

Sponsors: City Manager

Attachments: [Transmittal](#)
[Ordinance](#)

16. [202102550](#) ORDINANCE (EMERGENCY) submitted by Paula Boggs Muething, City Manager, on 8/2/2021, AUTHORIZING the City Manager to apply for, accept, and appropriate a grant of up to \$31,250,000 from the U.S. Department of Justice, Office of Community Oriented Policing Services ("COPS"), FY 2021 COPS Hiring Program (ALN 16.710), for the purpose of creating and filling up to 250 entry-level, sworn Police Officer positions within the Cincinnati Police Department over a five year grant period to provide an opportunity for the Police Department to increase its sworn strength levels; and further AUTHORIZING the Finance Director to receive and deposit the grant funds into Law Enforcement Grant Fund 368.

Sponsors: City Manager

Attachments: [Transmittal](#)
[Ordinance](#)

17. [202102556](#) ORDINANCE (EMERGENCY) submitted by Paula Boggs Muething, City Manager, on 8/2/2021, AUTHORIZING the City Manager and the employees of the Office of Human Relations to solicit and accept donations of money, in-kind contributions, and other things of value from the Cincinnati business community, individual benefactors, and other available sources for the Office of Human Relations to support the West End History Project; and AUTHORIZING the Finance Director to deposit funds donated to the City of Cincinnati for the West End History Project into Special Revenue Fund No. 435, "Human Relations."

Sponsors: City Manager

Attachments: [Transmittal](#)
[Ordinance](#)

18. [202102557](#) ORDINANCE (EMERGENCY) submitted by Paula Boggs Muething, City Manager, on 8/2/2021, AUTHORIZING the transfer and appropriation of \$740,000 from the unappropriated surplus of the General Fund to the City Manager's Office General Fund non-personnel operating budget account no. 050x101x7300 for the purpose of providing funds for supplies and materials necessary to help prevent the spread of the coronavirus known as COVID-19.
- Sponsors:** City Manager
- Attachments:** [Transmittal](#)
[Ordinance](#)
19. [202102558](#) ORDINANCE (EMERGENCY) submitted by Paula Boggs Muething, City Manager, on 8/2/2021, AMENDING Ordinance No. 0362-2018 to increase the amount of funding the City Manager is authorized to accept from the Ohio Department of Transportation's Ohio Bridge Partnership Program from \$3,064,000 to \$3,250,000 and to appropriate the additional amount of \$186,000 to existing capital improvement program project account no. 980x233x192348, "Kennedy Avenue Bridge Grants," for the purpose of providing resources for the replacement of the Kennedy Avenue Bridge.
- Sponsors:** City Manager
- Attachments:** [Transmittal](#)
[Ordinance](#)
20. [202102559](#) ORDINANCE (EMERGENCY) submitted by Paula Boggs Muething, City Manager, on 8/2/2021, AUTHORIZING the payment of \$29,500 as a moral obligation to Matlock Electric Co., Inc. for payment of outstanding charges for services received by Greater Cincinnati Water Works for the reconditioning of the hydro turbine generators at the Richard Miller Treatment Plant.
- Sponsors:** City Manager
- Attachments:** [Transmittal](#)
[Ordinance](#)
21. [202102561](#) ORDINANCE (EMERGENCY) submitted by Paula Boggs Muething, City Manager, on 8/2/2021, AUTHORIZING the payment of \$23,983 as a moral obligation to Degree Lawn & Landscape for payment of outstanding charges for services received by Greater Cincinnati Water Works for grass cutting at multiple GCWW facilities in May and June of 2021.
- Sponsors:** City Manager
- Attachments:** [Transmittal](#)
[Ordinance](#)

22. [202102513](#) ORDINANCE (EMERGENCY) submitted by Paula Boggs Muething, City Manager, on 8/2/2021, APPROVING AND AUTHORIZING the City Manager to execute a Community Reinvestment Area Tax Exemption Agreement with Bleh Property Holdings LLC, thereby authorizing a 10-year tax exemption for 100% of the value of improvements made to real property located at 33, 35, and 37 E. Court Street in the Central Business District of Cincinnati, in connection with the remodeling of the existing buildings into approximately 3,438 square feet of commercial space, at a total construction cost of approximately \$248,800.

Sponsors: City Manager

Attachments: [Transmittal](#)
[Ordinance](#)
[Exhibit A](#)

23. [202102518](#) ORDINANCE (EMERGENCY) submitted by Paula Boggs Muething, City Manager, on 8/2/2021, AUTHORIZING the City Manager to execute any and all agreements and take such other steps as may be necessary in order to sell City-owned real property at 1712 Logan Street in the Over-the-Rhine neighborhood of Cincinnati to Southwest Ohio Housing Development, Inc. (an affiliate of Cincinnati Metropolitan Housing Authority), or other affiliated organization acceptable to the City Manager, to facilitate an affordable housing development by the company in partnership with Urban Sites Capital Advisors, LLC.

Sponsors: City Manager

Attachments: [Transmittal](#)
[Ordinance](#)
[Exhibit A](#)

24. [202102520](#) ORDINANCE (EMERGENCY) submitted by Paula Boggs Muething, City Manager, on 8/2/2021, AMENDING Ordinance No. 228-2012 passed by City Council on June 20, 2012, as previously amended by Ordinance No. 246-2013, Ordinance No. 179-2014, Ordinance No. 272-2015, Ordinance No. 268-2016, Ordinance No. 213-2017, Ordinance No. 244-2018, Ordinance No. 321-2019, and Ordinance No. 270-2020, for the purpose of reducing those special assessments levied and to be collected in 2022 (with tax year 2021 property taxes) based upon a report of the administrator for bonds issued by the Port of Greater Cincinnati Development Authority related to the Oakley Station development project.

Sponsors: City Manager

Attachments: [Transmittal](#)
[Ordinance](#)

25. [202102523](#) ORDINANCE (EMERGENCY) submitted by Paula Boggs Muething, City Manager, on 8/2/2021, APPROVING AND AUTHORIZING the execution of a Job Creation Tax Credit Agreement with CTI - Clinical Trial Services, Inc., pursuant to which the company agrees to create 70 new jobs at the Baldwin 500 building located at 2090 Florence Avenue in the Walnut Hills neighborhood of Cincinnati and, for a period of 8 years, the City agrees to provide an income tax credit equal to 45% of City income tax revenue from such new jobs.

Sponsors: City Manager

Attachments: [Transmittal](#)
[Ordinance](#)
[Exhibit A](#)

26. [202102526](#) ORDINANCE (EMERGENCY) submitted by Paula Boggs Muething, City Manager, on 8/2/2021, APPROVING AND AUTHORIZING the City Manager to execute a Community Reinvestment Area Tax Exemption Agreement with 254 Mohawk LLC, thereby authorizing a 12-year tax exemption for 100% of the value of improvements made to real property located at 254 Mohawk Street in the Over-the-Rhine neighborhood of Cincinnati, in connection with the remodeling of two existing buildings to create approximately 3,655 square feet of residential space consisting of 9 residential units, at a total construction cost of approximately \$725,847.

Sponsors: City Manager

Attachments: [Transmittal](#)
[Ordinance](#)
[Exhibit A](#)

27. [202102528](#) ORDINANCE (EMERGENCY) submitted by Paula Boggs Muething, City Manager, on 8/2/2021, APPROVING AND AUTHORIZING the City Manager to execute a Community Reinvestment Area Tax Exemption Agreement with CH KeyMark LLC, thereby authorizing a 15-year tax exemption for 100% of the value of improvements made to real property located at 5906-5910 and 6060 Hamilton Avenue in the College Hill neighborhood of Cincinnati, in connection with the remodeling of 3 existing buildings to create 15,100 square feet of residential space consisting of 26 apartments, 3,395 square feet of commercial office space, and 1,487 square feet of commercial retail space, at a total construction cost of approximately \$3,632,132.

Sponsors: City Manager

Attachments: [Transmittal](#)
[Ordinance](#)
[Exhibit A](#)

28. [202102534](#) ORDINANCE (EMERGENCY) submitted by Paula Boggs Muething, City Manager, on 8/2/2021, AUTHORIZING the establishment of new capital improvement program project account no. 980x164x221647, "West Price Hill Glenway Properties Development," for the purpose of providing resources for permanent public improvements in the right of way as well as the renovation or new construction of residential or commercial structures all in the West Price Hill business district, including planning, design, acquisition, demolition, and construction of these improvements and structures; AUTHORIZING the transfer and return to source of the sum of \$1,900,000 from capital improvement program project account no. 980x162x171640, "West Price Hill Mixed-Use Development," to the unappropriated surplus of Urban Development Bond Fund 862; AUTHORIZING the transfer and appropriation of the sum of \$1,900,000 from the unappropriated surplus of Urban Development Bond Fund 862 to newly established capital improvement program project account no. 980x164x221647, "West Price Hill Glenway Properties Development," for the purpose of providing resources for permanent public improvements in the right of way as well as the renovation or new construction of residential or commercial structures all in the West Price Hill business district, including planning, design, acquisition, demolition, and construction; and further DECLARING expenditures from capital improvement program project account no. 980x164x221647, "West Price Hill Glenway Properties Development," to be for a public purpose.

Sponsors: City Manager

Attachments: [Transmittal](#)
[Ordinance](#)

29. [202102542](#) ORDINANCE (EMERGENCY) submitted by Paula Boggs Muething, City Manager, on 8/2/2021, APPROVING AND AUTHORIZING the City Manager to execute a Community Reinvestment Area Tax Exemption Agreement (LEED or Living Building Challenge) with 6121-23 Madison Rd. Opportunity Fund, LLC, thereby authorizing a 15-year tax exemption for 100% of the value of improvements made to real property located at 6007 and 6011 Madison Road in the Madisonville neighborhood of Cincinnati, in connection with the remodeling and expansion of an existing building into approximately 7,707 square feet of residential space consisting of 7-8 apartments, and approximately 3,793 square feet of commercial space, which remodeling shall be completed in compliance with Leadership in Energy and Environmental Design Silver, Gold or Platinum standards or Living Building Challenge standards, at a total remodeling cost of approximately \$1,234,650.

Sponsors: City Manager

Attachments: [Transmittal](#)
[Ordinance](#)
[Exhibit A](#)

30. [202102547](#) ORDINANCE (EMERGENCY) submitted by Paula Boggs Muething, City Manager, on 8/2/2021, AUTHORIZING the City Manager to execute a Property Sale and Development Agreement with 6121-23 Madison Rd. Opportunity Fund, LLC, for the sale of City-owned real property located at 6007 Madison Road in the Madisonville neighborhood of Cincinnati, to be consolidated with the purchaser's own property and redeveloped as a mixed-use development; ESTABLISHING new capital improvement program project account no. 980x162x221641, "DCED Property Improvements," for the purpose of providing resources for permanent improvements to vacant buildings and properties controlled or previously controlled by the Department of Community and Economic Development; and further, DECLARING expenditures from capital improvement program project account no. 980x162x221641, "DCED Property Improvements," to be for a public purpose.

Sponsors: City Manager

Attachments: [Transmittal](#)
[Ordinance](#)
[Exhibit A](#)

31. [202102553](#) ORDINANCE (EMERGENCY) submitted by Paula Boggs Muething, City Manager, on 8/2/2021, AUTHORIZING the City Manager to execute a Grant of Encroachment Easements in favor of Fort Wash Hills, LLC, pursuant to which the City of Cincinnati will grant easements over and across property known as Hammond Street in the Central Business District to allow access and temporary construction rights.
- Sponsors:** City Manager
- Attachments:** [Transmittal](#)
[Ordinance](#)
[Exhibit A](#)
32. [202102554](#) ORDINANCE (EMERGENCY) submitted by Paula Boggs Muething, City Manager, on 8/2/2021, AUTHORIZING a payment of \$66,347.30 from the Human Resources Department General Fund non-personnel operating budget account no. 050x121x1000x7289 as a moral obligation to Industrial/Organizational Solutions (“I/OS”) for payment of outstanding charges for legally and contractually required testing services for Police and Fire promotional exams for sworn personnel provided by I/OS prior to the execution of a professional services contract.
- Sponsors:** City Manager
- Attachments:** [Transmittal](#)
[Ordinance](#)
33. [202102531](#) ORDINANCE (EMERGENCY) submitted by Paula Boggs Muething, City Manager, on 8/2/2021, APPROVING AND AUTHORIZING the City Manager to execute a Community Reinvestment Area Tax Exemption Agreement with SLD Enterprises, LLC and Brothers Express, LLC, thereby authorizing a 12-year tax exemption for 100% of the value of improvements made to real property located at 5790 Center Hill Avenue in the Winton Hills neighborhood of Cincinnati, in connection with the construction of approximately 11,200 square feet of industrial space and approximately 2,800 square feet of office space, at a total construction cost of approximately \$1,780,000
- Sponsors:** City Manager
- Attachments:** [Transmittal](#)
[Ordinance](#)
[Exhibit A](#)

ADJOURNMENT




202102306

Jan-Michele Lemon Kearney
Councilmember

June 15, 2021

MOTION

WE MOVE that the City of Cincinnati allocate \$2.5 million from the Fleet Replacement funds in the capital budget to remove the West Fork Incinerator in South Cumminsville. These bonded capital dollars should be allocated from the 40% portion of the fleet replacement funds that are not allocated to police and fire vehicles.


Councilmember Jan-Michele Lemon Kearney

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_____	_____

CAL → Budget & Finance
J-MCC

208501931

15 JUN 21 PM 4:31

CLERK OF COUNCIL

CHATFIELD LAW OFFICE

An Association of Independent Attorneys At Law

THE CINCINNATI CLUB BUILDING

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1921-1988

June 15, 2021

Vice Mayor David Mann

801 Plum St., Suite 349 Cincinnati,

OH 45202

david.mann@cincinnati-oh.gov

Re: 3500 Glenway Ave / Parcel No.: 173-00030131-00

Dear Mr. Mann,

We are writing you concerning the above stated property owned by The Hyde Park Lumber Company. This property has been in the possession of The Hyde Park Lumber Co. since the early 1900s and was part of several parcels that were divided and sold to a developer to create housing on Fairbanks Ave. This stated parcel is the land that Fairbanks Avenue is situated on. The parcel was never transferred thus causing our client to be the owner of Fairbanks Avenue.

The Hyde Park Lumber Company would like to relinquish their possession of the parcel to the City of Cincinnati. Prior to executing the deed, The Hyde Park Lumber Company is requesting that the City of Cincinnati and or Hamilton County Tax Commission in return forgive any and all current or back taxes and/or any other funds owed to the city or county. Also, The Hyde Park Lumber Co. request an Agreed Release be signed by all parties clearing them of any obligations relating to this parcel.

Please contact me to discuss this matter further and to assure all parties have a positive result.

Very truly yours,

Melancthon W. Chatfield

Melancthon W. Chatfield, Esq.

Dusty Rhodes, Hamilton County Auditor

generated on 6/15/2021 11:41:51 AM EDT

Property Report

Parcel ID
173-0003-0131-00

Address
3500 GLENWAY AVE

Index Order
Parcel Number

Tax Year
2020 Payable 2021

Property Map



CAL - DT - Co/IS

15 JUN 21 PM 2:27

CLERK OF COUNCIL

6/23/2021

To: Mayor and Members of City Council

From: Paula Boggs Muething, City Manager

202102269

Subject: Motion for Spin Bicycles and Red Bike Program Expansion

REFERENCE DOCUMENT # 202101653

On May 19, 2021, the Budget & Finance Committee referred the following for report:

MOTION, submitted by Vice Mayor Smitherman, WE MOVE that the Cincinnati Recreation Commission (CRC) get \$100,000 for three of their recreation centers that offer spin classes to purchase 15 new spin bicycles. The Cincinnati Recreation Commission is committed to helping all residents maintain a healthy lifestyle. CRC is designed to provide fitness opportunities to all ages. Spin class is one such activity offered at Hirsch Recreation Center (Avondale), College Hill Recreation Center, and at the Mt. Washington Recreation Center. WE FURTHER MOVE that the Red Bike program be expanded by \$500,000 to include Bond Hill, Roselawn, Evanston, and Avondale for fitness, transportation, and healthy living. (STATEMENT ATTACHED).

Spinning Equipment for Recreation Centers

CRC currently offers spinning classes at various recreation centers. The replacement cost of a spin bicycle is about \$1,600 on average. Based on an assessment by CRC, adding a total of 33 new spin bicycles at the three recreation centers would cost \$55,000 and can be funded with the FY 2022 Capital Budget so long as a reduction to an existing recommended project is approved.

Red Bike Expansion

Red Bike provided Administration with costs to install and operate a Red Bike system. For each neighborhood, Red Bike proposes one traditional Red Bike station (13 docks) to serve as the hub, along with 2 hubs of 6 of the new “single-serving” individual docks. Red Bike would work with stakeholders in each community to determine the best locations for the stations and dock hubs.

The equipment and installation cost of the above system for Avondale, Bond Hill, Evanston, and Roselawn is \$560,000 with an annual operating cost of \$60,000 per year. If this plan were to be approved, Red Bike would seek a multiyear commitment for operating support.

Red Bike indicated that they have capacity for this project if funding were provided by the City to operationalize the expansion to serve these new neighborhoods.

Since the City would not own any part of the Red Bike system, the equipment and installation cost would need to be funded with 'cash capital' as a source in the FY 2022 Capital Budget. Subsequent recommended projects would need to be identified on Schedule E of the General Capital Budget Ordinance to fund the request. The operations support would need to be funded as part of the FY 2022 General Fund budget and an offsetting reduction would be needed to fund this program.

Copy: Andrew Dudas, Director, Budget Office

June 23, 2021

To: Mayor and Members of City Council 202102324
From: Paula Boggs Muething, City Manager
Subject: Ordinance – FY 2021-2022 State Victims Assistance Partnership Grant

Attached is an Ordinance captioned:

AUTHORIZING the City Manager to apply for, accept, and appropriate a Victims of Crime Act Grant in an amount up to \$42,000 from the State of Ohio, Office of the Attorney General, for the purpose of providing funds for the Homicide Unit’s Victims’ Assistance Practitioner in the State Victims Assistance Act and the federal Victims of Crime Act grant programs; and **AUTHORIZING** the Director of Finance to deposit the grant funds in Law Enforcement Grant Fund 368, Project Account No. 22VALU.

This Ordinance would authorize the City Manager to apply for, accept, and appropriate a grant for up to the amount of \$42,000 from the State of Ohio, Office of the Attorney General, for the purpose of providing funds for the Homicide Unit’s Victim Advocate in the State Victims Assistance Act (SVAA) and the federal Victims of Crime Act (VOCA) grant programs. The Victim Advocate provides support and advocacy to survivors of victims whose deaths are investigated by the Cincinnati Police Department’s Homicide Unit.

This Ordinance will also authorize the Finance Director to deposit the grant funds into Law Enforcement Grant Fund 368, Project Account No. 22VALU. The grant application deadline is June 30, 2021. As a result, the Cincinnati Police Department will have applied for this grant prior to this Ordinance receiving approval from the City Council. Should this Ordinance not be approved, the grant funding will not be accepted. The grant does not require any additional FTEs. The grant requires a 25% “in-kind” match of the grant amount. The department will use student volunteer hours for the “in-kind” match.

This Ordinance is in accordance with the Live goal to “Create a more livable community” as described on page 156 of Plan Cincinnati (2012).

The Administration recommends passage of this Ordinance.

cc: Christopher A. Biggam, Assistant City Manager
Karen Alder, Finance Director



Attachment



City of Cincinnati

KKF

AWB

An Ordinance No. _____ - 2021

AUTHORIZING the City Manager to apply for, accept, and appropriate a Victims of Crime Act Grant in an amount up to \$42,000 from the State of Ohio, Office of the Attorney General, for the purpose of providing funds for the Homicide Unit’s Victims’ Assistance Practitioner in the State Victims Assistance Act and the federal Victims of Crime Act grant programs; and AUTHORIZING the Director of Finance to deposit the grant funds in Law Enforcement Grant Fund 368, Project Account No. 22VALU.

WHEREAS, the Victims of Crime Act (“VOCA”) Grant will provide funds for the Homicide Unit’s Victims’ Assistance Practitioner, who provides support to and advocacy for survivors of victims whose deaths are investigated by the Cincinnati Police Department’s Homicide Unit; and

WHEREAS, the grant application deadline is June 30, 2021; and

WHEREAS, the VOCA Grant requires a 25% in-kind local match, which will be provided by student volunteers utilized by the Cincinnati Police Department; and

WHEREAS, acceptance of the grant will not result in the addition of any FTEs; and

WHEREAS, the grant is in accordance with the “Live” goal to “create a more livable community” as described on page 156 of Plan Cincinnati (2012); now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio:

Section 1. That the City Manager is authorized to apply for, accept, and appropriate a grant in an amount up to \$42,000 from the State of Ohio, Office of the Attorney General, for the purpose of providing funds for the Homicide Unit’s Victims’ Assistance Practitioner.

Section 2. That the Finance Director is authorized to deposit the grant funds in Law Enforcement Grant Fund 368, Project Account No. 22VALU.

Section 3. That the proper City officials are authorized to do all things necessary and proper to carry out the terms of the grant and Sections 1 and 2 hereof.

Section 4. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

June 23, 2021

To: Mayor and Members of City Council

From: Paula Boggs Muething, City Manager

202102349

Subject: Emergency Ordinance – Interact for Health COVID-19 Relief Fund Grant

Attached is an Emergency Ordinance captioned:

AUTHORIZING the City Manager to accept and appropriate a grant in the amount of up to \$70,000 from the Interact for Health COVID-19 Relief Fund for the purpose of providing support for Cincinnati Health Department dental and vision school-based health centers; and **AUTHORIZING** the Finance Director to deposit the grant funds into Public Health Research Fund 350.

This Emergency Ordinance would authorize the City Manager to accept and appropriate a grant in the amount of up to \$70,000 from Interact for Health for the purpose of providing support for Cincinnati Health Department dental and vision school-based health centers.

No additional FTE are associated with this grant, and matching funds are not required.

This Emergency Ordinance would also authorize the Finance Director to deposit the grant funds into Public Health Research Fund 350.

This Emergency Ordinance is in accordance with the Sustain goal to “Become a healthier Cincinnati” as described on page 181 of Plan Cincinnati (2012).

The reason for the emergency is the immediate need to provide funding to support Cincinnati Health Department dental and vision school-based health centers during the COVID-19 public health response.

The Administration recommends passage of this Emergency Ordinance.

cc: Christopher A. Bigham, Assistant City Manager
Karen Alder, Finance Director

Attachment



EMERGENCY

MSS

- 2021

AUTHORIZING the City Manager to accept and appropriate a grant in an amount of up to \$70,000 from the Interact for Health COVID-19 Relief Fund for the purpose of providing support for Cincinnati Health Department dental and vision school-based health centers; and **AUTHORIZING** the Finance Director to deposit the grant funds into Public Health Research Fund 350.

WHEREAS, the Cincinnati Health Department received notice of a grant award on June 4, 2021 from the Interact for Health COVID-19 Relief Fund, awarding grant resources to support Cincinnati Health Department dental and vision school-based health centers during the COVID-19 public health response; and

WHEREAS, no grant application was required, but the grant funding will not be accepted should this ordinance not be approved; and

WHEREAS, no new FTEs are associated with the grant, and the grant resources do not require matching local funds; and

WHEREAS, this ordinance is in accordance with the “Sustain” goal to “[b]ecome a healthier Cincinnati” as described on page 181 of Plan Cincinnati (2012); now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio:

Section 1. That the City Manager is hereby authorized to accept and appropriate a grant in an amount of up to \$70,000 from the Interact for Health COVID-19 Relief Fund for the purpose of providing support for Cincinnati Health Department dental and vision school-based health centers.

Section 2. That the Finance Director is hereby authorized to deposit the grant funds into Public Health Research Fund 350.

Section 3. That the proper City officials are authorized to do all things necessary and proper to comply with the terms of this grant and Sections 1 and 2 hereof.

Section 4. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to provide funding to support Cincinnati Health Department dental and vision school-based health centers during the COVID-19 public health response.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

June 23, 2021

To: Mayor and Members of City Council

From: Paula Boggs Muething, City Manager **202102350**

Subject: Ordinance – FY 2021 Patrick Leahy Bulletproof Vest Partnership Grant

Attached is an Ordinance captioned:

AUTHORIZING the City Manager to apply for, accept, and appropriate a grant from the United States Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, FY2021 Patrick Leahy Bulletproof Vest Partnership Program, which would provide the Cincinnati Police Department with reimbursement of up to \$146,000 for bulletproof vest body armor expenditures, related to the projected departmental expenditures in Fiscal Years 2022 and 2023 for bulletproof vest body armor that is approximated to be \$292,000; and **AUTHORIZING** the Director of Finance to deposit the grant funds into Law Enforcement Grant Fund 368, Project Account No. 22VEST.

This Ordinance would authorize the City Manager to apply for, accept, and appropriate a grant for up to the amount of to \$146,000 from the U.S. Department of Justice (DOJ), Office of Justice Programs (OJP), FY 2021 Patrick Leahy Bulletproof Vest Partnership (BVP) Program. The Cincinnati Police Department (CPD) estimates spending up to \$292,000 for ballistic vests over the next two years (FY 2022 and FY 2023). If awarded, the BVP program will reimburse the CPD for 50% of the cost of each unit of body armor or up to \$146,000.

This Ordinance will also authorize the Finance Director to deposit the grant funds into Law Enforcement Grant Fund 368, Project Account No. 22VEST. The grant application deadline is June 14, 2021. As a result, the Cincinnati Police Department will have applied for this grant prior to this Ordinance receiving approval from the City Council. Should this Ordinance not be approved, the grant funding will not be accepted. The grant does not require matching funds, nor would add any additional FTEs.

This Ordinance is in accordance with the Live goal to “Create a more livable community” as described on page 156 of Plan Cincinnati (2012).

The Administration recommends passage of this Ordinance.

cc: Christopher A. Bigham, Assistant City Manager
Karen Alder, Finance Director



Attachment

AUTHORIZING the City Manager to apply for, accept, and appropriate a grant from the United States Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, FY2021 Patrick Leahy Bulletproof Vest Partnership Program, which would provide the Cincinnati Police Department with reimbursement of up to \$146,000 for bulletproof vest body armor expenditures, related to the projected departmental expenditures in Fiscal Years 2022 and 2023 for bulletproof vest body armor that is approximated to be \$292,000; and **AUTHORIZING** the Director of Finance to deposit the grant funds into Law Enforcement Grant Fund 368, Project Account No. 22VEST.

WHEREAS, a grant is available from the United States Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, Patrick Leahy Bulletproof Vest Partnership Program (CFDA# 16.607), which would provide the Cincinnati Police Department (“CPD”) with a maximum allowable reimbursement amount of up to 50% of the departmental expenditure for bulletproof vest body armor up to a maximum of \$146,000; and

WHEREAS, the departmental expenditure for bulletproof vest body armor is expected to be \$292,000 for the next two fiscal years; and

WHEREAS, the grant application deadline is June 14, 2021 and CPD intends to apply by this date, but no grant funds will be accepted before approval by City Council; and

WHEREAS, the grant does not require local matching funds; and

WHEREAS, there are no additional FTEs associated with the grant; and

WHEREAS, the Patrick Leahy Bulletproof Vest Partnership Program Grant is in accordance with the “Live” goal to “Create a more livable community” as described on page 156 of Plan Cincinnati (2012); now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio:

Section 1. That the City Manager is authorized to apply for, accept, and appropriate a grant from the United States Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, FY2021 Patrick Leahy Bulletproof Vest Partnership Program, which would provide the Cincinnati Police Department with reimbursement of up to \$146,000 for bulletproof vest body

armor expenditures, relating to the projected departmental expenditures in Fiscal Years 2022 and 2023 for bulletproof vest body armor that is estimated to be \$292,000.

Section 2. That the Finance Director is authorized to deposit the grant funds in Law Enforcement Grant Fund 368, Project Account No. 22VEST.

Section 3. That the proper City officials are authorized to do all things necessary and proper to carry out the terms of the grant and Sections 1 and 2 hereof.

Section 4. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

June 23, 2021

To: Mayor and Members of City Council

From: Paula Boggs Muething, City Manager

Subject: **Ordinance – FY 2021 Edward Byrne Memorial Justice Assistance Grant**

Attached is an Ordinance captioned:

AUTHORIZING the City Manager to partner with the HOPE Community Center in applying for and accepting, as a sub-recipient, a grant from the Ohio Department of Public Safety, Office of Criminal Justice Services, FY 2021 Edward Byrne Memorial Justice Assistance Grant, for resiliency training for local law enforcement.

This Ordinance would authorize the City Manager to apply for and accept, a sub-grant for resiliency training valued at \$18,696.00 from the Ohio Department of Public Safety, Office of Criminal Justice Services (OCJS), FY 2021 Edward Byrne Memorial Justice Assistance Grant (JAG). The HOPE Community Center (HCC) is the applicant, and the Cincinnati Police Department (CPD) is a partner/sub-recipient. The HCC is requesting funds to continue resiliency practices for local law enforcement. As a sub-recipient, the CPD will continue to participate in Resilience Practices Training, an innovative regional program to educate peer support trainers to monitor initial reactions to triggers and use proven techniques to adapt for more positive emotional and behavioral responses, and enhanced well-being.

The grant application deadline was June 2, 2021, and the HCC has submitted their application. Should this Ordinance not be approved, the training provided by the sub-grant will not be accepted. The grant does not add any additional FTEs, nor requires matching funds.

This Ordinance is in accordance with the Live goal to “Create a more livable community” as described on page 156 of Plan Cincinnati (2012).

The Administration recommends passage of this Ordinance.

cc: Christopher A. Bigham, Assistant City Manager
Karen Alder, Finance Director

Attachment



AUTHORIZING the City Manager to partner with the HOPE Community Center in applying for and accepting, as a sub-recipient, a grant from the Ohio Department of Public Safety, Office of Criminal Justice Services, FY 2021 Edward Byrne Memorial Justice Assistance Grant, for resiliency training for local law enforcement.

WHEREAS, a grant is available from the Ohio Department of Public Safety, Office of Criminal Justice Services, FY 2021 Edward Byrne Memorial Justice Assistance Grant, for resiliency training for local law enforcement; and

WHEREAS, the HOPE Community Center (“HOPE”) has invited the Cincinnati Police Department (“CPD”) to be a grant sub-recipient and partner to receive such training, estimated in value at \$18,696; and

WHEREAS, HOPE is applying for the funds to continue Resiliency Practices Training, an innovative regional program for education of peer support trainers to monitor initial reactions to triggers and to use proven techniques to develop more positive emotional and behavioral responses and enhanced well-being; and

WHEREAS, there are no match funds or additional FTEs required for the grant; and

WHEREAS, in order to meet the grant application deadline of June 2, 2021, HOPE has already applied for the grant, but CPD will not accept any training should this ordinance not be approved; and

WHEREAS, this ordinance is in accordance with the “Live” goal to “create a more livable community,” as described on page 156 of Plan Cincinnati (2012); now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio:

Section 1. That the City Manager is hereby authorized to partner with the HOPE Community Center in applying for and accepting, as a sub-recipient, a grant from the Ohio Department of Public Safety, Office of Criminal Justice Services, FY 2021 Edward Byrne Memorial Justice Assistance Grant, for resiliency training for local law enforcement.

Section 2. That the proper City officials are authorized to do all things necessary and proper to carry out the terms of the grant application program and Section 1 hereof.

Section 3. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

City of Cincinnati

Council



Melissa Autry, CMC
Clerk of Council

202102409

Office of the Clerk

801 Plum Street, Suite 308
Cincinnati, Ohio 45202
Phone (513) 352-3246
Fax (513) 352-2578

July 12, 2021

MOTION

WE MOVE that City Council allocate to Boys & Girls Clubs of Greater Cincinnati \$2,250,000 for the creation of a Boys and Girls Club in the community of Roll Hill from the Carryover Budget of fiscal year 2021, or from another source immediately identified by City Administration, including reserve funds.

Councilmember Liz Keating



Councilmember Jan-Michele Lemon Kearney

STATEMENT

The Villages of Roll Hill, located between East Westwood and South Cumminsville, is one of the most poverty-stricken zip codes in the state of Ohio. Last year, a WCPO story revealed that seventy-five percent (75%) of the residents live below the federal poverty threshold, with an annual household income of less than \$25,000 for a family of four. According to the 2010 Census, the medium household income in this area was \$7,328. Although almost 50 percent of Villages of Roll Hill residents are less than 18 years old, there are no recreational facilities for the youth in this area. In 2017, Cincinnati City Council set aside \$750,000 to contribute to the construction of a Boys & Girls Club facility in the Villages of Roll Hill. The Boys & Girls Club's CEO, Bill Bresser, recently stated that after concerted efforts to raise private donations, the organization has not been able to secure donors for the construction of a facility in this area. Therefore, we are requesting that City Council approve an additional \$2.25 million to fund the construction of a Boys & Girls Club in the Villages of Roll Hill.

CAL → B&F

~~POH~~ JMLK



Jan-Michele Lemon Kearney
Councilmember

June 28, 2021

MOTION

WE MOVE that City Council allocate \$40,000 to the community of Mt. Adams to purchase a greenspace parcel at the intersection of Parkside Place and Martin Drive.

WE FURTHER MOVE that the City Administration recommend a source of funding for this proposal.

Councilmember Jan-Michele Lemon Kearney

STATEMENT

Since raising \$41,000, the Mt. Adams community is seeking a partnership with the City of Cincinnati to purchase a greenspace, located at the intersection of Parkside Place and Martin Drive. The Mt. Adams community is collaborating with the Cincinnati Parks Foundation to take possession of the property as soon as the sale commences. The Parks Department will maintain and control the property once the community donates the land to the City of Cincinnati. In order to purchase the land, the community requires an additional \$40,000 in conjunction with funds already raised.

~~scribble~~

NC

JB

CLERK OF COUNCIL
28 JUN 21 PM 3:08

August 2, 2021

202102507

To: Mayor and Members of City Council
From: Paula Boggs Muething, City Manager
Subject: **Emergency Ordinance for Issuance of \$2,000,000 Economic Development Improvements Bond Anticipation Notes**

Transmitted herewith is an Emergency Ordinance captioned as follows:

PROVIDING FOR THE ISSUANCE OF NOTES IN THE PRINCIPAL AMOUNT OF \$2,000,000 BY THE CITY OF CINCINNATI IN ANTICIPATION OF THE ISSUANCE OF BONDS, AND TO PROVIDE FUNDS FOR ECONOMIC DEVELOPMENT IMPROVEMENTS.

This emergency ordinance authorizes the Finance Director to proceed with the sale of notes in the amount of \$2,000,000 to fund economic development improvements. Note sales for public building improvements will occur in FY 2022 in connection with tax credit payments from Cincinnati Southern Railway. The issuance of these notes provides funds to facilitate commercial business district capital improvements and to catalyze commercial development in the West Price Hill Business District. The emergency ordinance authorizes the Finance Director to approve the interest rates, dates of issuance, and maturity dates, and is necessary to provide adequate funds at the time needed to support the timely implementation of public building improvement projects.

The Administration recommends passage of this Emergency Ordinance.

cc: William Weber, Assistant City Manager
Karen Alder, Finance Director

Attachment

EMERGENCY

AWB

City of Cincinnati

An Ordinance No. _____

- 2021

PROVIDING FOR THE ISSUANCE OF NOTES IN THE PRINCIPAL AMOUNT OF \$2,000,000 BY THE CITY OF CINCINNATI IN ANTICIPATION OF THE ISSUANCE OF BONDS, AND TO PROVIDE FUNDS FOR ECONOMIC DEVELOPMENT IMPROVEMENTS.

WHEREAS, the Council of the City of Cincinnati (the "Council") has requested that the Finance Director, as fiscal officer of the City, issue a certificate as to the estimated life of the improvements described herein, the maximum maturity of the bonds referred to herein, and the maturity of the notes to be issued in anticipation of such bonds; and

WHEREAS, the Finance Director has estimated the life of the improvements to be at least five (5) years; now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio:

Section 1. That it is necessary to issue the bonds of the City of Cincinnati ("City") in the principal sum not to exceed \$2,000,000 for the purpose of providing funds to facilitate commercial business district capital improvements and to catalyze commercial development in the West Price Hill Business District, which costs may include planning, design, acquisition, demolition, and hard construction costs for renovation or new construction of residential or commercial structures, and permanent public improvements in the right of way; and paying legal, advertising, printing, and all expenses incidental to said improvements. Said bonds shall be dated as determined by the Finance Director, shall bear interest at the rate of not more than six per centum (6.00%) per annum, payable semiannually until the principal sum is paid; and shall mature in five (5) substantially equal annual installments after the issuance thereof.

Section 2. That it is necessary that notes in the aggregate principal amount not to exceed \$2,000,000 shall be issued in anticipation of the issuance of a like principal amount of said bonds, for the purposes described in Section 1 hereof. Such notes shall be issued in such numbers and denominations as may be determined by the Finance Director; shall bear interest at a rate not in excess of the legal maximum rate of interest, if any, for obligations of this type under Ohio law, as shall be approved by the Finance Director, payable at maturity; may be issuable in installments as determined by the Finance Director; shall be dated on the date of issuance; shall mature on such date or dates as determined by the Finance Director; may be callable prior to maturity upon such terms as determined by the Finance Director; shall be designated "Economic Development Improvements Bond Anticipation Notes"; and shall be payable as to both principal and interest at the City Treasurer's Office provided that such payment shall be made in Federal Reserve funds of the United States of America if the purchaser or purchasers shall so request. Said notes shall bear the facsimile signature of the Mayor and the manual signature of the Finance Director, shall bear the facsimile or manual impression of the corporate seal of the City, and shall express on their faces the purpose for which they are issued and that they are issued pursuant to this ordinance.

Section 3. That such notes or installment shall first be offered to the City Treasurer as the officer in charge of the Bond Retirement Fund and, if not taken by the Treasurer, may be offered to the Treasury Investment Account for purchase and, if not offered to or taken by such Account, shall be sold at private sale by the Finance Director, such sales to be made at not less than the par value of such notes together with accrued interest thereon, if any. The proceeds from such sales, except any premium and accrued interest thereon, shall be paid into the proper fund and used for the purpose aforesaid and for no other purpose, and for which purpose said money is hereby appropriated. Any premium and accrued interest shall be transferred to the Bond Retirement Fund to be applied to the payment of principal and interest of said notes in the manner provided by law.

Section 4. That said notes shall be the full general obligations of the City and the full faith, credit and revenue of the City of Cincinnati are hereby pledged for the payment of both principal and interest of said notes at maturity, in accordance with the laws and Ohio Constitution. The par value to be received from the bonds anticipated by said notes shall, to the extent necessary, be used only for the retirement of said notes at maturity, together with interest thereon, and are hereby pledged for such purpose.

Section 5. That during the period while such notes run, there shall, except as hereinafter provided, be levied on all the taxable property in the City of Cincinnati, in addition to all other taxes, a direct tax annually not less than that which would have been levied if bonds had been issued without the prior issuance of such notes.

Said tax shall be and is hereby ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers in the same manner and at the same time that taxes for general purposes for each year are certified, extended and collected. Said tax shall be placed before and in preference to all other items and for the full amount thereof. The funds derived from said tax levied as hereby required shall be placed in an appropriate fund, which shall be irrevocably pledged for the payment of the interest and principal of bonds and said notes in anticipation of which they are issued, when and as the same fall due.

Provided, however, that in any year in which the income under a certain memorandum of understanding between the City and the Board of Trustees of the Cincinnati Southern Railway (the "Board") regarding certain funds (the "Tax Credit Funds") received by the Board and generated from tax credit agreements entered into between the Board and the lessee of the CSR, the Cincinnati, New Orleans, and Texas Pacific Railway (the "CNOTP") is sufficient to cover the cost of all interest charges on said notes or bonds and to provide a sufficient amount to retire said notes or bonds as they become due, and such income is duly appropriated by this Council to the payment of such interest and principal, said tax shall not be levied for such purpose.

Section 6. That the notes hereby authorized will constitute obligations the interest on which is subject to federal income taxation under Sections 103(b)(2) and 148 of the Internal Revenue Code of 1986, as amended (the "Code"), and the regulations prescribed thereunder.

These notes are not designated "qualified tax-exempt obligations" for the purposes set forth in Section 265(b)(3) of the Code.

Section 7. That it is hereby determined and recited that all acts, conditions and things necessary to be done precedent to and in the issuing of said notes in order to make the same legal, valid and binding obligations of the City have happened, have been done and performed in regular and due form as required by law and that no limitation of indebtedness or taxation, either statutory or constitutional, will have been exceeded in the issuance of said notes.

Section 8. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 9. That the Finance Director is hereby authorized to forward a certified copy of this ordinance to the County Auditor of Hamilton County, Ohio, according to law and do all things necessary to comply with Sections 1 through 8 hereof.

Section 10. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to provide for the issuance of said notes and to ensure adequate funds are available to support contracts for economic development improvements at the earliest possible time.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

August 2, 2021

To: Members of the Budget and Finance Committee 202102538
From: Paula Boggs Muething, City Manager
Subject: **Emergency Ordinance – West Price Hill 8th and Overlook Permanent Improvements Project**

Attached is an Emergency Ordinance captioned:

AUTHORIZING the establishment of capital improvement program project account no. 980x164x221648, “8th and Overlook Permanent Improvements,” for the purpose of providing resources to facilitate commercial business district capital improvements; **AUTHORIZING** the transfer and return to source of the sum of \$100,000 from capital improvement program project account no. 980x162x171640, “West Price Hill Mixed-Use Development,” to the unappropriated surplus of Urban Development Bond Fund 862; **AUTHORIZING** the transfer and appropriation of the sum of \$100,000 from the unappropriated surplus of Urban Development Bond Fund 862 to the newly established capital improvement program project account no. 980x164x221648, “8th and Overlook Permanent Improvements,” for the purpose of providing resources for right of way improvements related to signage, beautification, and safety and security, and to facilitate permanent improvements on property adjacent to the 8th Street and Overlook intersection in the West Price Hill neighborhood; and **DECLARING** expenditures from capital improvement program project account no. 980x164x221648, “8th and Overlook Permanent Improvements,” to be for a public purpose because the project will stabilize and revitalize this business district in the West Price Hill neighborhood.

Approval of this Emergency Ordinance authorizes the establishment of new capital improvement program project account no. 980x164x221648, “8th and Overlook Permanent Improvements,” for the purpose of providing resources to facilitate commercial business district capital improvements. Approval of this Emergency Ordinance also authorizes the transfer and return to source the sum of \$100,000 from capital improvement program project account no. 980x162x171640, “West Price Hill Mixed-Use Development,” to the unappropriated surplus of Urban Development Bond Fund 862. The Emergency Ordinance further authorizes the transfer and appropriation of the sum of \$100,000 from the unappropriated surplus of Urban Development Bond Fund 862 to the newly established capital improvement program project account no. 980x164x221648, “8th and Overlook Permanent Improvements,” for the purpose of providing resources for right of way improvements related to signage, beautification, safety and security, and to facilitate permanent

improvements on property adjacent to the 8th Street and Overlook intersection in the West Price Hill neighborhood. Finally, the Emergency Ordinance will declare expenditures from capital improvement program project account no. 980x164x221648, “8th and Overlook Permanent Improvements,” to be for a public purpose because the project will stabilize and revitalize this business district in the West Price Hill neighborhood.

The West Price Hill community intends to establish the 8th and Overlook area as a West Price Hill business district.

Improvements to the 8th Street and Overlook intersection are in accordance with the “Compete” strategy to “foster a climate conducive to growth, investment, stability, and opportunity” as described on pages 103-113 of Plan Cincinnati (2012).

The reason for the emergency is the immediate need to start business district improvements as soon as possible.

The Administration recommends passage of this Emergency Ordinance.

cc: Andrew M. Dudas, Budget Director
Karen Alder, Finance Director



Attachment



EMERGENCY

City of Cincinnati

AEP

AWB

An Ordinance No. _____

- 2021

AUTHORIZING the establishment of capital improvement program project account no. 980x164x221648, “8th and Overlook Permanent Improvements,” for the purpose of providing resources to facilitate commercial business district capital improvements; **AUTHORIZING** the transfer and return to source of the sum of \$100,000 from capital improvement program project account no. 980x162x171640, “West Price Hill Mixed-Use Development,” to the unappropriated surplus of Urban Development Bond Fund 862; **AUTHORIZING** the transfer and appropriation of the sum of \$100,000 from the unappropriated surplus of Urban Development Bond Fund 862 to the newly established capital improvement program project account no. 980x164x221648, “8th and Overlook Permanent Improvements,” for the purpose of providing resources for right of way improvements related to signage, beautification, and safety and security, and to facilitate permanent improvements on property adjacent to the 8th Street and Overlook intersection in the West Price Hill neighborhood; and **DECLARING** expenditures from capital improvement program project account no. 980x164x221648, “8th and Overlook Permanent Improvements,” to be for a public purpose because the project will stabilize and revitalize this business district in the West Price Hill neighborhood.

WHEREAS, the West Price Hill community intends to establish the 8th and Overlook area as a West Price Hill business district; and

WHEREAS, the City will provide resources for right of way improvements related to signage, beautification, and safety and security, and to facilitate permanent improvements on property adjacent to the 8th Street and Overlook intersection; and

WHEREAS, the project will serve a public purpose because the project will stabilize and revitalize this business district in the West Price Hill neighborhood; and

WHEREAS, the improvements to the 8th Street and Overlook intersection are in accordance with the “Compete” goal to “Foster a climate conducive to growth, investment, stability, and opportunity,” as described on pages 103-113 of Plan Cincinnati (2012); now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio:

Section 1. That the Finance Director is authorized to establish new capital improvement program project account no. 980x164x221648, “8th and Overlook Permanent Improvements,” for the purpose of providing resources to facilitate commercial business district capital improvements.

Section 2. That the transfer and return to source of the sum of \$100,000 from capital improvement program project account no. 980x162x171640, "West Price Hill Mixed-Use Development," to the unappropriated surplus of Urban Development Bond Fund 862 is hereby authorized.

Section 3. That the transfer and appropriation of the sum of \$100,000 from the unappropriated surplus of Urban Development Bond Fund 862 to the newly established capital improvement program project account no. 980x164x221648, "8th and Overlook Permanent Improvements," is hereby authorized for the purpose of providing resources for right of way improvements related to signage, beautification, and safety and security, and to facilitate permanent improvements on property adjacent to the 8th Street and Overlook intersection in the West Price Hill neighborhood.

Section 4. That the 8th Street and Overlook capital improvement project is hereby declared to serve a public purpose in that it will stabilize and revitalize this business district in the West Price Hill neighborhood.

Section 5. That the proper City officials are authorized to do all things necessary and proper to carry out the terms of Sections 1 through 4 hereof.

Section 6. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to start business district improvements as soon as possible.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

August 2, 2021

To: Members of the Budget and Finance Committee 202102539

From: Paula Boggs Muething, City Manager

Subject: Emergency Ordinance – Federal Highway Administration Grant for River Road Rehabilitation

Attached is an Emergency Ordinance captioned:

ESTABLISHING new capital improvement program project account no. 980x233x222346, “River Road Rehab (PID 108937) ODOT Grant,” for the purpose of rehabilitating River Road from Anderson Ferry Road to Fairbanks Avenue (HAM-50-14.21 PID 108937); **AUTHORIZING** the City Manager to accept and appropriate a grant in the amount of up to \$1,350,000 from the Federal Highway Administration (Assistance Listing Number 20.205), as administered by the Ohio Department of Transportation, to newly created capital improvement program project account no. 980x233x222346, “River Road Rehab (PID 108937) ODOT Grant,” for the purpose of providing grant resources for the HAM-50-14.21 PID 108937 project, which will rehabilitate River Road from Anderson Ferry Road to Fairbanks Avenue in the Riverside community; and further **AUTHORIZING** the City Manager to do all things necessary to cooperate with the Director of the Ohio Department of Transportation in order to complete the HAM-50-14.21 PID 108937 Project.

This Emergency Ordinance establishes new capital improvement program project account no. 980x233x222346, “River Road Rehab (PID 108937) ODOT Grant,” for the purpose of rehabilitating River Road from Anderson Ferry Road to Fairbanks Avenue. Approval of this Emergency Ordinance also authorizes the City Manager to accept and appropriate a grant in the amount of up to \$1,350,000 from the Federal Highway Administration (FHWA), as administered by the Ohio Department of Transportation (ODOT), to newly established capital improvement program project account no. 980x233x222346, “River Road Rehab (PID 108937) ODOT Grant.” This Emergency Ordinance further authorizes the City Manager to do all things necessary to cooperate with the Director of ODOT to complete the HAM-50-14.21 PID 108937 Project.

ODOT applied for the grant from the FHWA on behalf of the City to support the River Road Rehabilitation project. However, the City will not accept grant funds without City Council approval.

This grant requires a local match in the estimated amount of \$4,100,000, which will be provided from resources currently available in existing capital improvement

program project account no. 980x233x222308, “Street Rehabilitation.” This grant does not require new FTEs.

The HAM-50-14.21 PID 108937 Project is in accordance with the “Connect” goal to “develop a regional transportation system that promotes economic vitality,” and the strategy to “plan, design, and implement a safe and sustainable transportation system,” as described on pages 127-138 of Plan Cincinnati (2012)

The reason for the emergency is the immediate need to accept grant resources to meet ODOT project deadlines

The Administration recommends passage of this Emergency Ordinance.

cc: Andrew M. Dudas, Budget Director
Karen Alder, Finance Director



Attachment

EMERGENCY
City of Cincinnati

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An Ordinance No. _____ - 2021

ESTABLISHING new capital improvement program project account no. 980x233x222346, “River Road Rehab (PID 108937) ODOT Grant,” for the purpose of rehabilitating River Road from Anderson Ferry Road to Fairbanks Avenue (HAM-50-14.21 PID 108937); **AUTHORIZING** the City Manager to accept and appropriate a grant in the amount of up to \$1,350,000 from the Federal Highway Administration (Assistance Listing Number 20.205), as administered by the Ohio Department of Transportation, to newly created capital improvement program project account no. 980x233x222346, “River Road Rehab (PID 108937) ODOT Grant,” for the purpose of providing grant resources for the HAM-50-14.21 PID 108937 project, which will rehabilitate River Road from Anderson Ferry Road to Fairbanks Avenue in the Riverside community; and further **AUTHORIZING** the City Manager to do all things necessary to cooperate with the Director of the Ohio Department of Transportation in order to complete the HAM-50-14.21 PID 108937 Project.

WHEREAS, on behalf of the City of Cincinnati, the Ohio Department of Transportation (“ODOT”) applied for a grant in the amount of up to \$1,350,000 from the Federal Highway Administration (“FHWA”) (Assistance Listing Number 20.205) to support the River Road Rehabilitation (HAM-50-14.21 PID 108937) project, which will rehabilitate River Road from Anderson Ferry Road to Fairbanks Avenue; and

WHEREAS, the City’s estimated local match in the amount of \$4,100,000 will be provided from resources currently available in existing capital improvement program project account no. 980x233x222308, “Street Rehabilitation”; and

WHEREAS, there are no new FTE requirements associated with the acceptance of this grant; and

WHEREAS, ODOT has already applied for the FHWA grant on behalf of the City, but the City will not accept funds without City Council approval; and

WHEREAS, the HAM-50-14.21 PID 108937 project is in accordance with the “Connect” goal to “develop a regional transportation system that promotes economic vitality,” and the strategy to “plan, design, and implement a safe and sustainable transportation system,” as described on pages 127-138 of Plan Cincinnati (2012); now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio:

Section 1. That the Finance Director is hereby authorized to establish new capital improvement program project account no. 980x233x222346, “River Road Rehab (PID 108937)

ODOT Grant,” for the purpose of rehabilitating River Road from Anderson Ferry Road to Fairbanks Avenue (HAM-50-14.21 PID 108937).

Section 2. That the City Manager is authorized to accept and appropriate a grant in the amount of up to \$1,350,000 from the Federal Highway Administration (Assistance Listing Number 20.205), as administered by the Ohio Department of Transportation (“ODOT”), to newly created capital improvement program project account no. 980x233x222346, “River Road Rehab (PID 108937) ODOT Grant,” for the purpose of providing grant resources for the HAM-50-14.21 PID 108937 project.

Section 3. That the City Manager is authorized to do all things necessary to cooperate with the Director of ODOT in order to complete the HAM-50-14.21 PID 108937 project.

Section 4. That the City consents to the Director of ODOT moving forward to complete the above-described project and shall cooperate as necessary.

Section 5. That the proper City officials are hereby authorized to use and expend the sum of up to \$1,350,000 in accordance with the provisions of Sections 1 through 4 herein.

Section 6. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to accept grant resources to meet ODOT project deadlines.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

August 2, 2021

To: Members of the Budget and Finance Committee 202102540
From: Paula Boggs Muething, City Manager
Subject: **Emergency Ordinance – OTR Affordable Housing FHAct50 – TIF Project**

Attached is an Emergency Ordinance captioned:

AUTHORIZING the establishment of new capital improvement program project account no. 980x162x221645, “OTR Affordable Housing FHAct50 - TIF,” for the purpose of providing resources for Logan Commons and Willkommen II, two affordable Low-Income Housing Tax Credit housing developments located in Over-the-Rhine; **AUTHORIZING** the transfer and appropriation of \$2,350,000 from the unappropriated surplus of Downtown/OTR West Equivalent Fund 482 to newly established capital improvement program project account no. 980x162x221645, “OTR Affordable Housing FHAct50 - TIF,” to provide resources for construction and development costs associated with the Logan Commons and Willkommen II housing developments; and further **DECLARING** that expenditures from capital improvement program project account no. 980x162x221645, “OTR Affordable Housing FHAct50 - TIF,” will serve a public purpose because the project will create additional affordable housing in the Over-the-Rhine neighborhood.

Approval of this Emergency Ordinance authorizes the establishment of new capital improvement program project account no. 980x162x221645, “OTR Affordable Housing FHAct50 - TIF” for the purpose of providing resources for Logan Commons and Willkommen II, two affordable Low-Income Housing Tax Credit housing developments located in Over-the-Rhine. Approval of this Emergency Ordinance also authorizes the transfer and appropriation of \$2,350,000 from the unappropriated surplus of Downtown/OTR West Equivalent Fund 482 to newly established capital improvement program project account no. 980x162x221645, “OTR Affordable Housing FHAct50 - TIF” to provide resources for construction and development costs associated with the Logan Commons and Willkommen II housing developments. Finally, the Emergency Ordinance will declare that expenditures from capital improvement program project account no. 980x162x221645, “OTR Affordable Housing FHAct50 - TIF” will serve a public purpose because the project will create additional affordable housing in the Over-the-Rhine neighborhood.

The Over-the-Rhine (“OTR”) neighborhood is currently experiencing substantial development activity, creating a significant need for quality affordable housing. The

Logan Commons housing development will result in the new construction of a four-story mixed-use building containing forty-two (42) one-bedroom units of low-income senior housing, ground floor community and retail spaces, and a senior center. The Willkommen II housing development will result in the rehabilitation of two vacant, historic buildings and the new construction of two buildings containing a total of forty-eight (48) studio to three-bedroom units of low-income housing.

All units in the housing developments will provide a total of ninety (90) new units of quality affordable housing for the OTR neighborhood and will serve households earning no more than sixty percent (60%) of the area median income, as established by the U.S. Department of Housing and Urban Development (HUD).

The City's creation and funding of capital improvement program project account no. 980x162x221645, "OTR Affordable Housing FHAct50 - TIF" is in response to the developers' request for additional gap financing, and is in accordance with Ordinance No. 0206-2020, which designates 25% of payments in lieu of taxes in the Tax Increment Financing (TIF) districts to affordable housing.

The sum of \$2,250,000 will be allocated for housing construction costs, and \$100,000 will be allocated for project delivery costs.

The developers, Urban Sites/CMHA (Logan Commons) and 3CDC/Model Group (Willkommen II), wish to include this gap financing in their applications for Ohio Housing Finance Agency FHAct50 low-income housing tax credits, the deadline for which is in August 2021.

The Logan Commons and Willkommen II housing developments are in accordance with the "Live" goal to "provide a full spectrum of housing options and improve housing quality and affordability" as described on pages 164-177 of Plan Cincinnati (2012).

The reason for the emergency is the immediate need to allow the developers to include gap financing in their August 2021 applications for Ohio Housing Finance Agency FHAct50 low-income housing tax credits.

The Administration recommends passage of this Emergency Ordinance.

cc: Andrew M. Dudas, Budget Director
Karen Alder, Finance Director

Attachment





EMERGENCY

City of Cincinnati

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An Ordinance No. _____

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AUTHORIZING the establishment of new capital improvement program project account no. 980x162x221645, "OTR Affordable Housing FHAct50 - TIF," for the purpose of providing resources for Logan Commons and Willkommen II, two affordable Low-Income Housing Tax Credit housing developments located in Over-the-Rhine; **AUTHORIZING** the transfer and appropriation of \$2,350,000 from the unappropriated surplus of Downtown/OTR West Equivalent Fund 482 to newly established capital improvement program project account no. 980x162x221645, "OTR Affordable Housing FHAct50 - TIF," to provide resources for construction and development costs associated with the Logan Commons and Willkommen II housing developments; and further **DECLARING** that expenditures from capital improvement program project account no. 980x162x221645, "OTR Affordable Housing FHAct50 - TIF," will serve a public purpose because the project will create additional affordable housing in the Over-the-Rhine neighborhood.

WHEREAS, the Over-the-Rhine ("OTR") neighborhood is currently experiencing substantial development activity, creating a significant need for quality affordable housing; and

WHEREAS, the Logan Commons housing development will result in the new construction of a four-story mixed-use building containing forty-two one-bedroom units of low-income senior housing, ground floor community and retail spaces, and a senior center; and

WHEREAS, the Willkommen II housing development will result in the rehabilitation of two vacant, historic buildings and the new construction of two buildings containing a total of forty-eight studio to three-bedroom units of low-income housing; and

WHEREAS, the sum of \$2,250,000 will be allocated for housing construction costs, and \$100,000 will be allocated for project delivery costs; and

WHEREAS, the housing developments will provide a total of ninety new units of quality affordable housing for the OTR neighborhood and will serve households earning no more than sixty percent of the area median income, as established by the U.S. Department of Housing and Urban Development; and

WHEREAS, the City's creation and funding of capital improvement program project account no. 980x162x221645, "OTR Affordable Housing FHAct50 - TIF," is in response to the developers' request for additional gap financing, and is in accordance with Ordinance No. 0206-2020, which designates 25% of payments in lieu of taxes in the Tax Increment Financing (TIF) districts to affordable housing; and

WHEREAS, the developers, Urban Sites/CMHA (Logan Commons) and 3CDC/Model Group (Willkommen II), wish to include this gap financing in their applications for Ohio Housing Finance Agency FHAct50 low-income housing tax credits, the deadline for which is in August 2021; and

WHEREAS, the Logan Commons and Willkommen II housing developments are in accordance with the “Live” goal to “Provide a full spectrum of housing options and improve housing quality and affordability” as described on pages 164-177 of Plan Cincinnati (2012); now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio:

Section 1. That new capital improvement program project account no. 980x162x221645, “OTR Affordable Housing FHAct50 - TIF,” is hereby established for the purpose of providing resources for Logan Commons and Willkommen II, two affordable Low-Income Housing Tax Credit housing developments located in Over-the-Rhine (“OTR”).

Section 2. That the transfer and appropriation of the sum of \$2,350,000 from the unappropriated surplus of Downtown/OTR West Equivalent Fund 482 to newly established capital improvement program project account no. 980x162x221645, “OTR Affordable Housing FHAct50 - TIF,” to provide resources for construction and development costs associated with the Logan Commons and Willkommen II housing developments in the OTR neighborhood (collectively, the “Affordable Housing Improvements”), is hereby authorized.

Section 3. That Council hereby declares that the Affordable Housing Improvements constitute a “Housing Renovation” (as defined in Section 5709.40(A)(3) of the Ohio Revised Code), that will benefit and/or serve the District 3-Downtown/OTR West District Incentive District, subject to compliance with Ohio Revised Code Sections 5709.40 through 5709.43.

Section 4. That expenditures from capital improvement program project account no. 980x162x221645, “OTR Affordable Housing FHAct50 - TIF,” will serve a public purpose because the development projects will provide affordable housing to the OTR neighborhood.

Section 5. That the proper City officials are authorized to do all things necessary and proper to carry out the terms of Sections 1 through 4 hereof.

Section 6. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to allow the developers to include gap financing in their August 2021 applications for Ohio Housing Finance Agency FHAct50 low-income housing tax credits.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

August 2, 2021

To: Members of the Budget and Finance Committee 202102544

From: Paula Boggs Muething, City Manager

Subject: **Emergency Ordinance – FY 2021 Crime Gun Intelligence Center (CGIC) Integration Initiative Grant**

Attached is an Emergency Ordinance captioned:

AUTHORIZING the City Manager to apply for, accept, and appropriate a grant in an amount up to \$700,000 from the United States Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, assistance listing #16.738, for the purpose of developing and expanding the newly formed Crime Gun Intelligence Center by adding dedicated crime analysts and a project coordinator, and collaborating with regional training in the National Integrated Ballistic Information Network; and **AUTHORIZING** the Finance Director to deposit the grant funds into Law Enforcement Grant Fund 368, Project Account No. 21CGIC.

This Emergency Ordinance would authorize the City Manager to apply for, accept, and appropriate a sub-grant for resiliency training valued at \$700,000 in FY21 Local Law Enforcement Crime Gun Intelligence Center Integration Initiative grant funds from the U.S. Department of Justice (DOJ), Bureau of Justice Assistance (BJA), for the development and expansion of the newly formed Crime Gun Intelligence Center (CGIC) by adding dedicated crime analysts, a project coordinator, and collaboration with regional training in the National Integrated Ballistic Information Network (NIBIN). This Emergency Ordinance would also authorize the Finance Director to deposit the grant funds into Law Enforcement Grant Fund 368, Project Account No. 21CGIC.

The grant application deadline was July 14, 2021. As a result, the Cincinnati Police Department (CPD) will have applied for this grant prior to this Emergency Ordinance receiving approval from the City Council. Should this Emergency Ordinance not be approved, the grant funding will not be accepted. The grant does not add any additional FTEs as CPD plans to use temporary personnel directly funded by the grant award. No matching funds are required.

This Emergency Ordinance is in accordance with the Live goal to “Create a more livable community” as described on page 156 of Plan Cincinnati (2012).

The reason for the emergency is the need for grant funds to be accepted in a timely fashion upon receipt of an award notice.

The Administration recommends passage of this Emergency Ordinance.

cc: Andrew M. Dudas, Budget Director
Karen Alder, Finance Director

Attachment





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An Ordinance No. _____

- 2021

AUTHORIZING the City Manager to apply for, accept, and appropriate a grant in an amount of up to \$700,000 from the United States Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, assistance listing #16.738, for the purpose of developing and expanding the newly formed Crime Gun Intelligence Center by adding dedicated crime analysts and a project coordinator, and collaborating with regional training in the National Integrated Ballistic Information Network; and **AUTHORIZING** the Finance Director to deposit the grant funds into Law Enforcement Grant Fund 368, Project Account No. 21CGIC.

WHEREAS, a grant in an amount of up to \$700,000 is available from the United States Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, assistance listing #16.738; and

WHEREAS, such grants funds, if received, will be used by the Cincinnati Police Department (“CPD”) to develop and expand the newly formed Crime Gun Intelligence Center by adding dedicated crime analysts and a project coordinator, and collaborating with regional training in the National Integrated Ballistic Information Network; and

WHEREAS, no additional FTE are required for the acceptance of this grant because CPD plans to use temporary contractors directly funded by the grant award; and

WHEREAS, CPD has already applied for this grant to comply with an application deadline of July 14, 2021, but no funds will be accepted without Council approval; and

WHEREAS, this ordinance is in accordance with the “Live” goal to “Create a more livable community,” as described on page 156 of Plan Cincinnati (2012); now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio:

Section 1. That the City Manager is hereby authorized to apply for, accept, and appropriate a grant in an amount of up to \$700,000 from the United States Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, assistance listing #16.738, for the purpose of developing and expanding the newly formed Crime Gun Intelligence Center by adding dedicated crime analysts and a project coordinator, and collaborating with regional training in the National Integrated Ballistic Information Network.

Section 2. That the Director of Finance is hereby authorized to deposit such grant funds as are received into Law Enforcement Grant Fund 368, Project Account No. 21CGIC.

Section 3. That the proper City officials are hereby authorized to do all things necessary and proper to comply with the terms of Sections 1 and 2 hereof.

Section 4. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the need for grant funds to be accepted in a timely fashion upon receipt of an award notice.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

August 2, 2021

To: Members of the Budget and Finance Committee 202102545

From: Paula Boggs Muething, City Manager

Subject: **Emergency Ordinance – FY 2021 Edward Byrne Memorial Justice Assistance Grant**

Attached is an Emergency Ordinance captioned:

AUTHORIZING the City Manager to apply for, accept, and appropriate a grant of an amount up to \$290,309 from the United States Department of Justice, Bureau of Justice Assistance, Edward Byrne Memorial Justice Assistance Grant Program Local Solicitation (ALN #16.738); and further **AUTHORIZING** the Director of Finance to deposit the grant funds into Justice Assistance Grant Fund 368, project account no. 21JAG.

This Emergency Ordinance would authorize the City Manager to apply for, accept, and appropriate a grant of an amount up to \$290,309 from the U.S. Department of Justice (DOJ) 2021 Edward Byrne Memorial Justice Assistance Grant Program (JAG). This grant application is shared with Hamilton County Pre-Trial Services, who would evenly divide the proceeds, with the City receiving an additional 10% for administration for a total of \$159,670. The Cincinnati Police Department (CPD) will use the grant funds to conduct Police Visibility Overtime (PVO) and fund a Sexual Assault Advocate Program contract with Women Helping Women (WHW). This Emergency Ordinance would also authorize the Finance Director to deposit the grant funds into Law Enforcement Grant Fund 368, Project Code: 21JAG.

The grant application deadline is August 9, 2021. Should this Emergency Ordinance not be approved, the training provided by the sub-grant will not be accepted. The grant does not add any additional FTEs, nor requires matching funds.

This Emergency Ordinance is in accordance with the Live goal to “Create a more livable community” as described on page 156 of Plan Cincinnati (2012).

The reason for the emergency is the need to immediately apply for the grant by the grant deadline and accept the funds when awarded.

The Administration recommends passage of this Emergency Ordinance.

cc: Andrew M. Dudas, Budget Director
Karen Alder, Finance Director



Attachment



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City of Cincinnati

An Ordinance No. _____

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AUTHORIZING the City Manager to apply for, accept, and appropriate a grant of an amount up to \$290,309 from the United States Department of Justice, Bureau of Justice Assistance, Edward Byrne Memorial Justice Assistance Grant Program Local Solicitation (ALN #16.738); and further **AUTHORIZING** the Director of Finance to deposit the grant funds into Justice Assistance Grant Fund 368, project account no. 21JAG.

WHEREAS, a grant of up to \$290,309 is available from the United States Department of Justice, Bureau of Justice Assistance, Edward Byrne Memorial Justice Assistance Grant Program (ALN #16.738) to be jointly awarded to the City of Cincinnati and Hamilton County; and

WHEREAS, the terms of the grant application require that the City of Cincinnati and Hamilton County jointly apply for the grant and enter into a Memorandum of Understanding specifying the terms under which the grant will be divided between the City and the County; and

WHEREAS, the Memorandum of Understanding will specify that the grant will be divided equally, minus a 10% administrative fee that the City will charge the County, so that the City of Cincinnati will receive up to \$159,670; and

WHEREAS, the Cincinnati Police Department will use the City's portion of the grant for the Police Visibility Overtime Program and the Sexual Assault Advocate Program contract with Women Helping Women; and

WHEREAS, there are no local matching funds or FTE increases associated with the grant; and

WHEREAS, the grant deadline is August 9, 2021, but no grant funds will be accepted prior to approval of this ordinance; and

WHEREAS, the grant is in accordance with the "Live" goal to "create a more livable community," as described on page 156 of Plan Cincinnati (2012); now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio:

Section 1. That the City Manager is hereby authorized to apply for, accept, and appropriate a grant of up to \$290,309 from the United States Department of Justice, Bureau of Justice

Assistance, Edward Byrne Memorial Justice Assistance Grant Program Local Solicitation (ALN #16.738).

Section 2. That the Director of Finance is authorized to deposit the grant funds into Justice Assistance Grant Fund 368, project account no. 21JAG.

Section 3. That the proper City officials are authorized to use and expend said funds in compliance with the terms of the grant and Sections 1 and 2 herein.

Section 4. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the need to immediately apply for the grant by the grant deadline and accept the funds when awarded.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

August 2, 2021

To: Members of the Budget and Finance Committee 202102550
From: Paula Boggs Muething, City Manager
Subject: **Emergency Ordinance – FY 2021 COPS Hiring Grant**

Attached is an Emergency Ordinance captioned:

AUTHORIZING the City Manager to apply for, accept, and appropriate a grant of up to \$31,250,000 from the U.S. Department of Justice, Office of Community Oriented Policing Services (“COPS”), FY 2021 COPS Hiring Program (ALN 16.710), for the purpose of creating and filling up to 250 entry-level, sworn Police Officer positions within the Cincinnati Police Department over a five year grant period to provide an opportunity for the Police Department to increase its sworn strength levels; and further **AUTHORIZING** the Finance Director to receive and deposit the grant funds into Law Enforcement Grant Fund 368.

This Emergency Ordinance would authorize the City Manager to apply for, accept, and appropriate a grant of up to \$31,250,000 in FY 2021 COPS Hiring Program funds from the U.S. Department of Justice (DOJ), Office of Community Oriented Policing Services (COPS) to hire of up to 250 entry-level police officers in three recruit classes over five years. As a condition of the award, the Cincinnati Police Department (CPD) will retain all grant funded positions for a minimum of 12 months beyond the 36 month per position funding period. This Emergency Ordinance would also authorize the Finance Director to deposit the grant funds into Law Enforcement Grant Fund 368, Project Account No. 21COPS.

The grant application deadline was June 22, 2021. As such, CPD has applied for this grant before receiving approval from the City Council. Should this Emergency Ordinance not be approved, the grant funds will not be accepted. This grant would create up to 250 additional FTEs and carries a local match requirement of at least \$20,724,250, variable depending on exact award and the local match percentage amount.

This Emergency Ordinance is in accordance with the Live goal to “Create a more livable community” as described on page 156 of Plan Cincinnati (2012).

The reason for the emergency is the need to ensure acceptance of the grant within 30 days of award, as required by the grant.

The Administration recommends passage of this Emergency Ordinance.

cc: Andrew M. Dudas, Budget Director
Karen Alder, Finance Director



Attachment



EMERGENCY

City of Cincinnati

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An Ordinance No. _____

- 2021

AUTHORIZING the City Manager to apply for, accept, and appropriate a grant of up to \$31,250,000 from the U.S. Department of Justice, Office of Community Oriented Policing Services (“COPS”), FY 2021 COPS Hiring Program (ALN 16.710), for the purpose of creating and filling up to 250 entry-level, sworn Police Officer positions within the Cincinnati Police Department over a five year grant period to provide an opportunity for the Police Department to increase its sworn strength levels; and further **AUTHORIZING** the Finance Director to receive and deposit the grant funds into Law Enforcement Grant Fund 368.

WHEREAS, a grant of up to \$31,250,000 is available from the U.S. Department of Justice, Office of Community Oriented Policing Services (“COPS”), FY 2021 COPS Hiring Program (ALN 16.710) for the purpose of creating and filling up to 250 entry-level sworn Police Officer positions within the Cincinnati Police Department over a five year grant period; and

WHEREAS, acceptance of this grant would provide an opportunity for the Police Department to increase its sworn strength levels; and

WHEREAS, an additional 250 FTEs will result from this grant; and

WHEREAS, the COPS Hiring Program grant requires matching funds of up to \$20,724,250 depending upon the exact amount of the grant award; and

WHEREAS, the Cincinnati Police Department must retain all sworn Police Officer FTE positions awarded under the grant for a minimum of twelve months following the thirty-six month federal funding period per position; and

WHEREAS, the Cincinnati Police Department already applied for the grant to meet the June 22, 2021 deadline, but will not accept funds without City Council approval; and

WHEREAS, the grant is in accordance with the “Live” goal to “create a more livable community” as described on page 156 of Plan Cincinnati (2012); now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio:

Section 1. That the City Manager is hereby authorized to apply for, accept, and appropriate a grant of up to \$31,250,000 from the U.S. Department of Justice, Office of Community Oriented Policing Services (“COPS”), FY 2021 COPS Hiring Program for the purpose of creating and filling up to 250 entry-level, sworn Police Officer positions within the Cincinnati Police Department over

five year grant period to provide an opportunity for the Police Department to increase its sworn strength levels.

Section 2. That the Director of Finance is hereby authorized to receive and deposit the grant funds into the Law Enforcement Grant Fund 368, Project Account No. 21COPS.

Section 3. That the required local match of up to \$20,724,250 will be funded from General Fund Police Department operating budget.

Section 4. That the proper City officials are hereby authorized to do all things necessary and proper to carry out the terms of Sections 1 through 3 herein.

Section 5. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the need to ensure acceptance of the grant within 30 days of award, as required by the grant.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

August 2, 2021

To: Members of the Budget and Finance Committee 202102556

From: Paula Boggs Muething, City Manager

Subject: Emergency Ordinance – West End History Project Donations

Attached is an Emergency Ordinance captioned:

AUTHORIZING the City Manager and the employees of the Office of Human Relations to solicit and accept donations of money, in-kind contributions, and other things of value from the Cincinnati business community, individual benefactors, and other available sources for the Office of Human Relations to support the West End History Project; and **AUTHORIZING** the Finance Director to deposit funds donated to the City of Cincinnati for the West End History Project into Special Revenue Fund No. 435, “Human Relations.”

Approval of this Emergency Ordinance authorizes the City Manager and employees of the Office of Human Relations to solicit and accept donations of money, in-kind contributions, and other things of value from the Cincinnati business community, individual benefactors, and other available resources for the purpose of completing the West End History Project. This Emergency Ordinance also authorizes the Finance Director to deposit the donations into Special Revenue Fund No. 435, “Human Relations.”

The West End History Project includes, but is not limited to, a documentary film, memorial markers, and painted murals. The project is anticipated to begin no later than October 1, 2021.

The West End History Project is in accordance with the “Live” goals to “Build a robust public life” and “Create a more livable community,” as described on pages 147 and 156 of Plan Cincinnati (2012).

The reason for the emergency is the need to solicit donations before the West End History project starts on October 1, 2021.

The Administration recommends passage of this Emergency Ordinance.

cc: Andrew M. Dudas, Budget Director
Karen Alder, Finance Director



Attachment



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City of Cincinnati

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An Ordinance No. _____

- 2021

AUTHORIZING the City Manager and the employees of the Office of Human Relations to solicit and accept donations of money, in-kind contributions, and other things of value from the Cincinnati business community, individual benefactors, and other available sources for the Office of Human Relations to support the West End History project that is being led and sponsored by the Office of Human Relations; and **AUTHORIZING** the Finance Director to deposit funds donated to the City of Cincinnati for the West End History project into Special Revenue Fund No. 435, “Human Relations.”

WHEREAS, the Office of Human Relations is leading and sponsoring the West End History project, which will include, but is not limited to, a documentary film, memorial markers, and painted murals to capture the rich history of the West End community and is anticipated to begin no later than October 1, 2021; and

WHEREAS, to cover the costs of the project, the Office of Human Relations must solicit donations of money, in-kind contributions, and other things of value from the Cincinnati business community, individual benefactors, and other available sources; and

WHEREAS, following completion of fundraising for the West End History project, the Administration shall submit a report to City Council advising of the total dollar amount raised by the fundraising effort as well as a list of persons or entities making donations and dollar amount donated per individual or entity; and

WHEREAS, the West End History project is in accordance with the “Live” goals to “Build a robust public life” and “Create a more livable community,” as described in pages 147 to 156 of Plan Cincinnati (2012); now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio:

Section 1. That the City Manager and the employees of the Office of Human Relations are hereby authorized to solicit and accept donations of money, in-kind contributions, and other things of value from the Cincinnati business community, individual benefactors, and other available sources for the Office of Human Relations to support the West End History project, which will include a documentary film, memorial markers, and painted murals to capture the rich history of the West End community.

Section 2. That the Finance Director is hereby authorized to deposit funds donated to the City of Cincinnati for the West End History project into Special Revenue Fund No. 435, "Human Relations."

Section 3. That following completion of fundraising for the West End History project, the Administration shall submit a report to Council advising of the total dollar amount raised by the fundraising effort as well as a list of persons or entities making donations and the dollar amount donated per individual or entity.

Section 4. That the proper City officials are authorized to do all things necessary and proper to carry out the terms of Sections 1 through 3 hereof.

Section 5. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the need to solicit donations before the West End History project starts on October 1, 2021.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

August 2, 2021

To: Members of the Budget and Finance Committee 202102557
From: Paula Boggs Muething, City Manager
Subject: **Emergency Ordinance – Re-Appropriation of Funds for COVID-19 Related Supplies and Materials**

Attached is an Emergency Ordinance captioned:

AUTHORIZING the transfer and appropriation of \$740,000 from the unappropriated surplus of the General Fund to the City Manager’s Office General Fund non-personnel operating budget account no. 050x101x7300 for the purpose of providing funds for supplies and materials necessary to help prevent the spread of the coronavirus known as COVID-19.

During FY 2020, the City Council passed Ordinance No. 0081-2020 on March 11, 2020, Ordinance No. 0094-2020 on March 20, 2020, and Ordinance No. 0110-2020 on April 1, 2020. Across all three Ordinances, the total amount of \$5,000,000 was transferred and appropriated in the General Fund to provide resources for supplies and materials necessary to help prevent the spread of the coronavirus. Of that original \$5,000,000 amount, \$740,000 had remained encumbered but unspent. However, the prior year encumbrances are being cancelled in early Fiscal Year 2022 due to the City’s change in purchasing card vendors, resulting in those funds being returned to the unappropriated surplus of the General Fund. Thus, the amount of \$740,000 is now available in the fund balance of the General Fund.

With a recent spike in COVID-19 cases, these funds need to be re-appropriated in FY 2022 for various City Departments to continue to acquire additional medical and safety supplies to be used by first responders and other City employees who may be exposed to the coronavirus. This Emergency Ordinance, therefore, transfers and appropriates \$740,000 from the unappropriated surplus of the General Fund to the City Manager’s Office General Fund non-personnel operating budget account no. 050x101x7300.

The reason for the emergency is the immediate need to accomplish the authorized transfer and appropriation so that funding is in place to purchase supplies to help prevent the spread of the Coronavirus.

The Administration recommends passage of this Emergency Ordinance.

cc: Andrew M. Dudas, Budget Director
Karen Alder, Finance Director

Attachment

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- 2021

AUTHORIZING the transfer and appropriation of \$740,000 from the unappropriated surplus of the General Fund to the City Manager's Office General Fund non-personnel operating budget account no. 050x101x7300 for the purpose of providing funds for supplies and materials necessary to help prevent the spread of the coronavirus known as COVID-19.

WHEREAS, COVID-19 poses a health risk to the City of Cincinnati; and

WHEREAS, City Council passed Ordinance No. 0081-2020 on March 11, 2020, Ordinance No. 0094-2020 on March 20, 2020, and Ordinance No. 0110-2020 on April 1, 2020, each of which authorized the transfer and appropriation of a total of \$5,000,000 for supplies and materials necessary to help prevent the spread of COVID-19; and

WHEREAS, funds in the amount of \$740,000 remained encumbered, however the prior year encumbrances were cancelled in early Fiscal Year 2022 due to the City's change in purchasing card vendors, resulting in those funds being returned to the unappropriated surplus of the General Fund; and

WHEREAS, the amount of \$740,000 is now available in the fund balance of the General Fund; and

WHEREAS, due to a spike in COVID-19 cases, these funds need to be made available for various City departments to use to acquire additional medical and safety supplies to be used by first responders and other City employees who may be exposed to COVID-19; and

WHEREAS, re-appropriating these funds is required in order to make them available for the acquisition of additional medical and safety supplies; now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio:

Section 1. That the sum of \$740,000 is hereby transferred and appropriated from the unappropriated surplus of the General Fund to the City Manager's Office General Fund non-personnel operating budget account no. 050x101x7300 for the purpose of providing funds for supplies and materials necessary to help prevent the spread of the coronavirus known as COVID-19.

Section 2. That the proper City officials are hereby authorized to do all things necessary and proper to implement the provisions of Section 1 of this ordinance.

Section 3. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to accomplish the authorized transfer and appropriation so that funding is in place to purchase supplies to help prevent the spread of COVID-19.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

August 2, 2021

To: Members of the Budget and Finance Committee 202102558
From: Paula Boggs Muething, City Manager
Subject: **Emergency Ordinance – Amend Ordinance No. 0362-2018**

Attached is an Emergency Ordinance captioned:

AMENDING Ordinance No. 0362-2018 to increase the amount of funding the City Manager is authorized to accept from the Ohio Department of Transportation’s Ohio Bridge Partnership Program from \$3,064,000 to \$3,250,000 and to appropriate the additional amount of \$186,000 to existing capital improvement program project account no. 980x233x192348, “Kennedy Avenue Bridge Grants,” for the purpose of providing resources for the replacement of the Kennedy Avenue Bridge.

Approval of this Emergency Ordinance amends Ordinance No. 0362-2018 to increase the amount of funding the City Manager is authorized to accept from the Ohio Department of Transportation’s (ODOT) Ohio Bridge Partnership Program (OBPP) from \$3,064,000 to \$3,250,000 and appropriates the additional amount of \$186,000 to existing capital improvement program project account no. 980x233x192348, “Kennedy Avenue Bridge Grants,” for the purpose of providing resources for the replacement of the Kennedy Avenue Bridge.

On December 5, 2018, the City Council approved Ordinance No. 0362-2018 authorizing the City Manager to accept and appropriate grant resources totaling \$3,064,000 from the OBPP through ODOT to newly established capital improvement program project account no. 980x233x192348, “Kennedy Avenue Bridge Grants.”

An additional \$186,000 is available from the OBPP through ODOT for the replacement of the Kennedy Avenue Bridge. Thus, amending Ordinance No. 0362-2018 will increase the grant amount authorized for the City to accept and appropriate.

The reason for the emergency is the immediate need to accept and appropriate additional resources needed prior to the due date of flagging expenses, estimated to be August 30, 2021.

The Administration recommends passage of this Emergency Ordinance.

cc: Andrew M. Dudas, Budget Director
Karen Alder, Finance Director

Attachment

EMERGENCY

City of Cincinnati

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An Ordinance No. _____

-2021

AMENDING Ordinance No. 0362-2018 to increase the amount of funding the City Manager is authorized to accept from the Ohio Department of Transportation’s Ohio Bridge Partnership Program from \$3,064,000 to \$3,250,000 and to appropriate the additional amount of \$186,000 to existing capital improvement program project account no. 980x233x192348, “Kennedy Avenue Bridge Grants,” for the purpose of providing resources for the replacement of the Kennedy Avenue Bridge.

WHEREAS, on December 5, 2018, City Council approved Ordinance No. 0362-2018 authorizing the City Manager to accept and appropriate grant resources totaling \$3,064,000 from the Ohio Department of Transportation’s (“ODOT”) Ohio Bridge Partnership Program (“OBPP”) to newly established capital improvement program project account no. 980x233x192348, “Kennedy Avenue Bridge Grants”; and

WHEREAS, an additional \$186,000 is available from the OBPP through ODOT for the replacement of the Kennedy Avenue Bridge; and

WHEREAS, Ordinance No. 0362-2018 must be amended to increase the grant amount in order for the City to accept and appropriate additional funding for the replacement of the Kennedy Avenue Bridge; now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio:

Section 1. That Section 2 of Ordinance No. 0362-2018, approved by Council on December 5, 2018, is hereby amended as follows:

Section 2. That the City Manager is hereby authorized to accept and appropriate resources totaling ~~\$3,064,000~~ \$3,250,000 from the Ohio Department of Transportation’s (ODOT) Ohio Bridge Partnership Program to newly established capital improvement program project account no. 980x233x192348, “Kennedy Avenue Bridge Grants.”

Section 2. That all terms of Ordinance No. 0362-2018 not amended in this ordinance remain in full force and effect.

Section 3. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms

of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to accept and appropriate additional resources needed prior to the due date of flagging expenses, estimated to be August 30, 2021.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

Deletions are struck through. Additions are underlined.

August 2, 2021

To: Members of the Budget & Finance Committee 202102559
From: Paula Boggs Muething, City Manager
Subject: **Emergency Ordinance – Moral Obligation to Matlock Electric Co., Inc.**

Attached is an Emergency Ordinance captioned:

AUTHORIZING the payment of \$29,500 as a moral obligation to Matlock Electric Co., Inc. for payment of outstanding charges for services received by Greater Cincinnati Water Works for the reconditioning of the hydro turbine generators at the Richard Miller Treatment Plant.

The City issued a delivery order in the amount of \$39,780 to vendor Matlock Electric Co., Inc. for hydro turbine generator reconditioning at the Richard Miller Treatment Plant. During the reconditioning work, previously unknown material failures were discovered by the City and vendor, requiring an additional \$29,500 to complete the required work. This Emergency Ordinance authorizes the payment to the vendor as a moral obligation as soon as possible. Sufficient funds are available in Greater Cincinnati Water Works capital improvement program project account no. 756x300x0000x7689Xww003341X3000000 for the payment.

The reason for the emergency is the immediate need to pay the vendor in a timely manner.

The Administration recommends passage of this Emergency Ordinance.

cc: Andrew M. Dudas, Budget Director
Karen Alder, Finance Director

Attachment

EMERGENCY

City of Cincinnati

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An Ordinance No. _____

- 2021

AUTHORIZING the payment of \$29,500 as a moral obligation to Matlock Electric Co., Inc. for payment of outstanding charges for services received by Greater Cincinnati Water Works for the reconditioning of the hydro turbine generators at the Richard Miller Treatment Plant.

WHEREAS, DO certification number 303 20200002577 was created in the amount of \$39,780 for services requested by Greater Cincinnati Water Works; and

WHEREAS, the amount needed for these services increased to \$69,280 after unexpected material failures were discovered, leaving a shortfall of \$29,500, and there are funds available to pay this shortfall; and

WHEREAS, Greater Cincinnati Water Works is working on improving internal procedures to streamline the process for certifying the proper amount of money prior to requesting services and providing more administrative oversight to avoid this situation in the future; and

WHEREAS, the Cincinnati City Council desires to provide payment for such charges in the amount of \$29,500; now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio:

Section 1. That the Finance Director is authorized to make a payment of \$29,500 from the Cincinnati Water Works Supply Division's capital improvement program project account number 756x300x0000x7689xWW003341x3000000 in the name of Matlock Electric Co., Inc. as a moral obligation of the City of Cincinnati, for payment of charges owed for services used by the Greater Cincinnati Water Works.

Section 2. That the proper City officials are authorized to do all things necessary and proper to carry out the provisions of Section 1 above.

Section 3. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the

terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to pay the vendor in a timely manner.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

August 2, 2021

To: Members of the Budget and Finance Committee 202102561
From: Paula Boggs Muething, City Manager
Subject: **Emergency Ordinance – Moral Obligation to Degree Lawn & Landscape**

Attached is an Emergency Ordinance captioned:

AUTHORIZING the payment of \$23,983 as a moral obligation to Degree Lawn & Landscape for payment of outstanding charges for services received by Greater Cincinnati Water Works for grass cutting at multiple GCWW facilities in May and June of 2021.

The City issued a delivery order (DO) in the amount of \$170,000 to vendor Degree Lawn & Landscape for grass cutting services at several GCWW facilities. During May and June 2021, the vendor performed additional grass cutting services needed by the City that exceeded the original amount of the delivery order by \$23,983. This Emergency Ordinance authorizes the payment to the vendor as a moral obligation as soon as possible. Sufficient funds are available in Greater Cincinnati Water Works non-personnel operating budget account no. 101x303x3000x7278 for the payment.

The reason for the emergency is the immediate need to pay the vendor in a timely manner.

The Administration recommends passage of this Emergency Ordinance.

cc: Andrew M. Dudas, Budget Director
Karen Alder, Finance Director

Attachment

EMERGENCY

City of Cincinnati

AKS *AWB*

An Ordinance No. _____

- 2021

AUTHORIZING the payment of \$23,983 as a moral obligation to Degree Lawn & Landscape for payment of outstanding charges for services received by Greater Cincinnati Water Works for grass cutting at multiple GCWW facilities in May and June of 2021.

WHEREAS, DO certification number 300 21820152 was created in the amount of \$170,000; and

WHEREAS, inadvertently, the DO certification was not increased and the services requested by Greater Cincinnati Water Works totaled an additional \$23,983, and there are funds available to make this payment; and

WHEREAS, Greater Cincinnati Water Works is working on improving internal procedures to streamline the process for certifying the proper amount of money prior to requesting services and providing more administrative oversight to avoid this situation in the future; and

WHEREAS, Cincinnati City Council desires to provide payment for such charges in the amount of \$23,983; now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio:

Section 1. That the Finance Director is authorized to make a payment of \$23,983 from Water Works Fund non-personnel account number 101x303x3000x7278 in the name of Degree Lawn & Landscaping as a moral obligation of the City of Cincinnati, for payment of charges owed for services used by the Greater Cincinnati Water Works.

Section 2. That the proper City officials are authorized to do all things necessary and proper to carry out the provisions of Section 1 above.

Section 3. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the

terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to pay the vendor in a timely manner.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

August 2, 2021

To: Members of the Budget and Finance Committee 202102513

From: Paula Boggs Muething, City Manager

Subject: **Emergency Ordinance – APPROVING AND AUTHORIZING CRA TAX EXEMPTION AGREEMENT WITH BLEH PROPERTY HOLDINGS LLC**

Attached is an Emergency Ordinance captioned:

APPROVING AND AUTHORIZING the City Manager to execute a Community Reinvestment Area Tax Exemption Agreement with Bleh Property Holdings LLC, thereby authorizing a 10-year tax exemption for 100% of the value of improvements made to real property located at 33, 35, and 37 E. Court Street in the Central Business District of Cincinnati, in connection with the remodeling of the existing buildings into approximately 3,438 square feet of commercial space, at a total construction cost of approximately \$248,800.

BACKGROUND/CURRENT CONDITIONS

Avril Bleh currently operates out of the ground-floor commercial space at 33-35 E Court Street, and Cincinnati Center City Development Corporation (3CDC) owns 37 E Court Street in the Central Business District. 3CDC will exchange the commercial space of 37 E Court Street for the residential space above 33-35 E Court Street. 3CDC submitted a CRA application to DCED on behalf of Avril Bleh, which DCED reviewed and processed.

DEVELOPER INFORMATION

Avril Bleh Meat Market has been operating since 1894, and 3CDC will be serving as the development manager for this project. 3CDC is a non-profit organization that has invested over \$1.47 billion dollars in development in Downtown and Over-the-Rhine over the past 15 years. This investment has resulted in 300 apartment units, 534 condominiums, 156 hotel rooms, 320 shelter beds, 1,070,500 square feet of commercial space, and 4,925 parking spaces. They recently completed a similar condominium development on the north side of Court Street.

PROJECT DESCRIPTION

Once completed, this project will consist of 3,438 square feet of street-level commercial space at an aggregate cost of \$248,800. In connection with this project, it is estimated that 8 temporary construction jobs are created at a total annual payroll of \$296,640 and 3 full-time equivalent employees (FTEs) will be created at a total annual payroll of \$122,317.

This project is consistent with several of Plan Cincinnati’s goals including the City’s goal to remain competitive economically, and the City’s goal to be good stewards of its resources—both built and environmental.

PROPOSED INCENTIVE

DCED is recommending a 10-year, 100% (net-52%) CRA tax exemption for the commercial spaces of 33, 35, and 37 E Court Street.

The exemption applies only to the increase in value attributable to the project improvements. Pursuant to the Commercial CRA policy established by City Council, this project is located within the Streetcar VTICA Area and is therefore subject to analysis based on project underwriting, VTICA contribution, and job creation to determine abatement terms. Providing this project an incentive allows one of the City’s oldest businesses to remain in a rapidly changing Court Street business district. Increasing the number of commercial spaces along Court Street will result in a more vibrant street life contributing to the health, safety and welfare of the City.

SUMMARY	
Forgone Public Benefit if Project Does not Proceed	
CPS PILOT (<i>Forgone New Revenue</i>)	(\$14,081)
VTICA (<i>Forgone New Revenue</i>)	(\$6,400)
Income Tax (<i>Forgone New Revenue</i>)	(\$98,337)
Total Public Benefit Lost	(\$118,818)
Incentive Value	
Annual Net Incentive to Developer	\$2,219
Total Term Incentive to Developer	\$22,188
City's Portion of Property Taxes Forgone	\$5,996
Public Benefit	
CPS PILOT	
Annual CPS Pilot	\$1,408
Total Term CPS PILOT	\$14,081
VTICA	
Annual VTICA	\$640
Total Term VTICA	\$6,400
Income Tax (Max)	\$98,337
Total Public Benefit (CPS PILOT/VTICA /Income Tax)	\$118,818
Total Public Benefit ROI*	\$5.36
City's ROI*	\$19.82

*If the project were going to happen regardless of incentive, this is the return of real dollars for public benefits as potential future dollars are forgone

PROJECT TEAM & TIMELINE

The project team (listed below) will make themselves available at the request of the councilmember(s).

- Assistant City Manager: John Juech
- DCED Director: Markiea Carter
- Project Attorney: Samantha Brandenburg

The anticipated council timeline is as follows:

- August 2, 2021: Budget and Finance
- August 4, 2021: City Council for Final Approval

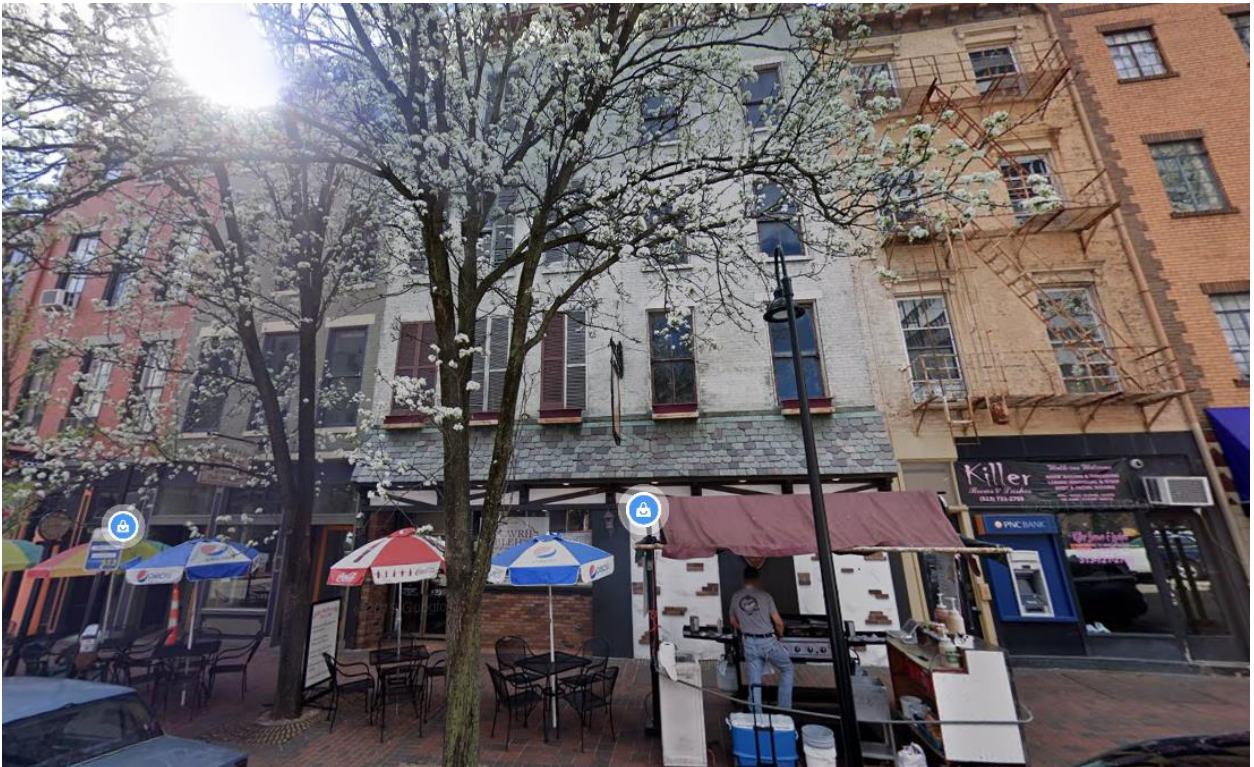
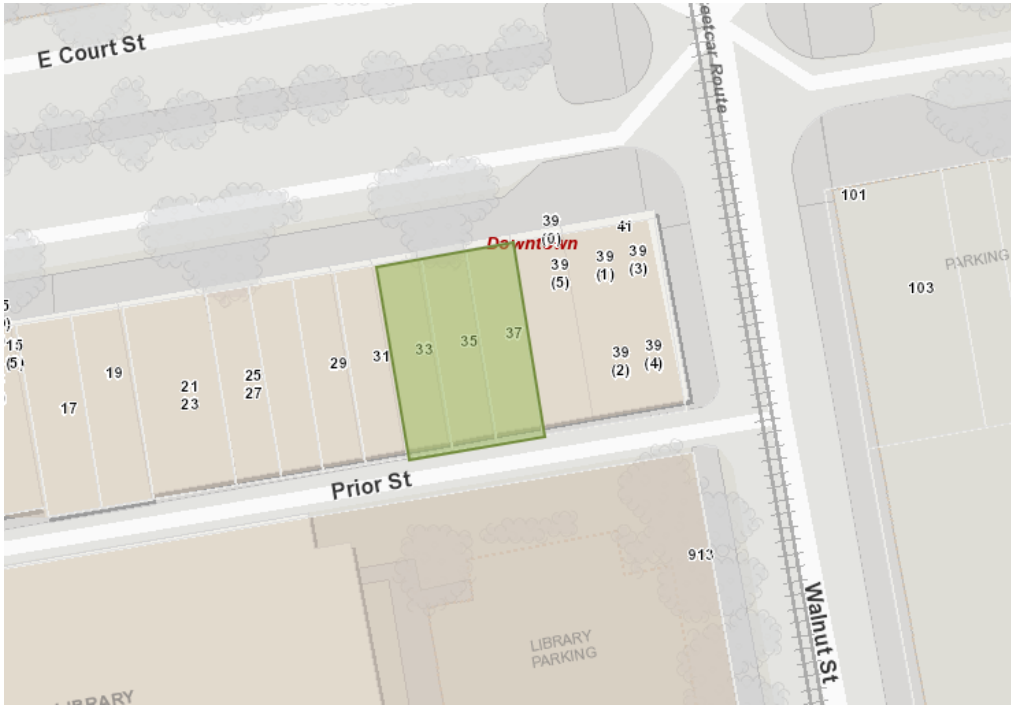
RECOMMENDATION

The Administration recommends approval of this Emergency Ordinance. The emergency clause is needed so that the project can meet its construction commencement deadlines.

Attachment: A. Property location and photographs

Copy: Markiea L. Carter, Director, Department of Community & Economic Development

Attachment A: Location and Photographs



EMERGENCY

City of Cincinnati

JML *AWB*

An Ordinance No. _____ - 2021

APPROVING AND AUTHORIZING the City Manager to execute a *Community Reinvestment Area Tax Exemption Agreement* with Bleh Property Holdings LLC, thereby authorizing a 10-year tax exemption for 100% of the value of improvements made to real property located at 33, 35, and 37 E. Court Street in the Central Business District of Cincinnati, in connection with the remodeling of the existing buildings into approximately 3,438 square feet of commercial space, at a total construction cost of approximately \$248,800.

WHEREAS, to encourage the development of real property and the acquisition of personal property, the Council of the City of Cincinnati by Ordinance No. 274-2017 passed on September 27, 2017, designated the area within the corporate boundaries of the City of Cincinnati as a “Community Reinvestment Area” pursuant to Ohio Revised Code (“ORC”) Sections 3735.65 through 3735.70 (the “Statute”); and

WHEREAS, Ordinance No. 275-2017 passed by this Council on September 27, 2017, as amended by Ordinance No. 339-2018, passed by this Council on October 31, 2018, sets forth certain additional policies, conditions and limitations regarding newly constructed or remodeled commercial and residential structures in the Community Reinvestment Area; and

WHEREAS, effective October 23, 2017, the Director of Development of the State of Ohio determined that the area within the corporate boundaries of the City of Cincinnati contains the characteristics set forth in the Statute and confirmed such area as a Community Reinvestment Area under the Statute; and

WHEREAS, Bleh Property Holdings LLC (the “Company”) desires to remodel existing buildings on real property at 33, 35, and 37 E. Court Street located within the corporate boundaries of the City of Cincinnati into approximately 3,438 square feet of commercial space (the “Improvements”), provided that the appropriate development incentives are available to support the economic viability of the Improvements; and

WHEREAS, to provide an appropriate development incentive for the Improvements, the City Manager has recommended a *Community Reinvestment Area Tax Exemption Agreement*, in substantially the form of Attachment A to this ordinance, to authorize a real property tax exemption for the Improvements in accordance with the Statute; and

WHEREAS, the property is located within the Cincinnati City School District; and

WHEREAS, the Board of Education of the Cincinnati City School District (the “Board of Education”), pursuant to that certain *Tax Incentive Agreement* effective as of April 28, 2020 (as may be amended, the “Board of Education Agreement”), has approved exemptions of up to 100% of Community Reinvestment Area projects, waived advance notice and the right to review

such projects, and waived sharing or allocation of municipal income taxes in connection with such projects; and

WHEREAS, pursuant to the Board of Education Agreement, the Company has entered into (or will enter into) an agreement with the Board of Education requiring the Company to pay the Board of Education amounts equal to 33% of the exempt real property taxes; and

WHEREAS, the Company has represented that it has entered into (or will enter into) a voluntary tax incentive contribution agreement with a third-party organization for amounts equal to 15% of the exempt real property taxes, which funds shall be committed by the third-party organization to pay for streetcar operations that specially benefit the property; and

WHEREAS, the Improvements do not involve relocation of part or all of the Company's operations from another county or municipal corporation in Ohio or, if there is relocation, notice has been given per ORC Section 3735.673; now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio:

Section 1. That Council approves a *Community Reinvestment Area Tax Exemption Agreement* with Bleh Property Holdings LLC (the "Agreement"), thereby authorizing a 10-year tax exemption for 100% of the assessed value of improvements to be made to real property located at 33, 35, and 37 E. Court Street in Cincinnati, as calculated by the Hamilton County Auditor, in connection with the remodeling of the existing buildings into approximately 3,438 square feet of commercial space, to be completed at a total construction cost of approximately \$248,800.

Section 2. That Council authorizes the City Manager:

- (i) to execute the Agreement on behalf of the City in substantially the form of Attachment A to this ordinance; and
- (ii) to forward on behalf of Council a copy of the Agreement, within fifteen (15) days after execution, to the Director of the Ohio Development Services Agency in accordance with Ohio Revised Code Section 3735.671(F); and
- (iii) to submit on behalf of Council annual reports on the Agreement to the Director of the Ohio Development Services Agency and to the Board of Education of the Cincinnati City School District, in accordance with Ohio Revised Code Section 3735.672; and

- (iv) to take all necessary and proper actions to fulfill the City's obligations under the Agreement.

Section 3. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to allow the remodeling described in this ordinance and the corresponding revitalization of the City of Cincinnati and the benefits to the City's economic welfare to begin at the earliest possible time.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

Attachment A to Ordinance

CRA Tax Exemption Agreement

SEE ATTACHED

Community Reinvestment Area Tax Exemption Agreement

This Community Reinvestment Area Tax Exemption Agreement (this "Agreement") is made and entered into as of the Effective Date (as defined on the signature page hereof) by and between the CITY OF CINCINNATI, an Ohio municipal corporation (the "City"), and BLEH PROPERTY HOLDINGS LLC, an Ohio limited liability company (the "Company").

Recitals:

- A. The City, through the adoption of Ordinance No. 274-2017 on September 27, 2017, designated the entire City of Cincinnati as a Community Reinvestment Area to encourage the development of real property and the acquisition of personal property in that area, pursuant to Ohio Revised Code Sections 3735.65 through 3735.70 (the "Statute").
- B. In accordance with the Statute, the Ohio Director of Development has forwarded to the City the Director's determination dated October 23, 2017, stating that the findings contained in Ordinance No. 274-2017 are valid and that the entire City is a Community Reinvestment Area under the Statute. By such determination, the Director of Development of the State of Ohio determined that the area within the corporate boundaries of the City of Cincinnati contains the characteristics set forth in the Statute and confirmed such area as a Community Reinvestment Area under the Statute.
- C. The Council of the City of Cincinnati has also passed Ordinance No. 275-2017 as of September 27, 2017, as amended by Ordinance No. 339-2018 passed on October 31, 2018 (the "Commercial Policy Ordinance"), which sets forth certain additional policies, conditions and limitations regarding newly constructed or remodeled commercial and residential structures in the Community Reinvestment Area.
- D. The Company is the sole owner of certain real property within the City, located at 33, 35, and 37 E. Court Street, Cincinnati, Ohio 45202 (the "Property"), as further described in Exhibit A (Legal Description of Property) hereto. Notwithstanding the foregoing, the Property shall not include any residential condominiums being developed in connection with the Project (as defined below) (the "Excluded Property"), and the Company acknowledges and agrees that the City's Community Reinvestment Area program entails separate applications by the owner of any residential condominium units included within the Project. For the avoidance of doubt, the Excluded Property shall not be exempt under this Agreement; however, this provision shall not be deemed to prohibit any owners from time to time of any Excluded Property from separately applying for a tax abatement in accordance with applicable law.
- E. The Company has proposed to remodel the buildings located on the Property, within the boundaries of the City of Cincinnati, as more fully described in Section 1 herein (the "Project"), provided that the appropriate development incentives are available to support the economic viability of the Project.
- F. The Statute provides that if any part of a project is to be used for commercial or industrial purposes, including projects containing four or more dwelling units, in order to be eligible for tax exemption the City and the Company must enter into an agreement pursuant to Ohio Revised Code Section 3735.671 prior to commencement of construction or remodeling.
- G. The City, having appropriate authority under the Statute for this type of project, agrees (as provided herein and subject to all conditions herein) to provide the Company with the tax exemption incentives stated herein, available under the Statute, for development of the Project.
- H. The Company has submitted to the City an application for this tax exemption agreement (the "Application"), a copy of which is attached hereto as Exhibit B, has remitted with the Application (i) the City application fee of One Thousand Two Hundred Fifty Dollars (\$1,250) made payable to

the City and (ii) in accordance with Ohio Revised Code Section 3735.672(C), the state application fee of Seven Hundred Fifty Dollars (\$750) made payable to the Ohio Development Services Agency ("ODSA"), to be forwarded to the ODSA with an executed copy of this Agreement.

- I. The Director of the City's Department of Community and Economic Development has recommended approval of the Application on the basis that the Company is qualified by financial responsibility and business experience to create and preserve employment opportunities and improve the economic climate of the City.
- J. The Board of Education of the Cincinnati City School District (the "Board of Education"), pursuant to that certain *Tax Incentive Agreement* effective as of April 28, 2020, has approved exemptions of up to one hundred percent (100%) of Community Reinvestment Area projects, waived advance notice and right to review such projects, and waived sharing or allocation of municipal income taxes in connection with such projects.
- K. The Company has entered into (or will enter into) an agreement with the Board of Education requiring the Company to pay the Board of Education amounts equal to thirty-three percent (33%) of the full amount of exempt real property taxes that would have been paid to Hamilton County if this Agreement were not in effect (the "Board of Education Agreement").
- L. The Company represents and warrants to the City that the Company and its major tenants, if any, do not intend to relocate part or all of their operations to the City from another county or municipal corporation in the State of Ohio (the "State").
- M. The Company represents that within the past five (5) years neither the Company, any related member of the Company, nor any entity to which the Company is a successor has discontinued operations at a project site in the State during the term of a property tax exemption agreement (under Ohio Revised Code Section 3735.671, 5709.62, 5709.63 or 5709.632) applicable to that site, and the Company acknowledges that misrepresentation hereunder will result in voiding of this Agreement.
- N. The Company represents and warrants to the City that the Company is not subject to an Enterprise Zone Agreement with the City of Cincinnati for the Property or the Project.
- O. City Council passed (i) Motion No. 201401368 on November 19, 2014, establishing a tax incentive policy that incentivizes each applicant for a real property tax abatement in the neighborhoods of Downtown and OTR to enter into a voluntary tax incentive contribution agreement with a third-party organization ("VTICA") for an amount equal to a percentage of the real property taxes that would have been payable on the abated property but for the City-authorized tax abatement (the "VTICA Contribution"), which funds shall be committed by a third-party organization to pay for streetcar operations that specially benefit the abated property, and (ii) Motion No. 201501592 on December 16, 2015, which established that the VTICA Contribution to be recognized by the Director of the Department of Community and Economic Development is 15% of the real property taxes that would have been payable on the abated property but for the City-authorized tax abatement. The Commercial Policy Ordinance confirmed that such motions have not been superseded and remain the will of Council.
- P. The Company acknowledges that Streetcar operations in the Central Business District and Over-the-Rhine will specially benefit the Project due to (a) the Streetcar's enhancement of public transit options in such neighborhoods and (b) the anticipated increase in property values attributable to public investment in Streetcar infrastructure.
- Q. The Company represents and warrants to the City that the Company has entered or will enter into a VTICA and shall pay the VTICA Contribution each year for the full term of the abatement.

- R. This Agreement has been authorized by Ordinance No. _____-2021, passed by Cincinnati City Council on _____, 2021.
- S. In determining to recommend and authorize this Agreement, the Department of Community and Economic Development and City Council, respectively, have acted in material reliance on the Company's representations in the Application and herein regarding the Project including, but not limited to, representations relating to the number of jobs to be created and/or retained by the Company, the Board of Education Agreement, the VTICA Contribution, and the Project's effect in promoting the general welfare of the people of Cincinnati by, for example, encouraging the development of real property located in the Community Reinvestment Area and thereby promoting economic growth and vitality in Cincinnati.

NOW, THEREFORE, pursuant to Ohio Revised Code Section 3735.67(A) and in conformity with the format required under Ohio Revised Code Section 3735.671, in consideration of the mutual covenants contained herein and the benefit to be derived by the parties from the execution hereof, the parties agree as follows:

Section 1. Project. Upon issuance of the necessary zoning and building approvals, the Company agrees to remodel the existing buildings into 3,438 square feet of commercial space on the Property (the "Improvements") at an estimated aggregate cost of \$248,800 to commence after the execution of this Agreement and to be completed no later than October 31, 2022; *provided*, however, that the Director of the Department of Community and Economic Development (the "Housing Officer") may, in their discretion, extend such deadline for a period of up to 12 months by written notice if, in the Director's judgment, the Company is proceeding in good faith towards completion. The remodeling shall be in compliance with applicable building code requirements and zoning regulations. In addition to the foregoing, (A) the Project shall comply with the Americans with Disabilities Act, together with any and all regulations or other binding directives promulgated pursuant thereto (collectively, the "**ADA**"), and (B) if (i) any building(s) within the Project is subject to the accessibility requirements of the ADA (e.g., by constituting a "place of public accommodation" or another category of structure to which the ADA is applicable) and (ii) such building(s) is not already required to meet the Contractual Minimum Accessibility Requirements (as defined below) pursuant to the ADA, applicable building code requirements, or by any other legal requirement, then the Company shall cause such building(s) to comply with the Contractual Minimum Accessibility Requirements in addition to any requirements pursuant to the ADA and the applicable building code or legal requirement. As used herein, "**Contractual Minimum Accessibility Requirements**" means that a building shall, at a minimum, include (1) at least one point of entry (as used in the ADA), accessible from a public right of way, with respect to which all architectural barriers (as used in the ADA) to entry have been eliminated, and (2) if such accessible point of entry is not a building's primary point of entry, conspicuous signage directing persons to such accessible point of entry.

Section 2. Real Property Tax Exemption. Subject to the satisfaction of the conditions set forth in this Agreement, the City approves exemption from real property taxation, pursuant to and to the fullest extent authorized by the Statute, of one hundred percent (100%) of the amount by which the Improvements increase the assessed value of the Property as determined by the Hamilton County Auditor, for a period of ten (10) years, provided that the Company shall have entered into the Board of Education Agreement. Within 120 days after completion of the Project (unless otherwise extended in writing by the City's Housing Officer), the Company must file the appropriate application for tax exemption with the City's Housing Officer. The Company is solely responsible to take this action. Upon receipt of the application for tax exemption, the City will proceed with the exemption authorized by this Agreement. In accordance with Ohio Revised Code Section 3735.67, the exemption is conditioned on verification by the Housing Officer of (A) the completion of remodeling, (B) the cost of remodeling, (C) the facts asserted in the application for exemption and (D) if a remodeled structure is a structure of historical or architectural significance as designated by the City, state or federal government, that the appropriateness of the remodeling has been certified in writing by the appropriate agency. If the required verification is made, the Housing Officer will forward the exemption application to the Hamilton County Auditor with the necessary certification by the Housing Officer. Subject to the conditions set forth in this Agreement, the exemption commences the first tax year for which the Improvements would first be taxable were the Improvements

not exempted from taxation. The dates provided in this paragraph refer to tax years in which the subject property is assessed, as opposed to years in which taxes are billed. No exemption shall commence after tax year 2022 nor extend beyond the earlier of (i) tax year 2031 or (ii) the end of the tenth (10th) year of exemption.

Section 3. Use; Maintenance; Inspections. The Company shall use the Property solely for the purposes described in Section 1 hereof and shall properly maintain and repair the Property throughout the period of tax exemption authorized herein. The Company authorizes the Housing Officer, or the Housing Officer's designees, to enter upon the Property as reasonably required to perform property inspections in accordance with Ohio Revised Code Section 3735.68.

Section 4. Compliance with Board of Education Agreement. As a condition of the tax exemption authorized under this Agreement, the Company agrees to enter into and comply with its obligation under the Board of Education Agreement.

Section 5. Duty of Company to Pay Taxes. As required by Ohio Revised Code Section 3735.671(C)(2), the Company shall pay such real property taxes as are not exempted under this Agreement and are charged against the Property and shall file all tax reports and returns as required by law. If the Company fails to pay such taxes or file such returns and reports, exemptions from taxation granted or authorized under this Agreement are rescinded beginning with the year for which such taxes are charged or such reports or returns are required to be filed and continuing thereafter.

Section 6. Company Certifications Regarding Non-Delinquency of Tax Obligations. As required by Ohio Revised Code Section 3735.671(C)(3), the Company certifies that at the time this Agreement is executed, the Company does not owe any delinquent real or tangible personal property taxes to any taxing authority of the State, and does not owe delinquent taxes for which the Company is liable under Ohio Revised Code Chapters 5733, 5735, 5739, 5741, 5743, 5747 or 5753, or if such delinquent taxes are owed, the Company currently is paying the delinquent taxes pursuant to an undertaking enforceable by the State or an agent or instrumentality thereof, has filed a petition in bankruptcy under 101, et seq., or such a petition has been filed against the Company. For the purposes of this certification, delinquent taxes are taxes that remain unpaid on the latest day prescribed for payment without penalty under the chapter of the Ohio Revised Code governing payment of those taxes.

Section 7. Covenant of Satisfaction of Tax and Other Obligations. In accordance with Ohio Revised Code Section 9.66, (A) the Company affirmatively covenants that it does not owe: (i) any delinquent taxes to the State or to a political subdivision of the State; (ii) any moneys to the State or a State agency for the administration or enforcement of any environmental laws of the State; or (iii) any other moneys to the State, a State agency or a political subdivision of the State that are past due, regardless of whether the amounts owed are being contested in a court of law or not; (B) the Company authorizes the City and/or the State to inspect the personal financial statements of the Company, including tax records and other similar information not ordinarily open to public inspection; and (C) the Company authorizes the Ohio Environmental Protection Agency and the Ohio Department of Taxation to release information to the City and or other State departments in connection with the above statements. As provided by statute, a knowingly false statement under this section may be prosecuted as a first degree misdemeanor under Ohio Revised Code Section 2921.13, may render the Company ineligible for any future economic development assistance from the State or any political subdivision of the State, and will result in the City requiring the Company's repayment of any assistance provided by the City in connection with the Project.

Section 8. City Cooperation. As required by Ohio Revised Code Section 3735.671(C)(4), upon specific request from the Company, the City shall perform such acts as are reasonably necessary or appropriate to effect, claim, reserve and maintain exemptions from taxation granted under this Agreement including, without limitation, joining in the execution of all documentation and providing any necessary certificates required in connection with such exemptions.

Section 9. Continuation of Exemptions. As provided in Ohio Revised Code Section 3735.671(C)(5), if for any reason the City revokes the designation of the City of Cincinnati as a Community Reinvestment Area, entitlements granted under this Agreement shall continue for the number of years specified under this Agreement, unless the Company materially fails to fulfill its obligations under this Agreement and the City terminates or modifies the exemptions from taxation authorized pursuant to this Agreement.

Section 10. City Not Liable. The Company acknowledges that the exemption authorized in this Agreement is subject to approval and implementation by the appropriate state and/or county taxing authorities. The Company acknowledges that the City does not give any guarantee or assurance that the exemption approved in this Agreement will be so approved, and the Company agrees that in no event shall the Company seek to hold the City liable in any way in the event such exemption is not granted or implemented.

Section 11. Small Business Enterprise Program.¹

A. Compliance with Small Business Enterprise Program. The policy of the City is that a fair share of contracts be awarded to Small Business Enterprises (as such term is defined in Cincinnati Municipal Code (“CMC”) Section 323-1-S, “SBEs”). Pursuant to CMC Section 323-11, the City’s annual goal for SBE participation shall be thirty percent (30%) of the City’s total dollars spent for construction (as such term is defined in CMC Section 323-1-C4), supplies (as such term is defined in CMC Section 323-1-S5), services (as such term is defined in CMC Section 323-1-S) and professional services (as such term is defined in CMC Section 323-1-P2). Accordingly, the Company shall use its best efforts and take affirmative steps to achieve the City’s goal of voluntarily meeting thirty percent (30%) SBE participation. A list of SBEs may be obtained from the City’s Department of Economic Inclusion. The Company may refer interested firms to the City’s Department of Economic Inclusion for review and possible certification as an SBE. The Company shall comply with the provisions of CMC Chapter 323, including without limitation taking at least the following affirmative steps:

- (i) Including qualified SBEs on solicitation lists.
- (ii) Assuring that SBEs are solicited whenever they are potential sources.

The Company must advertise, on at least two separate occasions, both in local minority publications and in other local newspapers of general circulation, invitations to SBEs to provide services, to supply materials, or to bid on construction contracts, as applicable.

(iii) When economically feasible, dividing total requirements into small tasks or quantities so as to permit maximum SBE participation.

(iv) If any subcontracts are to be let, the Company shall require the prime contractor (if different from the Company) to take the above affirmative steps.

(v) Prior to the commencement of work under any subcontracts, the Company shall provide to the City a list of such subcontractors, including information as to the dollar amount of the subcontracts and such other information as may be requested by the City. The Company shall update the report monthly.

(vi) The Company shall periodically document its best efforts and affirmative steps to meet the above SBE participation goals by submitting such information as may be requested from time to time by the City.

B. Remedies for Noncompliance with Small Business Enterprise Program. Failure of the Company or its contractors and subcontractors to take the affirmative steps specified above, to provide fair and equal opportunity to SBEs, or to provide technical assistance to SBEs as may be necessary to reach SBE participation as set out in CMC Chapter 323 may be construed by the City as failure of the Company to use its best efforts, and, in addition to other remedies under this Agreement, may be a cause for the City to file suit in Common Pleas Court to

¹ Note: this section will be revised prior to execution due to programmatic changes being implemented by the Department of Community and Economic Development as a result of recent legislation passed by City Council.

enforce specific performance of the terms of this Section. The provisions of CMC Section 323-99 are hereby incorporated by reference into this Agreement.

Section 12. Jobs. The Company represents that, as of the date of the execution of this Agreement, the Company has (i) 8 full-time equivalent employees at the Property with a total annual payroll of \$326,179.93 (the "Retained Jobs"), and (ii) no existing employment at any other locations in the State.

Section 13. Job Creation and Retention.

A. Jobs to be Retained by Company. The Company agrees to use its best efforts to retain the Retained Jobs in connection with the Project.

B. Jobs to be Created by Company. The Company agrees to use its best efforts to create (i) 3 full-time permanent jobs and (ii) 8 full-time temporary construction jobs at the Property in connection with the Project. In the case of the construction jobs, the job creation and retention period shall be concurrent with remodeling, and in the case of the other jobs described herein, the job creation period shall begin upon completion of remodeling and shall end three (3) years thereafter.

C. Company's Estimated Payroll Increase. The Company's increase in the number of employees will result in approximately (i) \$122,317.47 of additional annual payroll with respect to the full-time permanent jobs and (ii) \$296,640 of additional annual payroll prior to the completion of the Project with respect to the full-time temporary construction jobs.

D. Community Reinvestment Area Employment. The Company shall (i) adopt hiring practices to ensure that at least twenty-five percent (25%) of the new employees shall be residents of the City of Cincinnati and (ii) give preference to residents of the City relative to residents of the State who do not reside in the City when hiring new employees under this Agreement.

E. Posting Available Employment Opportunities. To the extent allowable by law, the Company shall use its best efforts to post available employment opportunities within the Company's organization or the organization of any subcontractor working with the Company with the Ohio Means Jobs Center, 1916 Central Parkway, Cincinnati, Ohio 45214-2305, through its Employer Services Unit Manager at 513-746-7200.

Section 14. Equal Employment Opportunity. This Agreement is subject to the City's Equal Employment Opportunity Program contained in CMC Chapter 325. The Equal Employment Opportunity Clause in CMC Section 325-9 is incorporated by reference in this Agreement. The term "Company" is substituted for "Contractor" throughout CMC Section 325-9 in the context of this Agreement.

Section 15. Compliance with Immigration and Nationality Act. In the performance of its obligations under this Agreement, the Company agrees to comply with the provisions of the Immigration and Nationality Act codified at 8 U.S.C. §§ 1324a(a)(1)(A) and (a)(2). Any noncompliance with such provisions shall be solely determined by either the federal agencies authorized to enforce the Immigration and Nationality Act or the U.S. Attorney General, in accordance with Executive Order 12989 of the U.S. President dated February 13, 1996, and as amended by Executive Order 13465 of the U.S. President dated June 6, 2008.

Section 16. Default. As provided in Ohio Revised Code Section 3735.671(C)(6), if the Company materially fails to fulfill its obligations under this Agreement, or if the City determines that the certification as to delinquent taxes required by this Agreement (Section 6 hereof) or the covenant of satisfaction of tax and other obligations (Section 7 hereof) is fraudulent, the City may terminate or modify the exemptions from taxation granted or authorized under this Agreement and may require the repayment by the Company of the amount of taxes that would have been payable had the Improvements not been

exempted from taxation pursuant to this Agreement. A modification of exemption may be in the form of reduction in the number of years that eligible property is exempt and/or a reduction in the exemption percentage. The City shall provide written notice to the Company prior to finding the Company in default under this section. The notice shall provide the Company with not less than thirty (30) days to cure the default prior to City termination or modification of the exemptions under this Agreement. The City may extend the cure period as reasonably necessary under the circumstances. In the event of such termination or modification, the City is authorized to so notify the appropriate taxing authorities in order to effect the termination or modification. If repayment of previously exempt taxes is required by the City under this Section, such amount shall be paid as directed by the City within thirty (30) days of written demand. The City may secure repayment of such taxes by a lien on the Property in the amount required to be repaid. Such a lien shall attach, and may be perfected, collected, and enforced, in the same manner as a mortgage lien on real property, and shall otherwise have the same force and effect as a mortgage lien on real property. Amounts due and not paid when due under this Section 16 shall bear interest at the rate specified in Ohio Revised Code Section 1343.03(A) (as in effect on the date of the City's payment demand).

Section 17. Annual Review and Report. As required by Ohio Revised Code Sections 3735.671(C)(7) and 5709.85, the Company shall provide to the City's Tax Incentive Review Council (or to the City Manager if so requested by the City) any information reasonably required by the Council or the City Manager to evaluate the Company's compliance with this Agreement, including returns filed pursuant to Ohio Revised Code Section 5711.02 if requested by the Council or City Manager. The performance of the Company's obligations stated in this Agreement shall be subject to annual review by the City's Tax Incentive Review Council (the "Annual Review and Report"). The Company shall submit information for the Annual Review and Report to the City no later than March 1 of each year.

Section 18. Revocation.

A. Generally. Pursuant to Ohio Revised Code Section 3735.68, the housing officer shall make annual inspections of the properties within the community reinvestment area upon which are located structures or remodeling for which an exemption has been granted under Ohio Revised Code Section 3735.67. If the housing officer finds that the property has not been properly maintained or repaired due to the neglect of the Company, the housing officer may revoke the exemption at any time after the first year of exemption. If the Company has materially failed to fulfill its obligations under this Agreement, or if the owner is determined to have violated division (E) of that section (see Section 18(B) of this Agreement), City Council, subject to the terms of the agreement, may revoke the exemption at any time after the first year of exemption. The housing officer or City Council shall notify the county auditor and the Company that the tax exemption no longer applies. If the housing officer or legislative authority revokes a tax exemption, the housing officer shall send a report of the revocation to the community reinvestment area housing council and to the tax incentive review council established pursuant to section 3735.69 or 5709.85 of the Revised Code, containing a statement of the findings as to the maintenance and repair of the property, failure to fulfill obligations under the written agreement, or violation of division (E) of Ohio Revised Code Section 3735.671, and the reason for revoking the exemption.

B. Prior Statutory Violations. The Company represents and warrants to the City that it is not prohibited by Ohio Revised Code Section 3735.671(E) from entering into this Agreement. As required by Ohio Revised Code Section 3735.671(C)(9), exemptions from taxation granted or authorized under this Agreement shall be revoked if it is determined that the Company, any successor to the Company or any related member (as those terms are defined in division (E) of Ohio Revised Code Section 3735.671) has violated the prohibition against entering into this Agreement under division (E) of Ohio Revised Code Section 3735.671 or under Ohio Revised Code Sections 5709.62 or 5709.63 prior to the time prescribed by that division or either of those sections.

Section 19. False Statements; Penalties; Material Representations.

A. Generally. As required in connection with Ohio Revised Code Section 9.66(C), the Company affirmatively covenants that it has made no false statements to the State or the City in the process of obtaining approval for this Agreement. If any representative of the Company has knowingly made a false statement to the State or the City to obtain approval for this Agreement, or if the Company fails to provide any information expressly required under the Application, the Company shall be required to immediately return all benefits received under this Agreement (by payment of the amount of taxes exempted hereunder, paid as directed by the City within thirty (30) days of written demand) and the Company shall be ineligible for any future economic development assistance from the State, any State agency or any political subdivision of the State pursuant to Ohio Revised Code Section 9.66(C)(1). Amounts due and not paid under this Section 19 shall bear interest at the rate of twelve percent (12%) per year. Any person who provides a false statement to secure economic development assistance (as defined in Ohio Revised Code Section 9.66) may be guilty of falsification, a misdemeanor of the first degree, pursuant to Ohio Revised Code Section 2921.13(F)(1), which is punishable by fine of not more than One Thousand Dollars (\$1,000) and/or a term of imprisonment of not more than six (6) months.

B. Material Representations – Board of Education Agreement and VTICA. The Parties acknowledge and agree that a material failure by the Company to comply with its representations concerning the Board of Education Agreement or VTICA Contribution shall constitute an event of default for purposes of Section 16 (*Default*) and the basis for revocation under Section 18 (*Revocation*). Subject to the terms of the VTICA, if the VTICA is unenforceable for reasons of infeasibility or otherwise, the Company shall enter into alternative arrangements providing for the economic equivalent of the VTICA Contribution in order to support streetcar operations. Such arrangements may include, but are not limited to, providing for the economic equivalent of the VTICA Contribution through formation of a special improvement district. For purposes of this Section 19.B, alternative arrangements must result in services substantially similar to those that would have been supported through the VTICA and at a value that is the economic equivalent of the VTICA Contribution, which value shall not be required to exceed the VTICA Contribution amount that would have been payable by the Company. Any determination of infeasibility or mechanism for providing alternative arrangements is subject to approval by the City at its sole discretion. Nothing in this Section 19.B shall operate to limit the City's enforcement authority under this Agreement including, without limitation, Section 16, Section 18, and Section 19.A.

Section 20. Conflict of Interest. The Company covenants that, to the Company's knowledge, no employee of the City has any personal interest, direct or indirect, in any matters pertaining to the Project, and the Company agrees to take appropriate steps to prevent any employee of the City from obtaining any such interest throughout the term of this Agreement.

Section 21. Annual Fee. As authorized by Ohio Revised Code Section 3735.671(D), the Company shall pay an annual fee of Five Hundred Dollars (\$500) or one percent (1%) of the annual taxes exempted under this Agreement, whichever is greater, but not to exceed Two Thousand, Five Hundred Dollars (\$2,500) per annum. This fee is due with submission of the information for Annual Review and Report by March 1 of each year.

Section 22. Discontinued Operations. As provided in Ohio Revised Code Section 3735.671(E), if, prior to the expiration of the term of this Agreement, the Company discontinues operations at the Project so that the Property is no longer being used for the purposes described in Section 1 hereof, then the Company, its successors, and any related member shall not enter into an agreement under Ohio Revised Code Sections 3735.671, 5709.62, 5709.63 or 5709.632, and no legislative authority shall enter into such an agreement with the Company, its successors or any related member prior to the expiration of five (5) years after the discontinuation of operations. As used in this Section 22, "successors" and "related member" shall have the meanings set forth in Ohio Revised Code Section 3735.671(E).

Section 23. Notices. Unless otherwise specified herein, each party shall address written notices, demands and communications in connection with this Agreement to the other party as follows (or to such other address as is communicated in accordance with this Section):

To the City:

City of Cincinnati
Attention: Director of the Department of Community and Economic Development
Centennial Plaza Two, Suite 700
805 Central Avenue
Cincinnati, Ohio 45202

To the Company:

Bleh Property Holdings LLC
3042 Fiddlers Ridge Drive
Cincinnati, Ohio 45248
Attention: Leonard Bleh

With a copy to:

Cincinnati Center City Development Corporation
1203 Walnut Street, Fourth Floor
Cincinnati, Ohio 45202
Attention: Sara Bedinghaus

If the Company sends a notice to the City alleging that the City is in default under this Agreement, the Company shall simultaneously send a copy of such notice to: City Solicitor, City of Cincinnati, 801 Plum Street, Room 214, Cincinnati, OH 45202.

Section 24. Acknowledgment of City Participation. The Company agrees to acknowledge the support of the City on construction signs, project and exhibition signage, and any publicity such as that appearing on the internet, television, cable television, radio, or in the press or any other printed media. In identifying the City as a Project partner, the Company shall use either the phrase "Project Assistance by the City of Cincinnati" or a City of Cincinnati logotype or other form of acknowledgement that has been approved in advance in writing by the City.

Section 25. Entire Agreement. This Agreement and the Exhibits attached hereto constitute the entire agreement between the City and the Company with respect to the subject matter herein, superseding any prior or contemporaneous agreement with respect thereto.

Section 26. Governing Law. This Agreement is entered into and is to be performed in the State. The City and the Company agree that the law of the State of Ohio shall govern the rights, obligations, duties and liabilities of the parties to this Agreement and shall govern the interpretation of this Agreement.

Section 27. Waiver. The City's waiver of any breach by the Company of any provision of this Agreement shall not constitute or operate as a waiver by the City of any other breach of such provision or of any other provisions, nor shall any failure or delay by the City to enforce any provision hereof operate as a waiver of such provision or of any other provision.

Section 28. Severability. This Agreement shall be severable; if any part or parts of this Agreement shall for any reason be held invalid or unenforceable by a court of competent jurisdiction, all remaining parts shall remain binding and in full force and effect.

Section 29. Amendment. This Agreement may be modified or amended only by a written agreement duly executed by the parties hereto or their representatives.

Section 30. Non-Assignment. As required by Ohio Revised Code Section 3735.671(C)(8), this Agreement is not transferable or assignable by the Company without the express written approval of the City Manager of the City. If the Company has entered into a Board of Education Agreement or VTICA in connection with the Property, the City shall not approve the assignment of this Agreement unless the assignee has assumed the Company's remaining obligations under the Board of Education Agreement and VTICA, as applicable. Failure to assign or otherwise perform the Company's obligations under the Board of Education Agreement or VTICA upon transfer of the Property during the term of the tax abatement authorized by this Agreement shall be basis for revocation of the tax exemption under Section 18.

Section 31. Recording. At its election, the City may record this Agreement at the City's expense in the Hamilton County Recorder's Office.

Section 32. Legislative Action Required. As provided in Ohio Revised Code Section 3735.671(C)(10), the Company and the City acknowledge that this Agreement must be approved by formal action of the City Council of the City as a condition for this Agreement to take effect. Notwithstanding anything to the contrary herein, this Agreement shall take effect after the later of the date of such approval or the final date of execution of this Agreement by all parties.

Section 33. Additional Representations and Warranties of Company. The Company represents and warrants that (a) it is duly organized and existing and it has full power and authority to take, and has taken, all action necessary to execute and deliver this Agreement and any other documents required or permitted to be executed or delivered by it in connection with this Agreement, and to fulfill its obligations hereunder; (b) no notices to, or consents, authorizations or approvals of, any person are required (other than any already given or obtained) for its due execution, delivery and performance of this Agreement; and (c) this Agreement has been duly executed and delivered by it and constitutes the legal, valid and binding obligation of the Company.

Section 34. Certification as to Non-Debarment. The Company represents that neither it nor any of its principals is presently debarred by any federal, state, or local government agency. In completing the Project, the Company shall not solicit bids from any contractors or subcontractors who are identified as being debarred by any federal, state, or local government agency. If the Company or any of its principals becomes debarred by any federal, state, or local government agency during the term of this Agreement, the company shall be considered in default under this Agreement.

Section 35. Appeals. Pursuant to Ohio Revised Code Section 3735.70, a person aggrieved under the Statute or this Agreement may appeal to the community reinvestment area housing council, which shall have the authority to overrule any decision of a housing officer. Appeals may be taken from a decision of the council to the court of common pleas of the county where the area is located.

Section 36. Wage Enforcement.

(i) Applicability. Council passed Ordinance No. 22-2016 on February 3, 2016, which ordained Chapter 326 (Wage Enforcement) of the Cincinnati Municipal Code (the "Wage Enforcement Chapter"). The Wage Enforcement Chapter was then amended by Ordinance No. 96-2017, passed May 17, 2017. As amended, the Wage Enforcement Chapter imposes certain requirements upon persons entering into agreements with the City whereby the City provides an incentive or benefit that is projected to exceed \$25,000, as described more particularly in the Wage Enforcement Chapter. Cincinnati Municipal Code Section 326-5 requires that the language below be included in contracts subject to the Wage Enforcement Chapter.

(ii) Required Contractual Language. Capitalized terms used, but not defined, in this clause (ii) have the meanings ascribed thereto in the Wage Enforcement Chapter.

(a) This contract is or may be subject to the Wage Enforcement provisions of the Cincinnati Municipal Code. These provisions require that any Person who has an Agreement with the city or with a Contractor or Subcontractor of that Person shall report all Complaints or Adverse Determinations of Wage Theft and Payroll Fraud (as each of those terms is defined in Chapter 326 of the Cincinnati Municipal Code) against the Contractor or Subcontractors to the Department of Economic Inclusion within 30 days of notification of the Complaint or Adverse Determination.

(b) If this contract is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this contract is required to include provisions in solicitations and contracts regarding a Development Site that all employers, Contractors or Subcontractors performing or proposing to perform work on a Development Site provide an initial sworn and notarized "Affidavit Regarding Wage Theft and Payroll Fraud" on a form prescribed by the city manager or his or her designee and, within 30 days of an Adverse Determination or Complaint of Wage Theft or Payroll Fraud, shall provide an "Amended Affidavit Regarding Wage Theft and Payroll Fraud" on a form prescribed by the city manager or his or her designee.

(c) If this contract is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this contract is required to authorize, and does hereby specifically authorize, any local, state or federal agency, court, administrative body or other entity investigating a complaint of Wage Theft or Payroll Fraud against the Person (collectively "investigative bodies") to release to the City's Department of Economic Inclusion any and all evidence, findings, complaints and determinations associated with the allegations of Wage Theft or Payroll Fraud upon the City's request and further authorizes such investigative bodies to keep the City advised regarding the status of the investigation and ultimate determination. If the investigative bodies require the Person to provide additional authorization on a prescribed form or in another manner, the Person shall be required to provide such additional authorization within 14 days of a request by the City.

(d) If this Agreement is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this Agreement shall include in its contracts with all Contractors language that requires the Contractors to provide the authorizations set forth in subsection (c) above and that further requires each Contractor to include in its contracts with Subcontractors those same obligations for each Subcontractor and each lower tier subcontractor.

(e) If this Agreement is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this Agreement shall post a conspicuous notice on the Development Site throughout the entire period work is being performed pursuant to the Agreement indicating that the work being performed is subject to Cincinnati Municipal Code Chapter 326, Wage Enforcement, as administered by the City of Cincinnati Department of Economic Inclusion. Such notice shall include contact information for the Department of Economic Inclusion as provided by the department.

(f) Under the Wage Enforcement provisions, the City shall have the authority, under appropriate circumstances, to terminate this contract or to reduce the incentives or subsidies to be provided under this contract and to seek other remedies, including debarment.

Section 37. Legal Requirements. In completing and operating the Project, the Company shall comply with all applicable statutes, ordinances, regulations, and rules of the government of the United States, State of Ohio, County of Hamilton, and City of Cincinnati.

Section 38. Counterparts and Electronic Signatures. This Agreement may be executed by the parties hereto in two or more counterparts and each executed counterpart shall be considered an original but all of which together shall constitute one and the same instrument. This Agreement may be executed and delivered by electronic signature; any original signatures that are initially delivered electronically shall be physically delivered as soon as reasonably possible.

Remainder of this page intentionally left blank. Signature page follows.

Executed by the parties on the dates indicated below, effective as of the later of such dates (the "Effective Date").

CITY OF CINCINNATI,
an Ohio municipal corporation

BLEH PROPERTY HOLDINGS LLC,
an Ohio limited liability company

By: _____
Paula Boggs Muething, City Manager

By: _____

Date: _____, 2021

Printed Name: _____

Title: _____

Date: _____, 2021

Authorized by resolution dated _____

Approved as to Form:

Assistant City Solicitor

Certified Date: _____

Fund/Code: _____

Amount: _____

By: _____
Karen Alder, City Finance Director

Exhibit A to CRA Agreement
LEGAL DESCRIPTION OF PROPERTY

TO BE ATTACHED

Exhibit B to CRA Agreement
APPLICATION FOR TAX EXEMPTION

TO BE ATTACHED

August 2, 2021

To: Members of the Budget and Finance Committee 202102518

From: Paula Boggs Muething, City Manager

Subject: EMERGENCY ORDINANCE – APPROVING THE SALE OF CITY-OWNED PROPERTY LOCATED AT 1712 LOGAN STREET

Attached is an Emergency Ordinance captioned:

AUTHORIZING the City Manager to execute any and all agreements and take such other steps as may be necessary in order to sell City-owned real property at 1712 Logan Street in the Over-the-Rhine neighborhood of Cincinnati to Southwest Ohio Housing Development, Inc. (an affiliate of Cincinnati Metropolitan Housing Authority), or other affiliated organization acceptable to the City Manager, to facilitate an affordable housing development by the company in partnership with Urban Sites Capital Advisors, LLC.

BACKGROUND/CURRENT CONDITIONS

The City owns the property located at 1712 Logan Street in Over-the-Rhine. The property is currently leased to the Corporation for Findlay Market and is used as a public surface parking lot. The City proposes to sell the property to Southwest Ohio Housing Development, Inc., an affiliate of Cincinnati Metropolitan Housing Authority (CMHA), and Urban Sites Capital Advisors, LLC to facilitate their mixed-use development project known as Logan Commons, which will add new, quality senior affordable housing units and a mix of office and retail space to the Findlay Market district of Over-the-Rhine.

DEVELOPER INFORMATION

Southwest Ohio Housing Development, Inc., a non-profit affiliate of CMHA, is partnering with Urban Sites to develop the Logan Commons project. CMHA provides affordable rental housing opportunities for individuals and families throughout Hamilton County. Urban Sites is a privately-owned real estate development company with over \$62 million invested in projects located in the City of Cincinnati. Together, CMHA and Urban Sites are also partnering to develop Bennett Point, which is \$17 million Low Income Housing Tax Credit (LIHTC) project adding 56 affordable housing units to the Pendleton neighborhood of Cincinnati.

PROJECT DESCRIPTION

The Developer is proposing to construct a new mixed-use development on the City-owned property at 1712 Logan Street consisting of (i) approximately 42 units of senior housing that will be leased and made affordable to households earning 60% or less of the area median income, as established by the U.S. Department of Housing and Urban Development for the Cincinnati metropolitan area; (ii) an approximately 6,000 square foot senior community center, to be operated by Cincinnati Area Senior Services (CASS); and (iii) approximately 2,000 square feet of ground-floor commercial space. Total project cost is estimated to be approximately \$13,792,775. The Developer estimates the project will support the creation of 8 new full-time equivalent permanent jobs (FTEs) with a total annual payroll of \$320,000 and 162 full-time temporary construction jobs with a total annual payroll of \$6,371,913.

PROPOSED INCENTIVE

DCED is recommending the sale of City-owned real property located at 1712 Logan Street for less than fair market value.

The fair market value of the City-owned property was determined by appraisal to be \$650,000. However, to facilitate the development of new affordable housing units and ensure the project's financial feasibility, the City is agreeable to selling the City Property to Developer for less than fair market value; namely, for \$1.

PROJECT TEAM & TIMELINE

The project's legislative team (listed below) is available to answer questions regarding this project.

- Assistant City Manager: Billy Weber (Ext. 3318)
- DCED Deputy Director: Dan Bower (Ext. 1955)
- Project Attorney: Samantha Brandenburg (Ext 4704)

The anticipated council timeline is as follows:

- August 2, 2021: Budget and Finance
- August 4, 2021: City Council for Final Approval

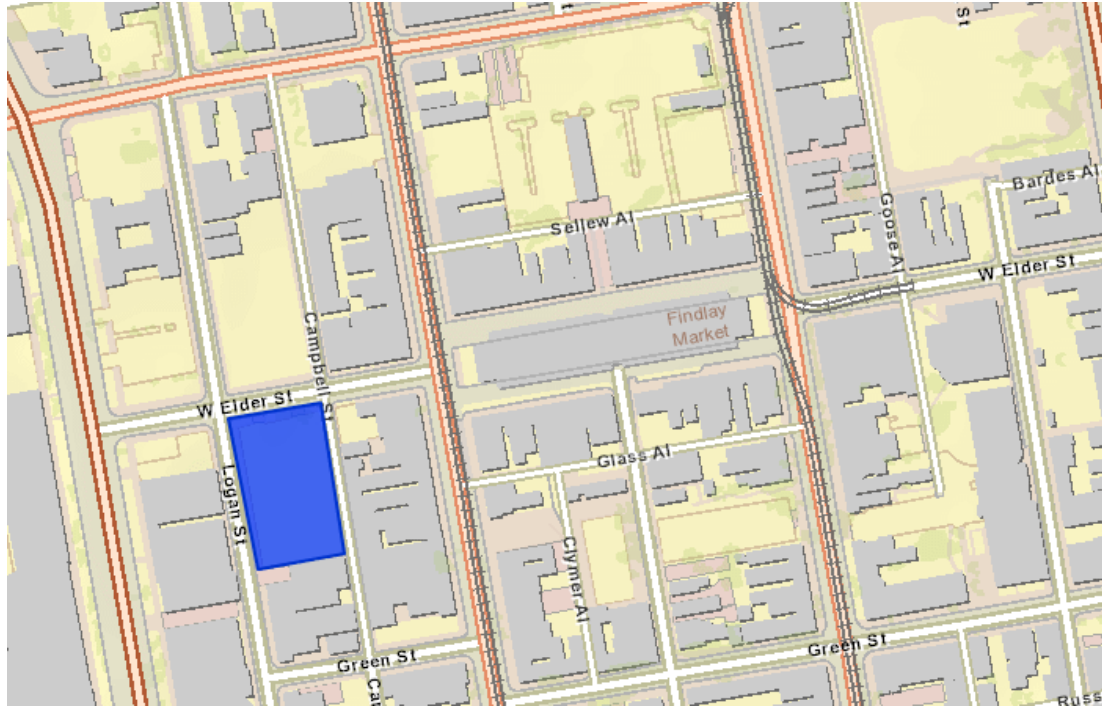
RECOMMENDATION

The Administration recommends approval of this Emergency Ordinance. The emergency clause is needed so that the project can meet its financial closing and construction commencement deadlines.

Attachment: A. Property location and photographs

Copy: Markiea L. Carter, Director, Department of Community & Economic Development

Attachment A: Location and Photographs



1712 Logan Street



EMERGENCY

City of Cincinnati

SSB



An Ordinance No. _____

- 2021

AUTHORIZING the City Manager to execute any and all agreements and take such other steps as may be necessary in order to sell City-owned real property at 1712 Logan Street in the Over-the-Rhine neighborhood of Cincinnati to Southwest Ohio Housing Development, Inc. (an affiliate of Cincinnati Metropolitan Housing Authority), or other affiliated organization acceptable to the City Manager, to facilitate an affordable housing development by the company in partnership with Urban Sites Capital Advisors, LLC.

WHEREAS, the City of Cincinnati (the “City”) owns certain real property located at 1712 Logan Street in the Over-the-Rhine neighborhood of Cincinnati, as more particularly described on Attachment A attached to this ordinance (the “City’s Sale Property”), which is under the management and control of the City’s Department of Community and Economic Development; and

WHEREAS, pursuant to a Request for Proposals issued by the City, Urban Sites Capital Advisors, LLC, an Ohio limited liability company, and Southwest Ohio Housing Development, Inc., an Ohio nonprofit corporation, an affiliate of Cincinnati Metropolitan Housing Authority (collectively, “Developer”) submitted a development proposal to the City, pursuant to which Developer desires to purchase the City’s Sale Property and construct a mixed-use development thereon consisting of (i) approximately 42 units of senior housing that will be leased and made affordable to households earning 60% or less of the area median income, as established by the U.S. Department of Housing and Urban Development for the Cincinnati metropolitan area; (ii) an approximately 6,000 square foot senior community center; and (iii) approximately 2,000 square feet of ground-floor commercial space, at an estimated project cost of approximately \$13,792,775 (the “Project”); and

WHEREAS, Developer estimates that the Project will create approximately (i) 162 temporary full-time equivalent construction and other jobs during the construction period with an approximate annual payroll of \$6,371,913; and (ii) 8 new full-time equivalent permanent jobs following completion of construction of the Project with an approximate annual payroll of \$320,000; and

WHEREAS, contingent upon (i) the City Administration’s satisfactory review of all due diligence materials (including, without limitation, a coordinated report conducted by the City Administration, environmental report, title report, etc.); and (ii) negotiation of an Agreement with terms and conditions acceptable to the City Manager, the City desires to convey the City’s Sale Property to Developer or such other affiliate organization acceptable to the City Manager; and

WHEREAS, the City’s Real Estate Services Division has determined, by appraisal, that the fair market value of the City’s Sale Property is approximately \$650,000; however, to

facilitate the Project and promote its economic feasibility, the City is agreeable to selling the City's Sale Property to Developer, on the terms and conditions acceptable to the City Administration for less than fair market value; namely, for \$1.00, because the City will receive economic and non-economic benefits from the Project that equal or exceed the fair market value of the City's Sale Property since the Project will create a significant amount of additional affordable housing in Over-the-Rhine and restore the City's Sale Property to a productive use; and

WHEREAS, the City's Sale Property is not needed for a municipal purpose; and

WHEREAS, Section 13 of Article VIII of the Ohio Constitution provides that, to create or preserve jobs and employment opportunities and to improve the economic welfare of the people of the State, it is a public interest and proper public purpose for the State or its political subdivisions to sell, lease, exchange, or otherwise dispose of property within the State of Ohio for industry, commerce, distribution, and research; and

WHEREAS, Section 16 of Article VIII of the Ohio Constitution provides that it is in the public interest and a proper public purpose for the City to enhance the availability of adequate housing and to improve the economic and general well-being of the people of the City by providing or assisting in providing housing; and

WHEREAS, the City believes that the Project (i) will promote urban redevelopment in Over-the-Rhine; (ii) is in the vital and best interests of the City and the health, safety, and welfare of its residents; and (iii) is in accordance with the public purposes and provisions of applicable federal, state, and local laws and regulations; and

WHEREAS, the City Planning Commission, having the authority to approve the change in the use of City-owned property, approved the sale of the City's Sale Property to Developer at its meeting on June 4, 2021; now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio:

Section 1. That the City Manager is hereby authorized to execute any and all documents that may be necessary to sell certain real property owned by the City of Cincinnati (the "City") located at 1712 Logan Street in the Over-the-Rhine neighborhood of Cincinnati, as more particularly described on Attachment A attached to this ordinance (the "City's Sale Property"), to Urban Sites Capital Advisors, LLC, an Ohio limited liability company, and Southwest Ohio Housing Development, Inc., an Ohio nonprofit corporation, (collectively, "Developer"), or other affiliated organization acceptable to the City Manager for \$1.00, contingent upon (a) the City Administration's satisfactory review of all due diligence materials related to the City's Sale

Property; and (b) negotiation of and agreement upon sale terms acceptable to the City Administration, including those terms and conditions it deems necessary following its review of such due diligence materials.

Section 2. That the City is agreeable to conveying the City's Sale Property to Developer because Developer has committed to construct a mixed-use development thereon consisting of (a) approximately 42 units of senior housing that will be leased and made affordable to households earning 60% or less of the area median income, as established by the U.S. Department of Housing and Urban Development for the Cincinnati metropolitan area; (b) an approximately 6,000 square foot senior community center; and (c) approximately 2,000 square feet of ground-floor commercial space at an estimated project cost of approximately \$13,792,775 (the "Project").

Section 3. That the City's Sale Property is not needed for a municipal purpose.

Section 4. That the City's Real Estate Services Division has determined, by appraisal, that the fair market value of the City's Sale Property is approximately \$650,000; however, to facilitate the Project and promote its economic feasibility, the City is agreeable to selling the City's Sale Property to Developer on the terms and conditions acceptable to the City Administration for less than fair market value; namely, for \$1.00, because the City will receive economic and non-economic benefits from the Project that equal or exceed the fair market value of the City's Sale Property since the Project will create a significant amount of additional affordable housing in the Over-the-Rhine neighborhood of Cincinnati and restore the City's Sale Property to a productive use.

Section 5. That Council authorizes the proper City officials to take all necessary and proper actions to fulfill the terms of this ordinance, including, without limitation, negotiating

acceptable terms of the sale and executing all agreements, deeds, easements, conveyance documents, plats, amendments, and other documents.

Section 6. That in the event that there are proceeds from the sale of City's Sale Property, such proceeds shall be deposited into Property Management Fund 209 to pay the fees for services provided by the City's Real Estate Services Division in connection with the sale, and that the City's Finance Director is hereby authorized to deposit amounts in excess thereof into Miscellaneous Permanent Improvement Fund 757.

Section 7. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety; and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is to enable Developer to commence the Project as soon as possible, therefore resulting in the creation of a significant amount of affordable housing, and the economic growth of the City at the earliest possible date.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

Attachment A

Legal Description

Address: 1712 Logan Street, Cincinnati, Ohio 45202

Auditor's Parcel No. 133-0003-0001-00 (Cons. 133-0003-0001-00, 133-0003-0048-00, 133-0003-0049-00, 133-0003-0050-00, 133-0003-0051-00, 133-0003-0052-00, 133-0003-0053-00, 133-0003-0054-00, 133-0003-0055-00, 133-0003-0056-00, 133-0003-0057-00)

Situated in the County of Hamilton in the State of Ohio and in the City of Cincinnati, and known as 1712 Logan Street, said premises being a part of Lot No. 71, of John McLean's Subdivision, a plat of said subdivision being recorded in Deed Book 112, page 42 of the Hamilton County, Ohio Deed Records, and being more particularly described as follows:

Beginning on the east line of Logan Street at the northwest corner of said Lot No. 71 of said subdivision, said corner being one hundred seventy (170) feet south of West Elder Street as shown on said recorded plat of said subdivision; thence east with the north line of said lot eighty and 30/100 (80.30) feet to a brick wall; thence south with said brick wall four and 94/100 (4.94) feet; thence east thirty one and 20/100 (31.20) feet to Campbell Street at a point five and 05/100 (5.05) feet south of the northeast corner of said Lot 71; thence south with Campbell Street twenty and 04/100 (20.04) feet, more or less, to the north line of Lot No. 70 of said subdivision, thence west one hundred and eleven and 50/100 (111.50) feet to the east line of Logan Street; thence north with the east line of Logan Street, twenty-five (25.00) feet to the place of beginning.

AND

Situated in the City of Cincinnati, Hamilton County, Ohio and being Lots 72, 73, 74 of John McLean's Subdivision of Blocks "K" and "L" of Findlay and Garrard's Subdivision as recorded in Deed Book 112, page 42 and also the following part of Lot 71 of said John McLean's Subdivision; Beginning at the Northeast corner of said Lot 71; thence south with Campbell Street 5.05 feet; thence westwardly 31.20 feet and northwardly 4.94 feet to the north line of said Lot 71; thence eastwardly along said north line 31.20 feet to the place of beginning.

AND

Situated in the City of Cincinnati, County of Hamilton and State of Ohio, and being Lots 75, 76 and 78 in Square K of John McLean's Subdivision of lands in the Northern Liberties recorded in Deed Book 112, page 42, Hamilton County, Ohio Records. Said lots fronting 111.50 feet on Elder Street and extending back Southwardly for a depth of 80 feet, lying between Campbell Alley and Logan Street.

August 2, 2021

To: Members of the Budget and Finance Committee 202102520
From: Paula Boggs Muething, City Manager
Subject: **EMERGENCY ORDINANCE – AMENDING ORDINANCES TO REDUCE THE SPECIAL ASSESSMENTS TO BE LEVYED AT OAKLEY STATION.**

Attached is an Emergency Ordinance captioned:

AMENDING Ordinance No. 228-2012 passed by City Council on June 20, 2012, as previously amended by Ordinance No. 246-2013, Ordinance No. 179-2014, Ordinance No. 272-2015, Ordinance No. 268-2016, Ordinance No. 213-2017, Ordinance No. 244-2018, Ordinance No. 321-2019, and Ordinance No. 270-2020, for the purpose of reducing those special assessments levied and to be collected in 2022 (with tax year 2021 property taxes) based upon a report of the administrator for bonds issued by the Port of Greater Cincinnati Development Authority related to the Oakley Station development project.

BACKGROUND/CURRENT CONDITIONS

The Public Infrastructure Improvements for the Oakley Station project were funded by special obligation bonds issued against future revenue streams from a Project Tax Increment Financing (TIF) District put in place on the project site and back stopped by a Special Assessment levied on the properties within the project site. Each year, the Port Authority, as the TIF and Special Assessment Administrator, issues an annual report determining the appropriate level of Special Assessments to be certified to the properties in the coming tax year.

DEVELOPER INFORMATION

The Port of Greater Cincinnati Development Authority disbursed the bonds and serves as the TIF and Special Assessment Administrator. The Developer for Oakley Station is USS Realty, LLC.

SPECIAL ASSESSMENT UPDATE

The 2021 Administrator's Report determined that actual TIF revenues and projected TIF revenues for the 2021 (collect 2022) tax year are adequate to cover all bond obligations and have additional reserves on hand, so the Special Assessment for this year may be lowered to \$0.00.

PROJECT TEAM & TIMELINE

The project's legislative team (listed below) is available to answer questions regarding this project.

- Assistant City Manager: Billy Weber (Ext. 3318)
- DCED Deputy Director: Dan Bower (Ext. 1955)
- Project Attorney: Samantha Brandenburg (Ext. 4704)

The anticipated council timeline is as follows:

- August 2, 2021: Budget and Finance
- August 4, 2021: City Council for Final Approval

RECOMMENDATION

The Administration recommends passage of this Emergency Ordinance to reduce the Special Assessment amounts, as recommended based on the annual Administrator's Report.

Copy: Markiea L. Carter, Director, Department of Community & Economic Development

EMERGENCY

City of Cincinnati

JML

AWB

An Ordinance No. _____

- 2021

AMENDING Ordinance No. 228-2012 passed by City Council on June 20, 2012, as previously amended by Ordinance No. 246-2013, Ordinance No. 179-2014, Ordinance No. 272-2015, Ordinance No. 268-2016, Ordinance No. 213-2017, Ordinance No. 244-2018, Ordinance No. 321-2019, and Ordinance No. 270-2020, for the purpose of reducing those special assessments levied and to be collected in 2022 (with tax year 2021 property taxes) based upon a report of the administrator for bonds issued by the Port of Greater Cincinnati Development Authority related to the Oakley Station development project.

WHEREAS, on June 20, 2012, this Council adopted Resolution No. 38-2012 declaring the necessity of (i) constructing various public infrastructure improvements (“Public Infrastructure Improvements”) related to the Oakley Station development project generally located at 4701 Marburg Avenue in Cincinnati, and (ii) assessing lands for the costs of the Public Infrastructure Improvements as petitioned by the owners of 100% of such property (the “Petition”) in accordance with Chapter 727 of the Ohio Revised Code; and

WHEREAS, on June 20, 2012, Council passed Ordinance No. 228-2012 levying Special Assessments (as defined in the Cooperative Agreement, as defined below) to pay for the costs of constructing the Public Infrastructure Improvements; and

WHEREAS, Ordinance No. 228-2012 and the Petition contemplate that the Special Assessments will be reapportioned in accordance with the Petition upon the subdivision (or consolidation) of any parcels included within the assessed lands; and

WHEREAS, Ordinance No. 228-2012 and that certain *Cooperative Special District Financing and Redevelopment Agreement* dated July 31, 2012 (the “Cooperative Agreement”) among the City of Cincinnati, the Port of Greater Cincinnati Development Authority (the “Port Authority”), and USS Realty, LLC each contemplate that Council may reduce or abate the Certified Annual Installments (as defined in the Cooperative Agreement) of the Special Assessments based upon a report of an administrator (the “Administrator”) appointed by the Port Authority for bonds issued by the Port Authority and secured by an assignment of the Special Assessments; and

WHEREAS, pursuant to Ordinance No. 246-2013 passed by Council on August 7, 2013, Ordinance No. 179-2014 passed by Council on June 25, 2014, Ordinance No. 272-2015 passed by Council on August 5, 2015, Ordinance No. 268-2016 passed by Council on August 3, 2016 and Ordinance No. 213-2017 passed by Council on August 9, 2017, each based upon and consistent with reports of the Administrator, the Certified Annual Installments of the Special Assessments were reapportioned, first among Hamilton County Parcel Numbers 051-0001-0001, 051-0001-0063, and 051-0001-0064 and, upon passage of Ordinance No. 213-2017, among Hamilton County Auditor Parcel Numbers 051-0001-0063, 051-0001-0064, 051-0001-0070, 051-0001-0071,

051-0001-0074, 051-0001-0078, 051-0001-0079, 051-0001-0080, 051-0001-0081, 051-0001-0082, 051-0001-0083, 051-0001-0084, 051-0001-0085, 051-0001-0086, 051-0001-0087, 051-0001-0088, 051-0001-0089, 051-0001-0090, and 051-0001-0091 and the Certified Annual Installments to be collected, as reapportioned in the respective years, were reduced and certified for collection; and

WHEREAS, pursuant to Ordinance No. 244-2018 passed by Council on August 1, 2018, Ordinance No. 321-2019 passed by Council on August 7, 2019, and Ordinance No. 270-2020 passed by Council on August 5, 2020, based upon and consistent with reports of the Administrator, the Certified Annual Installments of the Special Assessments to be collected in the years 2019 through 2021, as previously apportioned among Hamilton County Auditor Parcel Numbers 051-0001-0063, 051-0001-0064, 051-0001-0070, 051-0001-0071, 051-0001-0074, 051-0001-0078, 051-0001-0079, 051-0001-0080, 051-0001-0081, 051-0001-0082, 051-0001-0083, 051-0001-0084, 051-0001-0085, 051-0001-0086, 051-0001-0087, 051-0001-0088, 051-0001-0089, 051-0001-0090, and 051-0001-0091, were reduced to zero for each of the tax collection years from 2019 through 2021 and those reductions, and the amounts to be collected with respect to each such parcel in those years (\$0.00), were certified to the County Auditor; and

WHEREAS, the City has received a report of the Administrator for the current year (the "Administrator's Report") determining, among other things, that:

(i) There have been no parcel splits or consolidations since the passage of Ordinance No. 213-2017 and none of the Special Assessments should be reapportioned at this time;

(ii) the Special Assessment Roll for the Special Assessments, referenced in Exhibit A to Ordinance No. 228-2012, as most recently amended in Section 1 of Ordinance No. 213-2017, should not be amended and restated at this time;

(iii) the Certified Annual Installments of the Special Assessments, as apportioned and reapportioned in Exhibit D to Ordinance No. 228-2012, as most recently amended in Section 2 of Ordinance No. 213-2017, should not be amended and restated at this time;

(iv) the aggregate Annual Service Payment Credits (as defined in the Cooperative Agreement) for the current year (tax year 2021 and collection year 2022) are \$652,179.99, and such Annual Service Payment Credits are to be apportioned to each of the parcels included in the assessed lands in the same proportion as the Special Assessments; and

(v) the required Certified Annual Installments of the Special Assessments to be certified by the City to the Hamilton County, Ohio Auditor and collected by the Hamilton County, Ohio Treasurer in 2022 (with 2021 taxes) (*i.e.*, the applicable Certified Annual Installments after applying the Annual Service Payment Credits, as allocated in accordance with the Administrator's Report), is \$0.00, requiring the annual Special Assessments for tax year 2021 to be reduced from the current aggregate Certified Annual Installments amount of \$652,179.99 to \$0.00 consistent with the Administrator's Report; now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, Hamilton County, Ohio:

Section 1. That, pursuant to the Cooperative Agreement (that term and any other term used but not defined herein being used as defined in the recitals to this ordinance) and based upon the

Administrator’s Report: (a) the aggregate Annual Service Payment Credits for collection year 2022 shall be \$652,179.99; (b) such Annual Service Payment Credits shall be apportioned to each of the parcels included in the assessed lands in the same proportion as the Special Assessments; and (c) the aggregate required Certified Annual Installments of the Special Assessments to be certified by the City to the Hamilton County, Ohio Auditor and collected by the Hamilton County, Ohio Treasurer in 2022 (with tax year 2021 property taxes) shall be reduced from \$652,179.99 to \$0.00, all as shown in the following table:

Assessed Lands (Parcel Number)	Current Year Certified Annual Installment	Current Year Annual Service Payment Credit	Special Assessments to be Certified for Collection in 2022
051-0001-0063	\$ 63,090.05	\$ 63,090.05	\$0.00
051-0001-0064	97,678.22	97,678.22	\$0.00
051-0001-0070	133,490.98	133,490.98	\$0.00
051-0001-0071	37,070.91	37,070.91	\$0.00
051-0001-0074	15,041.93	15,041.93	\$0.00
051-0001-0078	14,752.15	14,752.15	\$0.00
051-0001-0079	41,143.26	41,143.26	\$0.00
051-0001-0080	21,607.21	21,607.21	\$0.00
051-0001-0081	31,802.60	31,802.60	\$0.00
051-0001-0082	35,834.51	35,834.51	\$0.00
051-0001-0083	12,293.62	12,293.62	\$0.00
051-0001-0084	12,705.92	12,705.92	\$0.00
051-0001-0085	11,783.36	11,783.36	\$0.00
051-0001-0086	13,075.16	13,075.16	\$0.00
051-0001-0087	10,149.28	10,149.28	\$0.00
051-0001-0088	13,879.37	13,879.37	\$0.00
051-0001-0089	67,050.07	67,050.07	\$0.00
051-0001-0090	13,599.58	13,599.58	\$0.00
051-0001-0091	6,131.81	6,131.81	\$0.00
Total	\$652,179.99	\$652,179.99	\$0.00

Section 2. That all existing provisions of Ordinance No. 228-2012 passed by City Council on June 20, 2012, as previously amended by Ordinance No. 246-2013, Ordinance No. 179-2014, Ordinance No. 272-2015, Ordinance No. 268-2016, Ordinance No. 213-2017, Ordinance No. 244-

2018, Ordinance No. 321-2019, and Ordinance No. 270-2020, not amended hereby and not inconsistent with this ordinance shall remain in full force and effect.

Section 3. That the Clerk of Council is hereby directed to deliver a certified copy of this ordinance to the Hamilton County, Ohio Auditor within fifteen (15) days after its adoption or, if earlier, within the time required by law for the certification of assessments to be collected in 2022 (with tax year 2021 property taxes).

Section 4. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to certify the revised Special Assessments to the Hamilton County, Ohio Auditor by the certification deadline of September 13, 2021.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

August 2, 2021

To: Members of the Budget and Finance Committee 202102523
From: Paula Boggs Muething, City Manager
Subject: **EMERGENCY ORDINANCE – APPROVING AND AUTHORIZING JOB CREATION TAX CREDIT FOR CLINICAL TRIAL SERVICES, INC.**

Attached is an Emergency Ordinance captioned:

APPROVING AND AUTHORIZING the execution of a Job Creation Tax Credit Agreement with CTI - Clinical Trial Services, Inc., pursuant to which the company agrees to create 70 new jobs at the Baldwin 500 building located at 2090 Florence Avenue in the Walnut Hills neighborhood of Cincinnati and, for a period of 8 years, the City agrees to provide an income tax credit equal to 45% of City income tax revenue from such new jobs.

BACKGROUND/CURRENT CONDITIONS

This legislation pertains to a proposed payroll tax incentive for CTI - Clinical Trial Services, Inc. (“Company”) to establish a laboratory facility at Baldwin 500 at 2090 Florence Avenue in Walnut Hills (“Property”).

DEVELOPER INFORMATION

The Company is an affiliate of CTI Holdings, Inc., a company that is headquartered in Covington, KY and is more commonly known as CTI. CTI was founded in 1999 and has since grown into one of the industry leaders in clinical trial management services, supporting pharmaceutical and biotech companies to develop and run their clinical trials. CTI and its affiliates do not currently have a business location in the city of Cincinnati.

PROJECT DESCRIPTION

The Company would sign a long-term tenant lease and invest approximately \$3,310,000 to build out a full-service laboratory facility (“Project”). The facility, which would occupy approximately 40,000 square feet at Baldwin 500, represents a new line of business for CTI. The new facility would provide safety, molecular, cellular, and bioanalytical lab services, biorepository sample storage, lab sample kit building business, and project management services. The Project would result in 70 net new full-time equivalent jobs being created in the city of Cincinnati within the first 5 years, primarily high-paying laboratory positions, representing \$5,600,000 in annual

payroll with an average annual wage of \$80,000. The Company represents that its employment at the facility would be compliant with Minimum Qualifying Wage standards.

The Project is consistent with the *Plan Cincinnati* strategy to “pursue new growth and business recruitment efforts in target industries” which include life sciences and biohealth (“Compete” section, page 108).

PROPOSED INCENTIVE

DCED is recommending an 8-year, 45% job creation tax credit (JCTC) with a total retention period of 15 years.

The reason for providing a payroll tax incentive is not only because the Project provides an advantageous return on investment for the City, but also because both the City and JobsOhio have prioritized attracting the Project, which had competition from other states including Kentucky.

Estimated Total Term JCTC Value to Company:	\$255,960
Estimated Total Term New Payroll Tax Revenue:	\$1,274,400
Incentive Leverage per dollar of City investment:	\$4.78

PROJECT TEAM & TIMELINE

The project’s legislative team (listed below) is available to answer questions regarding this project.

- Assistant City Manager: Billy Weber (Ext. 3318)
- DCED Deputy Director: Dan Bower (Ext. 1955)
- Project Attorney: Kaitlyn Geiger (Ext. 4544)

The anticipated council timeline is as follows:

- August 1, 2021: Budget and Finance Committee (Byleave due to summer schedule)
- August 3, 2021: City Council for Final Approval

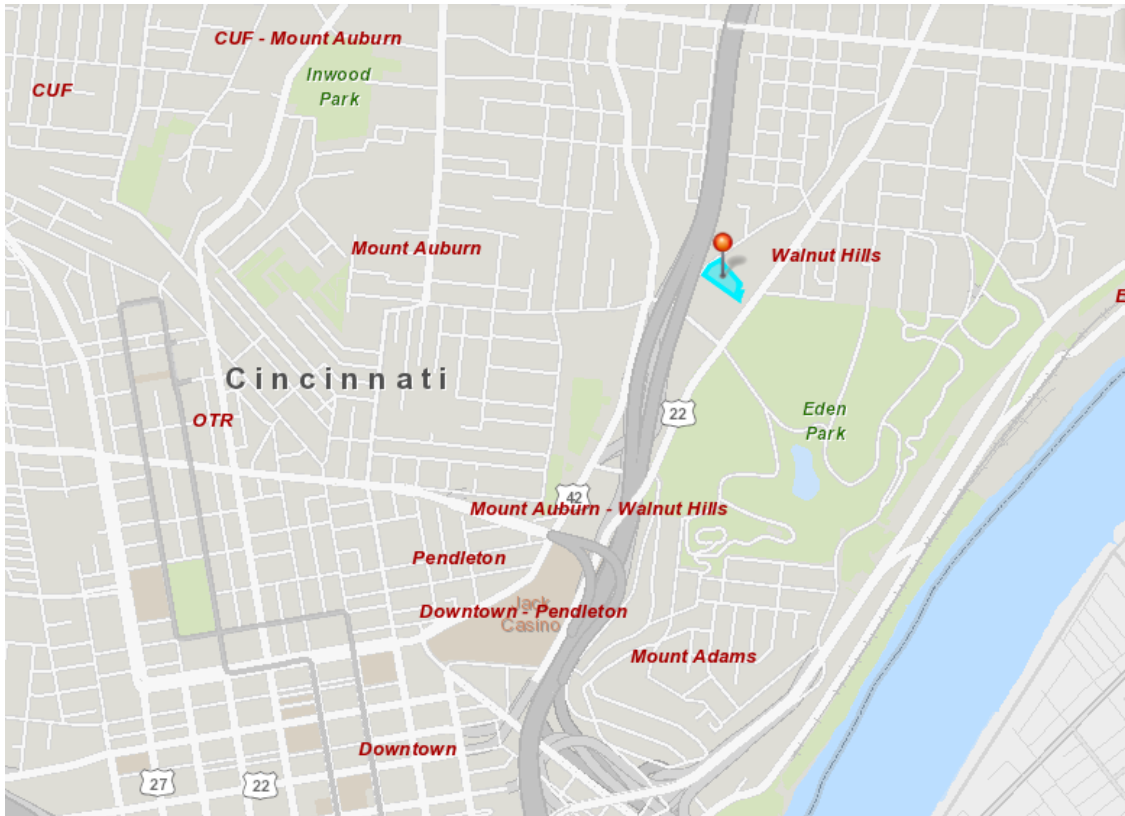
RECOMMENDATION

The Administration recommends approval of this Emergency Ordinance.

Attachment: A. Property location and photographs

Copy: Markiea L. Carter, Director, Department of Community & Economic Development

Attachment A: Property Location and Photographs



Property Location



Property Image

EMERGENCY

City of Cincinnati

TJL

AWB

An Ordinance No. _____

- 2021

APPROVING AND AUTHORIZING the execution of a Job Creation Tax Credit Agreement with CTI - Clinical Trial Services, Inc., pursuant to which the company agrees to create 70 new jobs at the Baldwin 500 building located at 2090 Florence Avenue in the Walnut Hills neighborhood of Cincinnati and, for a period of 8 years, the City agrees to provide an income tax credit equal to 45% of City income tax revenue from such new jobs.

WHEREAS, the City seeks to increase employment opportunities and encourage the establishment of new jobs in the City of Cincinnati in order to improve the economic welfare of the City and its citizens, in furtherance of the public purposes enunciated in Article VIII, Section 13 of the Ohio Constitution; and

WHEREAS, CTI - Clinical Trial Services, Inc. ("Employer") intends to expend approximately \$3,310,000 in leasehold improvements to its office at the Baldwin 500 building located at 2090 Florence Avenue (the "Project" and the "Project Site", respectively), which will result in the creation of at least 70 new jobs in Cincinnati within 5 years if certain income tax credit assistance is provided by the City; and

WHEREAS, the City Manager has recommended that Council authorize the execution of a Job Creation Tax Credit Agreement (the "Agreement") with Employer, in substantially the form attached hereto as Attachment A, which provides for an income tax credit equal to 45% of income tax revenue from new jobs created by Employer at the Project Site for a term of 8 years; and

WHEREAS, the Agreement provides that Employer will spend a minimum of \$3,310,000 to implement the Project at the Project Site; and

WHEREAS, Employer represents and has documented to the City that the income tax credit authorized by the Agreement is a major factor in Employer's decision to go forward with the Project at the Project Site; and

WHEREAS, the City income tax credit approved by this ordinance is authorized by Sections 718.15 and 718.151 of the Ohio Revised Code; now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio:

Section 1. That Council approves and authorizes the execution of a Job Creation Tax Credit Agreement (the "Agreement") with CTI - Clinical Trial Services, Inc. ("Employer"), in substantially the form attached hereto as Attachment A, in order to assist Employer in the

investment of \$3,310,000 in leasehold improvements to its office at the Baldwin 500 building located at 2090 Florence Avenue in the Walnut Hills neighborhood of Cincinnati (the “Project” and the “Project Site”, respectively), which provides for a City income tax credit equal to 45% of City income tax revenue from new jobs created by Employer at the Project Site for a period of 8 years, and the creation of 70 new jobs in the City within 5 years.

Section 2. That Council authorizes the proper City officials to take all necessary and proper actions to fulfill the City’s obligations under the Agreement and to enforce the Agreement.

Section 3. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is to allow the Project and the corresponding revitalization of the City of Cincinnati and improvement of the City’s economic welfare to begin at the earliest possible time.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

ATTACHMENT A



Contract Number _____

JOB CREATION TAX CREDIT AGREEMENT

This Job Creation Tax Credit Agreement (this "Agreement") is made and entered into as of the Effective Date (as defined on the signature page hereof) by and between the CITY OF CINCINNATI, an Ohio municipal corporation (the "City"), and CTI - CLINICAL TRIAL SERVICES, INC., an Ohio corporation (the "Grantee").

BACKGROUND INFORMATION

- A. The City seeks to increase employment opportunities and to encourage establishment of new jobs within the corporate boundaries of the City of Cincinnati (the "City Boundaries"), in order to improve the economic welfare of the City and its citizens, in furtherance of the public purposes enunciated in Article VIII, Section 13 of the Ohio Constitution.
- B. The City has determined that the Grantee will create new jobs within the City Boundaries in connection with a project to be implemented by the Grantee at Baldwin 500, 2090 Florence Avenue, Cincinnati, Ohio 45206 (the "Project Site"), consisting of the construction of leasehold improvements on the Project Site and the purchase or relocation of machinery, equipment, furniture and fixtures (the "Project").
- C. Cincinnati Municipal Code ("CMC") Chapter 311 imposes income taxes, including a tax on business net profits. The Grantee represents and has documented to the City that the credit authorized by this Agreement against the tax imposed on the Grantee's net profits under CMC Chapter 311 (the "City Income Tax Credit") is a major factor in the Grantee's decision to go forward with the Project, to offset costs of capital expenditures and/or moving.
- D. The City Income Tax Credit as provided in this Agreement is authorized by Ohio Revised Code ("ORC") Sections 718.15 and 718.151.
- E. The City and Grantee intend that Grantee will implement the Project partly as a result of Grantee cost savings resulting from a forty-five percent (45%) City income tax credit applicable to new jobs created by Grantee at the Project Site for a period of eight (8) years, and thereby create seventy (70) new jobs in the City within five (5) years of the Determination Date (as defined below).

STATEMENT OF THE AGREEMENT

In consideration of the foregoing and the mutual promises and covenants hereinafter set forth, the parties agree as follows:

- 1. PRECONDITIONS TO EFFECTIVENESS OF AGREEMENT. Notwithstanding anything to the contrary herein, this Agreement shall be of no force and effect unless and until (1) this Agreement is fully executed by both parties and (2) the Council of the City of Cincinnati passes an ordinance approving this Agreement, and the ordinance takes effect.
- 2. CERTAIN DEFINITIONS. As used in this Agreement:
 - (A) "Aggregate Employees" means, for any stated period, the Number of Full-Time Employee Equivalents employed either by the Grantee or by a Related Member, calculated with reference to all employees of the Grantee and all Related Members of the Grantee for which (1) the primary work location is within the City of Cincinnati and (2) the Grantee or a Related Member withholds City income taxes.
 - (B) "City Tax Credit Term" means the 8-year term of 2021 through 2028.

- (C) "Determination Date" means January 1, 2021.
- (D) "Employment Retention Period" means a 15-year period commencing as of the start of the City Tax Credit Term.
- (E) "Grantee's City-Wide Employees" means, for any stated period, the Number of Full-Time Employee Equivalents employed by the Grantee, calculated with reference to all employees of the Grantee for which (1) the primary work location is within the City (not limited to the Project Site) and (2) the Grantee withholds City income taxes. An employee is considered to have a primary work location within the City if at least fifty-one percent (51%) of the compensation paid by the Grantee to that employee is taxed by the City with respect to work performed in the City.
- (F) "Income Tax Revenue" means, for any Tax Year:
- (1) Payments from the Grantee to the City in an amount equal to the aggregate amount of earnings taxes withheld on the qualifying wages (as defined in CMC Section 311-9-Q) paid by the Grantee to all Aggregate Employees whose primary work location is the Project Site; less
 - (2) Any amounts refunded by the City to Aggregate Employees whose primary work location is the Project Site (pursuant to CMC Chapter 311) relating to qualifying wages (as defined in CMC Section 311-9-Q) paid by the Grantee, as such refunds are reported by the City to the Grantee from time to time.
- (G) "Initial Tax Year" means the first Tax Year during which the Grantee is entitled to a City Income Tax Credit.
- (H) "Minimum Qualifying Wage" means an hourly wage of at least (1) \$12.50 per hour on and after July 1, 2018, (2) \$13.50 per hour on and after January 1, 2019, and (3) \$15.00 per hour on and after July 1, 2019; *provided however*, that if (i) the Grantee contributes to any health, vision and/or dental insurance plan; provides retirement benefits; or provides childcare, tuition, or training reimbursement benefits to a New Employee and (ii) the City approves in writing, in its sole and absolute discretion any such contribution, retirement, or reimbursement benefit, then the hourly cash value of any such City-approved benefit shall be added to the New Employee's base monetary hourly wage for the purposes of calculating that New Employee's hourly wage under this definition.
- (I) "Net Number of New Employees" means, for any Tax Year, the lesser of:
- (1) The average Number of New Employees in the final three (3) calendar months of that Tax Year; or
 - (2) The remainder computed by subtracting (a) the Baseline City-Wide Employment Level from (b) the average number of the Grantee's City-Wide Employees in the final three (3) months of that Tax Year; or
 - (3) The remainder computed by subtracting (a) the Baseline Aggregate Employment Level from (b) the average number of Aggregate Employees in the final three (3) months of that Tax Year.
- Computations of an "average number" of employees, as required by this Agreement, shall be made and documented by the Grantee in a manner subject to approval by the City, such approval not to be unreasonably withheld.
- (J) "New Employee" means an employee of the Grantee that meets all of the following criteria during the applicable Tax Year: (i) has a primary work location is the Project Site, (ii) is first employed by the Grantee within the City Boundaries after the Determination Date, and (iii) is paid at least the Minimum Qualifying Wage by the Grantee at all times during the applicable Tax Year. An employee is considered to have a primary work location at the Project Site if at least fifty-one percent (51%) of the compensation paid by the Grantee to that employee is taxed by the City with

respect to work performed at the Project Site. "New Employees" may include employees of the Grantee employed in employment positions that were relocated to the Project Site from other operations of the Grantee (or of a Related Member) outside of the City Boundaries.

- (K) "New Income Tax Revenue" means, for any Tax Year, the lesser of:
 - (1) Income Tax Revenue in such Tax Year relating only to New Employees; or
 - (2) The amount computed by multiplying (a) the Net Number of New Employees for such Tax Year by (b) the average amount of Income Tax Revenue received by the City in such Tax Year per New Employee (which average amount is computed by dividing (x) the total Income Tax Revenue for such Tax Year relating only to New Employees by (y) the monthly average of Number of New Employees (determined on a twelve (12) month basis) employed during such Tax Year.
- (L) "Number of Full-Time Employee Equivalents" means one fortieth (1/40) of the total number of compensated hours worked in a work week by permanent employees that are paid at least the Minimum Qualifying Wage for the duration of the applicable Tax Year (whether full-time or part-time), provided that the hours included in the calculation may not exceed forty (40) per week for any individual employee.
- (M) "Number of New Employees" means, for any stated period, the Number of Full-Time Employee Equivalents employed in that period, calculated only with reference to hours worked by New Employees.
- (N) "Related Member" means any of the Grantee's "related members" (as defined in ORC Section 122.171(A)(7)) that has at least one employee whose primary work location is within the City Boundaries (not limited to the Project Site), including those "related members" that begin operations within the City Boundaries on or after the Effective Date.
- (O) "Tax Year" means the fiscal year used by the Grantee to compute net profits under CMC Chapter 311.

3. PROJECT; JOB CREATION AND RETENTION.

- (A) Grantee Representations. The Grantee represents that:
 - (1) The monthly average of the Number of Full-Time Employee Equivalents employed by the Grantee, for whom the Project Site was the primary work location, for the three (3) full calendar month period immediately prior to the Determination Date was 0.
 - (2) The monthly average of the Grantee's City-Wide Employees for the three (3) full calendar month period immediately prior to the Determination Date was 0 (the "Baseline City-Wide Employment Level").
 - (3) The monthly average of Aggregate Employees for the three (3) full calendar month period immediately prior to the Determination Date was 0 (the "Baseline Aggregate Employment Level").
 - (4) Related Members of the Grantee with any employees whose primary work location is within the City Boundaries as of the Effective Date (and the Related Members' Cincinnati addresses and Federal Tax Identification Numbers) consist of the following: NONE.
 - (5) The Grantee shall give written notice to the City of any Related Member that begins operations within the City Boundaries on or after the Effective Date.
- (B) Minimum Expenditures. The Grantee agrees to expend a minimum of \$3,310,000 on or before the date that is three (3) years from the Effective Date to accomplish the Project. Notwithstanding the foregoing, the City and the Grantee acknowledge and agree that Grantee commenced the Project prior to the Effective Date.
- (C) Minimum Number of New Employees. Within five (5) years from the Determination Date, the Grantee agrees to employ a Number of New Employees at the Project Site equal to at least

seventy (70). The Grantee agrees that the aggregate annual wages of the New Employees will be equal to at least \$5,600,000.

- (D) Relocation of Employment Positions from Elsewhere in Ohio. The Grantee may not relocate a substantial number of employment positions from elsewhere in Ohio (i.e., outside the City) unless the Director of the Department of Community and Economic Development determines that the legislative authority of the county, township, or municipal corporation from which the employment positions would be relocated has been notified by the Grantee of the relocation.
- (E) Employment Retention by the Grantee.
- (1) During each year of the Employment Retention Period, the Grantee agrees to maintain a monthly average of Aggregate Employees (determined on a twelve (12) month basis) equal to or greater than the Baseline Aggregate Employee Level.
 - (2) During each of the first three (3) years of the City Tax Credit Term, the Grantee agrees to maintain a monthly average of the Grantee's City-Wide Employees (determined on a twelve (12) month basis) equal to or greater than the Baseline City-Wide Employee Level.
 - (3) Beginning with the fourth (4th) year of the City Tax Credit Term and continuing during each subsequent year of the Employment Retention Period, the Grantee agrees to maintain an average Net Number of New Employees (determined on a twelve (12) month basis) of at least ninety percent (90%) of the highest Net Number of New Employees reported by the Grantee in calculating the City Income Tax Credit in any prior Tax Year during the City Tax Credit Term.

The Grantee acknowledges and agrees that the obligations of the Grantee under this Agreement may be affected by decisions of the Related Members, as the City's agreement to provide the City Income Tax Credit authorized herein is conditioned on maintenance of the existing employment within the City Boundaries by both the Grantee and the Related Members. The Grantee may apply to the City Manager for waiver of this employment retention requirement (which waiver may be granted in the City Manager's sole discretion) on the grounds that the Grantee's failure to maintain the required Net Number of New Employees is excusable based on exceptional circumstances not under the control of the Grantee or of the Related Members, as described in Section 12.

- (F) City Residents; Referral Procedure for New Hires. The Grantee agrees to use its best efforts to fill at least seventy-five percent (75%) of the new jobs created in connection with the Project with employees residing within the City Boundaries (the "City Resident Hiring Goal"). In furtherance of such goal, the Grantee shall implement the following procedures:
- (1) City Representative. In its efforts to meet the City Resident Hiring Goal, the Grantee agrees to request referrals from the OhioMeansJobs Center (or such other agency as the City Manager may designate) when positions need to be filled. A representative of the personnel office of the Grantee will meet periodically with a representative of the OhioMeansJobs Center (the "City Representative") to assess the Grantee's future employment needs and to assure that qualified applicants can be recruited and trained in a timely manner.
 - (2) Initial Positions. As soon as practicable after execution of this Agreement, and no later than ninety (90) days prior to the earlier of (a) the scheduled initial occupancy of the Project or completion of renovation or expansion or (b) the date when the following employment positions will be filled, the Grantee agrees to notify the City Representative of the following: (i) the number of new employees that will be required, and the date when the positions must be filled; (ii) the training, qualifications and experience required for the individuals who will fill the positions; and (iii) the name, address and telephone number of the person responsible for hiring. For positions requiring customized training, the Grantee agrees to provide such notice as far in advance of such ninety-day period as is practicable.
 - (3) City Referrals. The City Representative shall, within thirty (30) days after receiving such notification from the Grantee, submit in writing the following: (a) the positions for which the City intends to make referrals; (b) the names and qualifications of referred applicants for each position available; and (c) the date when these applicants will be available for

interview. For positions requiring customized training, however, such information may be submitted to the Grantee up to thirty (30) days prior to the date that such positions are to be filled.

- (4) Interviews. The Grantee agrees to interview those applicants who are referred by the City Representative and shall consider for employment those applicants the Grantee finds to be qualified for an available position. If (a) the City Representative informs the Grantee that it does not intend to make referrals for a position, (b) the City Representative fails to refer applicants who are available for interview for a position in accordance with this subsection or (c) the applicants referred for a position are deemed not qualified by the Grantee, then the Grantee may hire individuals from other sources for such position, without any further obligations or restrictions hereunder as to such position.
- (5) Subsequent Positions. During the three (3) year period following the date upon which this Agreement becomes effective, if the Grantee needs to fill a vacant employment position (either from attrition or an increase in employment), the Grantee agrees to notify the City Representative for an additional referral of applicants. The Grantee, however, is under no obligation to postpone the hiring of a new employee pending receipt of referrals from the City Representative. If the position is still vacant at the time referrals are received from the City Representative, the Grantee shall interview those applicants who are referred by the City Representative and shall consider for employment those applicants the Grantee finds to be qualified for an available position.
- (6) Continuation of Referral Procedure. If the Grantee and the City agree that this referral process has been mutually beneficial, the parties shall continue the process after the three (3) year period.

4. CITY INCOME TAX CREDIT.

- (A) Credit Requirements. Subject to the terms and conditions of this Agreement, for each Tax Year during the City Tax Credit Term in which the Grantee has claimed the City Income Tax Credit on an income tax return filed directly with the City with respect to its net profits and is otherwise in full compliance with all requirements under both CMC Chapter 311 and this Agreement, the Grantee shall be allowed to apply the City Income Tax Credit stated in this Section against the tax imposed on the Grantee's net profits under CMC Chapter 311. The City Income Tax Credit shall be applied in accordance with any applicable rules and regulations (consistent with this Agreement) that may be adopted by the Board of Review (as defined in CMC Section 311-9-B1).
- (B) Amount of Credit. The amount of the City Income Tax Credit shall be forty-five percent (45%) of any New Income Tax Revenue in a given Tax Year. The City Income Tax Credit shall be applied against net profits tax due to the City (pursuant to CMC Chapter 311) from the Grantee for such Tax Year. The City Income Tax Credit shall be allowed only after the allowance of all other credits and deductions under CMC Chapter 311. If the City Income Tax Credit exceeds the Grantee's tax liability for such Tax Year, the City Income Tax Credit shall not be refunded to the Grantee or carried back to previous Tax Years, but may be carried forward up to five (5) Tax Years; provided, however, that such City Income Tax Credit shall not be carried forward beyond the tenth (10th) Tax Year (for the purposes of such calculations, the Initial Tax Year shall be the first (1st) Tax Year).
- (C) Related Members. The Grantee acknowledges and agrees that the City Income Tax Credit calculated under this Agreement will be reduced to the extent that reductions in the number of Aggregate Employees of both the Grantee and the Related Members affect the calculation of Net Number of New Employees.

5. COVENANT AS TO OUTSTANDING LIABILITIES; INSPECTION OF RECORDS; FALSE STATEMENTS. In accordance with Ohio Revised Code Section 9.66, (A) the Grantee affirmatively covenants that it does not owe: (1) any delinquent taxes to the State of Ohio (the "State") or to a political subdivision of the State; (2) any moneys to the State or a State agency for the administration or enforcement of any environmental laws of the State; or (3) any other moneys to the State, a State agency or a political subdivision of the

State that are past due, regardless of whether the amounts owed are being contested in a court of law or not; (B) the Grantee authorizes the City and/or the State to inspect the personal financial statements of the Grantee, including tax records and other similar information not ordinarily open to public inspection; and (C) the Grantee authorizes the Ohio Environmental Protection Agency and the Ohio Department of Taxation to release information to the City and or other State departments in connection with the above statements. As provided by statute, a knowingly false statement under this Section may be prosecuted as a first-degree misdemeanor under Ohio Revised Code Section 2921.13, may render the Grantee ineligible for any future economic development assistance from the State or any political subdivision of the State and will result in the City requiring the Grantee's repayment of any assistance provided by the City in connection with the Project.

6. TERMINATION; REIMBURSEMENT FOR DEFAULT.

- (A) Suspension or Termination of the City Income Tax Credit. Subject to the provisions of subsections (B) and (C) below, if the City provides the Grantee with written notice of an event of default under this Agreement, and such default is not cured to the City's satisfaction within thirty (30) days of such notice, the City shall suspend or terminate the City Income Tax Credit hereunder and may, in the City's sole discretion, take such other measures as may be lawful (including suing for specific performance). Except as provided in subsections (B) or (C) below, such suspension or termination shall only affect City Income Tax Credits otherwise allowable after the date of suspension or termination.
- (B) Grantee's Failure to Comply with Job Creation and Retention Obligations. If the City provides the Grantee with written notice of an event of default under Section 3(C) or 3(D), and such default is not cured to the City's satisfaction within thirty (30) days of such notice, the City may, after giving the Grantee an opportunity to explain such default, require the Grantee to pay to the City all or a portion of the City Income Tax Credits previously claimed under this Agreement. In determining the portion of the City Income Tax Credit amounts to be repaid, the City may consider the effect of market conditions on the Grantee's Project and whether the Grantee continues to maintain other operations and employment in the City. For the avoidance of doubt, the City shall have the ability to exercise its rights under this Section with respect to each event of default under Section 3(C) or 3(D) (i.e. in the event that Grantee defaults under Section 3(C) or 3(D) in multiple Tax Years, the City may require the Grantee to pay to the City all or a portion of the City Income Tax Credits previously claimed and not repaid under this Agreement after each event of default).
- (C) Grantee's Failure to Comply with Outstanding Liability Obligations. If the City provides the Grantee with written notice of an event of default under Section 5, the City may, after giving the Grantee an opportunity to explain such default, require the Grantee to pay to the City all or any portion of the City Income Tax Credits previously claimed under this Agreement. For the avoidance of doubt, the City shall have the ability to exercise its rights under this Section with respect to each event of default under Section 5 (i.e. in the event that Grantee defaults under Section 5 in multiple Tax Years, the City may require the Grantee to pay to the City all or a portion of the City Income Tax Credits previously claimed and not repaid under this Agreement after each event of default).
- (D) Reimbursement. The Grantee hereby agrees (i) to make any payments required by the City under this Section within thirty (30) days of written demand by the City and (ii) in the event that the City refunds any Income Tax Revenue in a subsequent Tax Year for which a City Income Tax Credit was previously granted pursuant to this Agreement (the "Refund Amount"), then no later than thirty (30) days following Grantee's receipt of written notice from the City (the "City's Notice"), the Grantee will either (a) pay an amount equal to the Refund Amount to the City, as detailed in the City's Notice or (b) deliver written notice to the City that the Grantee will reduce its future City Income Tax Credits by the Refund Amount, such reduction to begin with the first City Income Tax Credit the Grantee is eligible to receive pursuant to this Agreement following the Grantee's receipt of the City's Notice. In the event that the Grantee fails to make a timely election pursuant to the foregoing sentence, then the City may, in its sole and absolute discretion, reduce the amount of any future City Income Tax Credits by the Refund Amount, charge interest on the Refund Amount,

terminate this Agreement, and/or take any and all other actions available to the City pursuant to this Agreement and applicable law. Amounts due and not paid when due shall bear interest at the rate specified in ORC Section 1343.03(A) (as such rate is in effect on the date of the applicable payment demand by the City). The Grantee hereby expressly waives the statute of limitations period contained in CMC Chapter 311 with respect to any such demand and payment.

7. **SUBMISSION OF ANNUAL REPORTS.** During the Employment Retention Period, the Grantee shall submit to the City an annual progress report documenting the Number of Full-Time Employee Equivalents at the Project Site, the number of the Grantee's City-Wide Employees, the number of Aggregate Employees, the Net Number of New Employees, the New Income Tax Revenue, the hourly wages and any related Grantee-paid benefits claimed as part of a Minimum Qualifying Wage for each New Employee for the duration of the applicable Tax Year, and any other information that the City deems relevant to this Agreement. The report shall include computations of necessary employment information for the Grantee and the Related Members for the report period, and the City may, in its discretion, require that the report be submitted in a certain format and manner (e.g., submission of a particular electronic file format, mailing a hard copy, etc.). The Grantee agrees to furnish the progress report to the City no later than the first business day of May following each year during the Employment Retention Period. The annual report, as submitted, must be certified as accurate and signed by (A) an independent certified public accountant licensed to do business in the state of Ohio (an "ICPA"), (B) the Chief Executive Officer of the Grantee and (C) the Chief Financial Officer of the Grantee; provided, however, that (1) reports for any or all of the initial two Tax Years may be submitted without certification and signature of an ICPA, so long as the Grantee's report for the third Tax Year includes an ICPA certification and signature for all Tax Years in which a City Income Tax Credit has been claimed without previous certification by an ICPA and (2) after the report for the third Tax Year, the ICPA certification and signature need not be provided more frequently than once every two years, so long as each ICPA certification and signature applies both to the current reported Tax Year and any previous Tax Year in which a City Income Tax Credit has been claimed without previous certification by an ICPA. If the report is approved by the City as demonstrating compliance with this Agreement, a certificate of verification from the City will be sent to the Grantee and the Tax Commissioner (as defined in CMC Section 311-9-T2) within thirty (30) days after receipt of the annual report. Failure to submit an annual report within the time periods specified herein will be considered a default and may result in termination of this Agreement.

8. **SMALL BUSINESS ENTERPRISE PROGRAM AND EQUAL EMPLOYMENT OPPORTUNITY PROGRAM.¹**

(A) **Small Business Enterprise Program Policy.** The policy of the City is that a fair share of contracts be awarded to Small Business Enterprises (as such term is defined in CMC Section 323-1, "SBEs"). Pursuant to CMC Section 323-7, the City's annual goal for SBE participation shall be thirty percent (30%) of the City's total dollars spent for construction (as such term is defined in CMC Section 323-1), supplies (as such term is defined in CMC Section 323-1), services (as such term is defined in CMC Section 323-1) and professional services (as such term is defined in CMC Section 323-1). Accordingly, the Grantee shall use its best efforts and take affirmative steps to achieve the City's goal of voluntarily meeting thirty percent (30%) SBE participation. A list of SBEs may be obtained from the City's Department of Economic Inclusion. The Grantee may refer interested firms to the City's Department of Economic Inclusion for review and possible certification as an SBE. The Grantee shall comply with the provisions of CMC Chapter 323, including without limitation taking at least the following affirmative steps:

- (1) Including qualified SBEs on solicitation lists.
- (2) Assuring that SBEs are solicited whenever they are potential sources. The Grantee must advertise, on at least two separate occasions, both in local minority publications and in other local newspapers of general circulation, invitations to SBEs to provide services, to supply materials, or to bid on construction contracts, as applicable.

¹ Note: The Department of Community and Economic Development is currently reviewing alternatives for updating this provision based on recent legislative changes adopted by Council. If an alternative policy is approved by DCED prior to the execution of this Agreement, this provision will be revised accordingly.

- (3) When economically feasible, dividing total requirements into small tasks or quantities so as to permit maximum SBE participation.
 - (4) If any subcontracts are to be let, the Grantee shall require the prime contractor (if different from the Grantee) to take the above affirmative steps.
 - (5) Prior to the commencement of work under any subcontracts, the Grantee shall provide to the City a list of such subcontractors, including information as to the dollar amount of the subcontracts and such other information as may be requested by the City. The Grantee shall update the report monthly.
 - (6) The Grantee shall periodically document its best efforts and affirmative steps to meet the above SBE participation goals by submitting such information as may be requested from time to time by the City.
- (B) Small Business Enterprise Program Remedies. Failure of the Grantee or its contractors and subcontractors to take the affirmative steps specified above, to provide fair and equal opportunity to SBEs, or to provide technical assistance to SBEs as may be necessary to reach SBE participation as set out in CMC Chapter 323 may be construed by the City as failure of the Grantee to use its best efforts, and, in addition to other remedies under this Agreement, may be a cause for the City to file suit in Common Pleas Court to enforce specific performance of the terms of this Section. The provisions of CMC Section 323-99 are hereby incorporated by reference into this Agreement.
- (C) Equal Employment Opportunity Program. This Agreement is subject to and hereby incorporates the provisions of the Equal Employment Opportunity Program set forth in CMC Chapter 325 (including, without limitation, CMC Section 325-9).
- (D) Further Information. Details concerning both the SBE Program and the Equal Employment Opportunity Program can be obtained from the City's Department of Economic Inclusion, Two Centennial Plaza, 805 Central Avenue, Suite 222, Cincinnati, Ohio 45202, (513)352-3144.
9. RECORDS, ACCESS AND MAINTENANCE. Throughout the period required by CMC Section 311-81, the Grantee agrees to establish and maintain such records as are necessary to document compliance with this Agreement (including but not limited to, financial reports, payroll records, documentation with respect to any Grantee-paid benefits claimed as part of a Minimum Qualifying Wage, intake and participant information and all other relevant information). For the three (3) year period following the end of the Employment Retention Period, the Grantee agrees to maintain records of the amounts of City Income Tax Credits claimed and allowed. The parties further agree that records with respect to any audit disallowances, litigation or dispute between the City and the Grantee shall be maintained for the time needed for the resolution of said disallowance, litigation or dispute, and that in the event of early termination of this Agreement (or if for any other reason the City shall require a review of the records related to the Project), the Grantee shall, at its own cost and expense, segregate all such records related to the Project and this Agreement (or copies thereof) from its other records of operation.
10. AUDITS AND INSPECTIONS. At any time during normal business hours upon written notice and as often as the City may deem necessary, the Grantee shall make available to the City and to appropriate State agencies or officials all records of the Grantee and the Related Members with respect to matters covered by this Agreement including, but not limited to, records of personnel and conditions of employment, and shall permit the City to audit, examine and make excerpts or transcripts from such records.
11. FORBEARANCE NOT A WAIVER. No act of forbearance or failure to insist on the prompt performance by the Grantee of its obligations under this Agreement, either express or implied, shall be construed as a waiver by the City of any of its rights hereunder.
12. ENFORCED FAILURE TO PERFORM FOR CAUSES BEYOND CONTROL OF THE GRANTEE -- RELIEF FROM REIMBURSEMENT OBLIGATION.

- (A) The Grantee shall not be required to pay the reimbursement required for default under Section 6(B) of this Agreement for any Tax Year in which such default is due to unforeseeable causes beyond the control of the Grantee and the Related Members and without fault or negligence of the Grantee or the Related Members, restricted to: acts of the federal, state or city government; orders of courts; fires, floods, epidemics, earthquakes or similar natural disasters; quarantine restrictions; strikes; and other causes which in the opinion of the City Manager are beyond the control of the Grantee and the Related Members and without fault or negligence of the Grantee or the Related Members. Economic difficulties of the Grantee or the Related Members (including, without limitation, bankruptcy), do not constitute causes beyond the control of the Grantee or the Related Members under this subsection. If the Grantee seeks the benefit of the provisions of this subsection it shall, within sixty (60) days after the beginning of any such unforeseeable cause, notify the City thereof in writing.
- (B) Notwithstanding the provisions set forth in subsection (A) above, the Grantee shall not be allowed a City Income Tax Credit hereunder (including any credit carried forward from prior tax years) in any Tax Year in which the Grantee is not in full compliance with all requirements of this Agreement.
13. **COMPLIANCE WITH IMMIGRATION AND NATIONALITY ACT.** In the performance of its obligations under this Agreement, the Grantee agrees to comply with the provisions of the Immigration and Nationality Act codified at 8 U.S.C. §§ 1324a(a)(1)(A) and (a)(2). Any noncompliance with such provisions shall be solely determined by either the federal agencies authorized to enforce the Immigration and Nationality Act or the U.S. Attorney General, in accordance with Executive Order 12989 of the U.S. President dated February 13, 1996, and as amended by Executive Order 13465 of the U.S. President dated June 6, 2008.
14. **INDEMNIFICATION.** The Grantee shall indemnify, defend and save the City, its agents and employees harmless from and against any and all losses, claims, damages, liabilities, costs or expenses (including reasonable fees, disbursements, settlement costs and other charges of counsel) imposed on, incurred by or asserted against any of them in connection with any litigation, investigation, claim or proceeding commenced or threatened related to the negotiation, preparation, execution, delivery, enforcement, performance or administration of this Agreement, any other documents related to this Agreement or any undertaking or proceeding related to any of the transactions contemplated hereby or thereby or any act, omission, event or transaction related or attendant thereto, including amounts paid in settlement, court costs and the fees and expenses of counsel, except that the Grantee shall not have any obligation under this Section to the extent that such losses, claims, damages, liabilities, costs or expenses do not result from an act or omission by the Grantee. To the extent that the undertaking to indemnify, pay and hold harmless set forth in this Section may be unenforceable because it violates any law or public policy, the Grantee shall pay the maximum portion which it is permitted to pay under applicable law to the City in satisfaction of indemnified matters under this Section. To the extent permitted by applicable law, neither the Grantee nor the City shall assert, and each of the Grantee and the City hereby waives, any claim against either the Grantee or the City, as applicable, on any theory of liability for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other documents related to this Agreement or any undertaking or transaction contemplate hereby. All amounts due under this Section shall be payable upon demand. The foregoing indemnity shall survive the termination of this Agreement.
15. **CITY IDENTIFICATION IN MARKETING MATERIALS.** The Grantee shall acknowledge the financial support of the City with respect to this Agreement in all printed materials (including but not limited to informational releases, pamphlets and brochures, construction signs, project and identification signage and stationary) and any publicity (such as but not limited to materials appearing on the Internet, television, cable television, radio or in the press or any other printed media). In identifying the City as a funding source, the Grantee shall use either the phrase "Funded by the City of Cincinnati" or a City of Cincinnati logotype or other form of acknowledgement that has been approved in advance in writing by the City. The Grantee's obligations under this Section shall be in effect throughout the term of this Agreement.
16. **CONFLICT OF INTEREST.** The Grantee agrees that no officer, employee or agent of the City who exercises any functions or responsibilities in connection with the planning and carrying out of this

Agreement, nor any immediate family member, close business associate or organization which is about to employ any such person, shall have any personal financial interest, direct or indirect, in the Grantee or in this Agreement and the Grantee shall take appropriate steps to assure compliance.

17. MISCELLANEOUS.

- (A) Relocation of Project Site Within the City. During the term of the Tax Credit, the Grantee may change the location of the Project Site to another location, but only within the City of Cincinnati's corporate boundaries.
- (B) Governing Law. This Agreement shall be governed by the laws of the State of Ohio as to all matters, including but not limited to matters of validity, construction, effect and performance.
- (C) Forum and Venue. All actions regarding this Agreement shall be brought in a court of competent subject matter jurisdiction in Hamilton County, Ohio.
- (D) Entire Document. This Agreement and its exhibits and any documents referred to herein constitute the complete understanding of the parties and merge and supersede any and all other discussions, agreements and understandings, either oral or written, between the parties with respect to the subject matter hereof.
- (E) Severability. If any provisions of this Agreement are declared by final non-appealable court order to be unlawful or invalid under applicable law, then such order shall not invalidate the remainder of this Agreement not found to be unlawful or invalid and shall not create any liability to the City resulting from the unlawfulness or invalidity of such provisions. Any provision so declared to be unlawful or invalid shall, if possible, be construed in a manner which will give effect to the terms of such provision to the fullest extent possible while remaining lawful and valid.
- (F) Assignment. Neither this Agreement nor any rights, duties, or obligations described herein shall be assigned or subcontracted by the Grantee without the prior express written consent of the City.
- (G) Successor in Interest. Each and all of the Grantee's obligations under this Agreement shall extend to and bind not only the Grantee, but its successors and assigns. Only in the case of assignment consented to by the City (as provided in subsection (F) above), the Grantee's benefits hereunder shall inure to the benefit of any approved assignee.
- (H) Certification as to Non-Debarment. Grantee represents that neither it nor any of its principals is presently debarred by any federal, state, or local government agency. In completing the Project, Grantee shall not solicit bids from any contractors or subcontractors who are identified as being debarred by any federal, state, or local government agency. If Grantee or any of its principals becomes debarred by any federal, state, or local government agency during the term of this Agreement, Grantee shall be considered in default under this Agreement.
- (I) Notices. All notices, consents, demands, requests and other communications given hereunder shall be in writing and shall be deemed duly given if personally delivered or sent by mail, registered or certified, to the addresses set forth hereunder, or to such other address as the other party hereto may designate in written notice transmitted in accordance with this provision.

To the City:

City of Cincinnati
801 Plum Street, Room 152
Cincinnati, Ohio 45202
Attention: City Manager

with a copy to:

City of Cincinnati
Centennial Plaza Two, Suite 700
805 Central Avenue
Cincinnati, Ohio 45202
Attention: Director, Department of Community and Economic Development

To the Grantee:

CTI – Clinical Trial Services, Inc.
100 East River Center Blvd, Suite 1600
Covington, KY 41011
Attention: Brian Lawrence, VP of Finance

If the Grantee sends a notice to the City alleging that the City is in breach of this Agreement, the Grantee shall simultaneously send a copy of such notice by U.S. certified mail to: City of Cincinnati, 801 Plum Street, Room 214, Cincinnati, OH 45202, Attention: City Solicitor.

- (J) Wage Enforcement. This Agreement is or may be subject to the Wage Enforcement provisions of the Cincinnati Municipal Code. These provisions require that any person who has an agreement with the City, or a contractor or subcontractor of that person, shall report all complaints or adverse determinations of Wage Theft and Payroll Fraud (as defined in Chapter 326 of the Cincinnati Municipal Code) against the person, contractor or subcontractors to the Department of Economic Inclusion within 30 days of notification of the complaint or adverse determination. Under the Wage Enforcement provisions, the City shall have the authority, under certain circumstances, to terminate this Agreement or reduce the incentives or subsidies to be provided under this Agreement and to seek other remedies.
- (K) Legal Requirements. In completing and operating the Project, and in undertaking the matters contemplated by this Agreement, the Grantee shall comply with all applicable statutes, ordinances, regulations, and rules of the government of the United States, State of Ohio, County of Hamilton, and City of Cincinnati.
- (L) Counterparts and Electronic Signatures. This Agreement may be executed by the parties hereto in two or more counterparts and each executed counterpart shall be considered an original but all of which together shall constitute one and the same instrument. This Agreement may be executed and delivered by electronic signature; any original signatures that are initially delivered electronically shall be physically delivered as soon as reasonably possible.
18. FEES. The Grantee shall pay to the City (i) within 10 days following the Effective Date, an initial administrative fee in connection with the City's application, underwriting, processing and documentation costs equal to \$3,000.00, and (ii) concurrently with the submission of each required annual report under Section 7, an annual monitoring, review and administration fee of \$2,000.00.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates indicated below, the latest date of which shall be the "Effective Date."

CTI – CLINICAL TRIAL SERVICES, INC.,
an Ohio corporation

By: _____

Printed Name: _____

Title: _____

Date: _____, 2021

As authorized by corporate resolution dated _____, 2021

CITY OF CINCINNATI,
an Ohio municipal corporation

By: _____

Paula Boggs Muething, City Manager

Date: _____

Approved as to Form:

Assistant City Solicitor

Certification of Funds:

Certified Date: _____

Fund/Code: _____

Amount: _____

By: _____

Karen Alder, City Finance Director



Contract Number _____

JOB CREATION TAX CREDIT AGREEMENT

This Job Creation Tax Credit Agreement (this "Agreement") is made and entered into as of the Effective Date (as defined on the signature page hereof) by and between the CITY OF CINCINNATI, an Ohio municipal corporation (the "City"), and CTI - CLINICAL TRIAL SERVICES, INC., an Ohio corporation (the "Grantee").

BACKGROUND INFORMATION

- A. The City seeks to increase employment opportunities and to encourage establishment of new jobs within the corporate boundaries of the City of Cincinnati (the "City Boundaries"), in order to improve the economic welfare of the City and its citizens, in furtherance of the public purposes enunciated in Article VIII, Section 13 of the Ohio Constitution.
- B. The City has determined that the Grantee will create new jobs within the City Boundaries in connection with a project to be implemented by the Grantee at Baldwin 500, 2090 Florence Avenue, Cincinnati, Ohio 45206 (the "Project Site"), consisting of the construction of leasehold improvements on the Project Site and the purchase or relocation of machinery, equipment, furniture and fixtures (the "Project").
- C. Cincinnati Municipal Code ("CMC") Chapter 311 imposes income taxes, including a tax on business net profits. The Grantee represents and has documented to the City that the credit authorized by this Agreement against the tax imposed on the Grantee's net profits under CMC Chapter 311 (the "City Income Tax Credit") is a major factor in the Grantee's decision to go forward with the Project, to offset costs of capital expenditures and/or moving.
- D. The City Income Tax Credit as provided in this Agreement is authorized by Ohio Revised Code ("ORC") Sections 718.15 and 718.151.
- E. The City and Grantee intend that Grantee will implement the Project partly as a result of Grantee cost savings resulting from a forty-five percent (45%) City income tax credit applicable to new jobs created by Grantee at the Project Site for a period of eight (8) years, and thereby create seventy (70) new jobs in the City within five (5) years of the Determination Date (as defined below).

STATEMENT OF THE AGREEMENT

In consideration of the foregoing and the mutual promises and covenants hereinafter set forth, the parties agree as follows:

1. PRECONDITIONS TO EFFECTIVENESS OF AGREEMENT. Notwithstanding anything to the contrary herein, this Agreement shall be of no force and effect unless and until (1) this Agreement is fully executed by both parties and (2) the Council of the City of Cincinnati passes an ordinance approving this Agreement, and the ordinance takes effect.
2. CERTAIN DEFINITIONS. As used in this Agreement:
 - (A) "Aggregate Employees" means, for any stated period, the Number of Full-Time Employee Equivalents employed either by the Grantee or by a Related Member, calculated with reference to all employees of the Grantee and all Related Members of the Grantee for which (1) the primary work location is within the City of Cincinnati and (2) the Grantee or a Related Member withholds City income taxes.
 - (B) "City Tax Credit Term" means the 8-year term of 2021 through 2028.

- (C) “Determination Date” means January 1, 2021.
- (D) “Employment Retention Period” means a 15-year period commencing as of the start of the City Tax Credit Term.
- (E) “Grantee’s City-Wide Employees” means, for any stated period, the Number of Full-Time Employee Equivalents employed by the Grantee, calculated with reference to all employees of the Grantee for which (1) the primary work location is within the City (not limited to the Project Site) and (2) the Grantee withholds City income taxes. An employee is considered to have a primary work location within the City if at least fifty-one percent (51%) of the compensation paid by the Grantee to that employee is taxed by the City with respect to work performed in the City.
- (F) “Income Tax Revenue” means, for any Tax Year:
- (1) Payments from the Grantee to the City in an amount equal to the aggregate amount of earnings taxes withheld on the qualifying wages (as defined in CMC Section 311-9-Q) paid by the Grantee to all Aggregate Employees whose primary work location is the Project Site; less
 - (2) Any amounts refunded by the City to Aggregate Employees whose primary work location is the Project Site (pursuant to CMC Chapter 311) relating to qualifying wages (as defined in CMC Section 311-9-Q) paid by the Grantee, as such refunds are reported by the City to the Grantee from time to time.
- (G) “Initial Tax Year” means the first Tax Year during which the Grantee is entitled to a City Income Tax Credit.
- (H) “Minimum Qualifying Wage” means an hourly wage of at least (1) \$12.50 per hour on and after July 1, 2018, (2) \$13.50 per hour on and after January 1, 2019, and (3) \$15.00 per hour on and after July 1, 2019; *provided however*, that if (i) the Grantee contributes to any health, vision and/or dental insurance plan; provides retirement benefits; or provides childcare, tuition, or training reimbursement benefits to a New Employee and (ii) the City approves in writing, in its sole and absolute discretion any such contribution, retirement, or reimbursement benefit, then the hourly cash value of any such City-approved benefit shall be added to the New Employee’s base monetary hourly wage for the purposes of calculating that New Employee’s hourly wage under this definition.
- (I) “Net Number of New Employees” means, for any Tax Year, the lesser of:
- (1) The average Number of New Employees in the final three (3) calendar months of that Tax Year; or
 - (2) The remainder computed by subtracting (a) the Baseline City-Wide Employment Level from (b) the average number of the Grantee’s City-Wide Employees in the final three (3) months of that Tax Year; or
 - (3) The remainder computed by subtracting (a) the Baseline Aggregate Employment Level from (b) the average number of Aggregate Employees in the final three (3) months of that Tax Year.
- Computations of an “average number” of employees, as required by this Agreement, shall be made and documented by the Grantee in a manner subject to approval by the City, such approval not to be unreasonably withheld.
- (J) “New Employee” means an employee of the Grantee that meets all of the following criteria during the applicable Tax Year: (i) has a primary work location is the Project Site, (ii) is first employed by the Grantee within the City Boundaries after the Determination Date, and (iii) is paid at least the Minimum Qualifying Wage by the Grantee at all times during the applicable Tax Year. An employee is considered to have a primary work location at the Project Site if at least fifty-one percent (51%) of the compensation paid by the Grantee to that employee is taxed by the City with

respect to work performed at the Project Site. "New Employees" may include employees of the Grantee employed in employment positions that were relocated to the Project Site from other operations of the Grantee (or of a Related Member) outside of the City Boundaries.

- (K) "New Income Tax Revenue" means, for any Tax Year, the lesser of:
 - (1) Income Tax Revenue in such Tax Year relating only to New Employees; or
 - (2) The amount computed by multiplying (a) the Net Number of New Employees for such Tax Year by (b) the average amount of Income Tax Revenue received by the City in such Tax Year per New Employee (which average amount is computed by dividing (x) the total Income Tax Revenue for such Tax Year relating only to New Employees by (y) the monthly average of Number of New Employees (determined on a twelve (12) month basis) employed during such Tax Year.
- (L) "Number of Full-Time Employee Equivalents" means one fortieth (1/40) of the total number of compensated hours worked in a work week by permanent employees that are paid at least the Minimum Qualifying Wage for the duration of the applicable Tax Year (whether full-time or part-time), provided that the hours included in the calculation may not exceed forty (40) per week for any individual employee.
- (M) "Number of New Employees" means, for any stated period, the Number of Full-Time Employee Equivalents employed in that period, calculated only with reference to hours worked by New Employees.
- (N) "Related Member" means any of the Grantee's "related members" (as defined in ORC Section 122.171(A)(7)) that has at least one employee whose primary work location is within the City Boundaries (not limited to the Project Site), including those "related members" that begin operations within the City Boundaries on or after the Effective Date.
- (O) "Tax Year" means the fiscal year used by the Grantee to compute net profits under CMC Chapter 311.

3. PROJECT: JOB CREATION AND RETENTION.

- (A) Grantee Representations. The Grantee represents that:
 - (1) The monthly average of the Number of Full-Time Employee Equivalents employed by the Grantee, for whom the Project Site was the primary work location, for the three (3) full calendar month period immediately prior to the Determination Date was 0.
 - (2) The monthly average of the Grantee's City-Wide Employees for the three (3) full calendar month period immediately prior to the Determination Date was 0 (the "Baseline City-Wide Employment Level").
 - (3) The monthly average of Aggregate Employees for the three (3) full calendar month period immediately prior to the Determination Date was 0 (the "Baseline Aggregate Employment Level").
 - (4) Related Members of the Grantee with any employees whose primary work location is within the City Boundaries as of the Effective Date (and the Related Members' Cincinnati addresses and Federal Tax Identification Numbers) consist of the following: NONE.
 - (5) The Grantee shall give written notice to the City of any Related Member that begins operations within the City Boundaries on or after the Effective Date.
- (B) Minimum Expenditures. The Grantee agrees to expend a minimum of \$3,310,000 on or before the date that is three (3) years from the Effective Date to accomplish the Project. Notwithstanding the foregoing, the City and the Grantee acknowledge and agree that Grantee commenced the Project prior to the Effective Date.
- (C) Minimum Number of New Employees. Within five (5) years from the Determination Date, the Grantee agrees to employ a Number of New Employees at the Project Site equal to at least

seventy (70). The Grantee agrees that the aggregate annual wages of the New Employees will be equal to at least \$5,600,000.

- (D) Relocation of Employment Positions from Elsewhere in Ohio. The Grantee may not relocate a substantial number of employment positions from elsewhere in Ohio (i.e., outside the City) unless the Director of the Department of Community and Economic Development determines that the legislative authority of the county, township, or municipal corporation from which the employment positions would be relocated has been notified by the Grantee of the relocation.
- (E) Employment Retention by the Grantee.
- (1) During each year of the Employment Retention Period, the Grantee agrees to maintain a monthly average of Aggregate Employees (determined on a twelve (12) month basis) equal to or greater than the Baseline Aggregate Employee Level.
 - (2) During each of the first three (3) years of the City Tax Credit Term, the Grantee agrees to maintain a monthly average of the Grantee's City-Wide Employees (determined on a twelve (12) month basis) equal to or greater than the Baseline City-Wide Employee Level.
 - (3) Beginning with the fourth (4th) year of the City Tax Credit Term and continuing during each subsequent year of the Employment Retention Period, the Grantee agrees to maintain an average Net Number of New Employees (determined on a twelve (12) month basis) of at least ninety percent (90%) of the highest Net Number of New Employees reported by the Grantee in calculating the City Income Tax Credit in any prior Tax Year during the City Tax Credit Term.

The Grantee acknowledges and agrees that the obligations of the Grantee under this Agreement may be affected by decisions of the Related Members, as the City's agreement to provide the City Income Tax Credit authorized herein is conditioned on maintenance of the existing employment within the City Boundaries by both the Grantee and the Related Members. The Grantee may apply to the City Manager for waiver of this employment retention requirement (which waiver may be granted in the City Manager's sole discretion) on the grounds that the Grantee's failure to maintain the required Net Number of New Employees is excusable based on exceptional circumstances not under the control of the Grantee or of the Related Members, as described in Section 12.

- (F) City Residents; Referral Procedure for New Hires. The Grantee agrees to use its best efforts to fill at least seventy-five percent (75%) of the new jobs created in connection with the Project with employees residing within the City Boundaries (the "City Resident Hiring Goal"). In furtherance of such goal, the Grantee shall implement the following procedures:
- (1) City Representative. In its efforts to meet the City Resident Hiring Goal, the Grantee agrees to request referrals from the OhioMeansJobs Center (or such other agency as the City Manager may designate) when positions need to be filled. A representative of the personnel office of the Grantee will meet periodically with a representative of the OhioMeansJobs Center (the "City Representative") to assess the Grantee's future employment needs and to assure that qualified applicants can be recruited and trained in a timely manner.
 - (2) Initial Positions. As soon as practicable after execution of this Agreement, and no later than ninety (90) days prior to the earlier of (a) the scheduled initial occupancy of the Project or completion of renovation or expansion or (b) the date when the following employment positions will be filled, the Grantee agrees to notify the City Representative of the following: (i) the number of new employees that will be required, and the date when the positions must be filled; (ii) the training, qualifications and experience required for the individuals who will fill the positions; and (iii) the name, address and telephone number of the person responsible for hiring. For positions requiring customized training, the Grantee agrees to provide such notice as far in advance of such ninety-day period as is practicable.
 - (3) City Referrals. The City Representative shall, within thirty (30) days after receiving such notification from the Grantee, submit in writing the following: (a) the positions for which the City intends to make referrals; (b) the names and qualifications of referred applicants for each position available; and (c) the date when these applicants will be available for

interview. For positions requiring customized training, however, such information may be submitted to the Grantee up to thirty (30) days prior to the date that such positions are to be filled.

- (4) Interviews. The Grantee agrees to interview those applicants who are referred by the City Representative and shall consider for employment those applicants the Grantee finds to be qualified for an available position. If (a) the City Representative informs the Grantee that it does not intend to make referrals for a position, (b) the City Representative fails to refer applicants who are available for interview for a position in accordance with this subsection or (c) the applicants referred for a position are deemed not qualified by the Grantee, then the Grantee may hire individuals from other sources for such position, without any further obligations or restrictions hereunder as to such position.
- (5) Subsequent Positions. During the three (3) year period following the date upon which this Agreement becomes effective, if the Grantee needs to fill a vacant employment position (either from attrition or an increase in employment), the Grantee agrees to notify the City Representative for an additional referral of applicants. The Grantee, however, is under no obligation to postpone the hiring of a new employee pending receipt of referrals from the City Representative. If the position is still vacant at the time referrals are received from the City Representative, the Grantee shall interview those applicants who are referred by the City Representative and shall consider for employment those applicants the Grantee finds to be qualified for an available position.
- (6) Continuation of Referral Procedure. If the Grantee and the City agree that this referral process has been mutually beneficial, the parties shall continue the process after the three (3) year period.

4. CITY INCOME TAX CREDIT.

- (A) Credit Requirements. Subject to the terms and conditions of this Agreement, for each Tax Year during the City Tax Credit Term in which the Grantee has claimed the City Income Tax Credit on an income tax return filed directly with the City with respect to its net profits and is otherwise in full compliance with all requirements under both CMC Chapter 311 and this Agreement, the Grantee shall be allowed to apply the City Income Tax Credit stated in this Section against the tax imposed on the Grantee's net profits under CMC Chapter 311. The City Income Tax Credit shall be applied in accordance with any applicable rules and regulations (consistent with this Agreement) that may be adopted by the Board of Review (as defined in CMC Section 311-9-B1).
- (B) Amount of Credit. The amount of the City Income Tax Credit shall be forty-five percent (45%) of any New Income Tax Revenue in a given Tax Year. The City Income Tax Credit shall be applied against net profits tax due to the City (pursuant to CMC Chapter 311) from the Grantee for such Tax Year. The City Income Tax Credit shall be allowed only after the allowance of all other credits and deductions under CMC Chapter 311. If the City Income Tax Credit exceeds the Grantee's tax liability for such Tax Year, the City Income Tax Credit shall not be refunded to the Grantee or carried back to previous Tax Years, but may be carried forward up to five (5) Tax Years; provided, however, that such City Income Tax Credit shall not be carried forward beyond the tenth (10th) Tax Year (for the purposes of such calculations, the Initial Tax Year shall be the first (1st) Tax Year).
- (C) Related Members. The Grantee acknowledges and agrees that the City Income Tax Credit calculated under this Agreement will be reduced to the extent that reductions in the number of Aggregate Employees of both the Grantee and the Related Members affect the calculation of Net Number of New Employees.

5. COVENANT AS TO OUTSTANDING LIABILITIES; INSPECTION OF RECORDS; FALSE STATEMENTS.

In accordance with Ohio Revised Code Section 9.66, (A) the Grantee affirmatively covenants that it does not owe: (1) any delinquent taxes to the State of Ohio (the "State") or to a political subdivision of the State; (2) any moneys to the State or a State agency for the administration or enforcement of any environmental laws of the State; or (3) any other moneys to the State, a State agency or a political subdivision of the

State that are past due, regardless of whether the amounts owed are being contested in a court of law or not; (B) the Grantee authorizes the City and/or the State to inspect the personal financial statements of the Grantee, including tax records and other similar information not ordinarily open to public inspection; and (C) the Grantee authorizes the Ohio Environmental Protection Agency and the Ohio Department of Taxation to release information to the City and or other State departments in connection with the above statements. As provided by statute, a knowingly false statement under this Section may be prosecuted as a first-degree misdemeanor under Ohio Revised Code Section 2921.13, may render the Grantee ineligible for any future economic development assistance from the State or any political subdivision of the State and will result in the City requiring the Grantee's repayment of any assistance provided by the City in connection with the Project.

6. TERMINATION; REIMBURSEMENT FOR DEFAULT.

- (A) Suspension or Termination of the City Income Tax Credit. Subject to the provisions of subsections (B) and (C) below, if the City provides the Grantee with written notice of an event of default under this Agreement, and such default is not cured to the City's satisfaction within thirty (30) days of such notice, the City shall suspend or terminate the City Income Tax Credit hereunder and may, in the City's sole discretion, take such other measures as may be lawful (including suing for specific performance). Except as provided in subsections (B) or (C) below, such suspension or termination shall only affect City Income Tax Credits otherwise allowable after the date of suspension or termination.
- (B) Grantee's Failure to Comply with Job Creation and Retention Obligations. If the City provides the Grantee with written notice of an event of default under Section 3(C) or 3(D), and such default is not cured to the City's satisfaction within thirty (30) days of such notice, the City may, after giving the Grantee an opportunity to explain such default, require the Grantee to pay to the City all or a portion of the City Income Tax Credits previously claimed under this Agreement. In determining the portion of the City Income Tax Credit amounts to be repaid, the City may consider the effect of market conditions on the Grantee's Project and whether the Grantee continues to maintain other operations and employment in the City. For the avoidance of doubt, the City shall have the ability to exercise its rights under this Section with respect to each event of default under Section 3(C) or 3(D) (i.e. in the event that Grantee defaults under Section 3(C) or 3(D) in multiple Tax Years, the City may require the Grantee to pay to the City all or a portion of the City Income Tax Credits previously claimed and not repaid under this Agreement after each event of default).
- (C) Grantee's Failure to Comply with Outstanding Liability Obligations. If the City provides the Grantee with written notice of an event of default under Section 5, the City may, after giving the Grantee an opportunity to explain such default, require the Grantee to pay to the City all or any portion of the City Income Tax Credits previously claimed under this Agreement. For the avoidance of doubt, the City shall have the ability to exercise its rights under this Section with respect to each event of default under Section 5 (i.e. in the event that Grantee defaults under Section 5 in multiple Tax Years, the City may require the Grantee to pay to the City all or a portion of the City Income Tax Credits previously claimed and not repaid under this Agreement after each event of default).
- (D) Reimbursement. The Grantee hereby agrees (i) to make any payments required by the City under this Section within thirty (30) days of written demand by the City and (ii) in the event that the City refunds any Income Tax Revenue in a subsequent Tax Year for which a City Income Tax Credit was previously granted pursuant to this Agreement (the "Refund Amount"), then no later than thirty (30) days following Grantee's receipt of written notice from the City (the "City's Notice"), the Grantee will either (a) pay an amount equal to the Refund Amount to the City, as detailed in the City's Notice or (b) deliver written notice to the City that the Grantee will reduce its future City Income Tax Credits by the Refund Amount, such reduction to begin with the first City Income Tax Credit the Grantee is eligible to receive pursuant to this Agreement following the Grantee's receipt of the City's Notice. In the event that the Grantee fails to make a timely election pursuant to the foregoing sentence, then the City may, in its sole and absolute discretion, reduce the amount of any future City Income Tax Credits by the Refund Amount, charge interest on the Refund Amount,

terminate this Agreement, and/or take any and all other actions available to the City pursuant to this Agreement and applicable law. Amounts due and not paid when due shall bear interest at the rate specified in ORC Section 1343.03(A) (as such rate is in effect on the date of the applicable payment demand by the City). The Grantee hereby expressly waives the statute of limitations period contained in CMC Chapter 311 with respect to any such demand and payment.

7. SUBMISSION OF ANNUAL REPORTS. During the Employment Retention Period, the Grantee shall submit to the City an annual progress report documenting the Number of Full-Time Employee Equivalents at the Project Site, the number of the Grantee's City-Wide Employees, the number of Aggregate Employees, the Net Number of New Employees, the New Income Tax Revenue, the hourly wages and any related Grantee-paid benefits claimed as part of a Minimum Qualifying Wage for each New Employee for the duration of the applicable Tax Year, and any other information that the City deems relevant to this Agreement. The report shall include computations of necessary employment information for the Grantee and the Related Members for the report period, and the City may, in its discretion, require that the report be submitted in a certain format and manner (e.g., submission of a particular electronic file format, mailing a hard copy, etc.). The Grantee agrees to furnish the progress report to the City no later than the first business day of May following each year during the Employment Retention Period. The annual report, as submitted, must be certified as accurate and signed by (A) an independent certified public accountant licensed to do business in the state of Ohio (an "ICPA"), (B) the Chief Executive Officer of the Grantee and (C) the Chief Financial Officer of the Grantee; provided, however, that (1) reports for any or all of the initial two Tax Years may be submitted without certification and signature of an ICPA, so long as the Grantee's report for the third Tax Year includes an ICPA certification and signature for all Tax Years in which a City Income Tax Credit has been claimed without previous certification by an ICPA and (2) after the report for the third Tax Year, the ICPA certification and signature need not be provided more frequently than once every two years, so long as each ICPA certification and signature applies both to the current reported Tax Year and any previous Tax Year in which a City Income Tax Credit has been claimed without previous certification by an ICPA. If the report is approved by the City as demonstrating compliance with this Agreement, a certificate of verification from the City will be sent to the Grantee and the Tax Commissioner (as defined in CMC Section 311-9-T2) within thirty (30) days after receipt of the annual report. Failure to submit an annual report within the time periods specified herein will be considered a default and may result in termination of this Agreement.

8. SMALL BUSINESS ENTERPRISE PROGRAM AND EQUAL EMPLOYMENT OPPORTUNITY PROGRAM.¹

(A) Small Business Enterprise Program Policy. The policy of the City is that a fair share of contracts be awarded to Small Business Enterprises (as such term is defined in CMC Section 323-1, "SBEs"). Pursuant to CMC Section 323-7, the City's annual goal for SBE participation shall be thirty percent (30%) of the City's total dollars spent for construction (as such term is defined in CMC Section 323-1), supplies (as such term is defined in CMC Section 323-1), services (as such term is defined in CMC Section 323-1) and professional services (as such term is defined in CMC Section 323-1). Accordingly, the Grantee shall use its best efforts and take affirmative steps to achieve the City's goal of voluntarily meeting thirty percent (30%) SBE participation. A list of SBEs may be obtained from the City's Department of Economic Inclusion. The Grantee may refer interested firms to the City's Department of Economic Inclusion for review and possible certification as an SBE. The Grantee shall comply with the provisions of CMC Chapter 323, including without limitation taking at least the following affirmative steps:

- (1) Including qualified SBEs on solicitation lists.
- (2) Assuring that SBEs are solicited whenever they are potential sources. The Grantee must advertise, on at least two separate occasions, both in local minority publications and in other local newspapers of general circulation, invitations to SBEs to provide services, to supply materials, or to bid on construction contracts, as applicable.

¹ Note: The Department of Community and Economic Development is currently reviewing alternatives for updating this provision based on recent legislative changes adopted by Council. If an alternative policy is approved by DCED prior to the execution of this Agreement, this provision will be revised accordingly.

- (3) When economically feasible, dividing total requirements into small tasks or quantities so as to permit maximum SBE participation.
 - (4) If any subcontracts are to be let, the Grantee shall require the prime contractor (if different from the Grantee) to take the above affirmative steps.
 - (5) Prior to the commencement of work under any subcontracts, the Grantee shall provide to the City a list of such subcontractors, including information as to the dollar amount of the subcontracts and such other information as may be requested by the City. The Grantee shall update the report monthly.
 - (6) The Grantee shall periodically document its best efforts and affirmative steps to meet the above SBE participation goals by submitting such information as may be requested from time to time by the City.
- (B) Small Business Enterprise Program Remedies. Failure of the Grantee or its contractors and subcontractors to take the affirmative steps specified above, to provide fair and equal opportunity to SBEs, or to provide technical assistance to SBEs as may be necessary to reach SBE participation as set out in CMC Chapter 323 may be construed by the City as failure of the Grantee to use its best efforts, and, in addition to other remedies under this Agreement, may be a cause for the City to file suit in Common Pleas Court to enforce specific performance of the terms of this Section. The provisions of CMC Section 323-99 are hereby incorporated by reference into this Agreement.
- (C) Equal Employment Opportunity Program. This Agreement is subject to and hereby incorporates the provisions of the Equal Employment Opportunity Program set forth in CMC Chapter 325 (including, without limitation, CMC Section 325-9).
- (D) Further Information. Details concerning both the SBE Program and the Equal Employment Opportunity Program can be obtained from the City's Department of Economic Inclusion, Two Centennial Plaza, 805 Central Avenue, Suite 222, Cincinnati, Ohio 45202, (513)352-3144.
9. RECORDS, ACCESS AND MAINTENANCE. Throughout the period required by CMC Section 311-81, the Grantee agrees to establish and maintain such records as are necessary to document compliance with this Agreement (including but not limited to, financial reports, payroll records, documentation with respect to any Grantee-paid benefits claimed as part of a Minimum Qualifying Wage, intake and participant information and all other relevant information). For the three (3) year period following the end of the Employment Retention Period, the Grantee agrees to maintain records of the amounts of City Income Tax Credits claimed and allowed. The parties further agree that records with respect to any audit disallowances, litigation or dispute between the City and the Grantee shall be maintained for the time needed for the resolution of said disallowance, litigation or dispute, and that in the event of early termination of this Agreement (or if for any other reason the City shall require a review of the records related to the Project), the Grantee shall, at its own cost and expense, segregate all such records related to the Project and this Agreement (or copies thereof) from its other records of operation.
10. AUDITS AND INSPECTIONS. At any time during normal business hours upon written notice and as often as the City may deem necessary, the Grantee shall make available to the City and to appropriate State agencies or officials all records of the Grantee and the Related Members with respect to matters covered by this Agreement including, but not limited to, records of personnel and conditions of employment, and shall permit the City to audit, examine and make excerpts or transcripts from such records.
11. FORBEARANCE NOT A WAIVER. No act of forbearance or failure to insist on the prompt performance by the Grantee of its obligations under this Agreement, either express or implied, shall be construed as a waiver by the City of any of its rights hereunder.
12. ENFORCED FAILURE TO PERFORM FOR CAUSES BEYOND CONTROL OF THE GRANTEE -- RELIEF FROM REIMBURSEMENT OBLIGATION.

- (A) The Grantee shall not be required to pay the reimbursement required for default under Section 6(B) of this Agreement for any Tax Year in which such default is due to unforeseeable causes beyond the control of the Grantee and the Related Members and without fault or negligence of the Grantee or the Related Members, restricted to: acts of the federal, state or city government; orders of courts; fires, floods, epidemics, earthquakes or similar natural disasters; quarantine restrictions; strikes; and other causes which in the opinion of the City Manager are beyond the control of the Grantee and the Related Members and without fault or negligence of the Grantee or the Related Members. Economic difficulties of the Grantee or the Related Members (including, without limitation, bankruptcy), do not constitute causes beyond the control of the Grantee or the Related Members under this subsection. If the Grantee seeks the benefit of the provisions of this subsection it shall, within sixty (60) days after the beginning of any such unforeseeable cause, notify the City thereof in writing.
- (B) Notwithstanding the provisions set forth in subsection (A) above, the Grantee shall not be allowed a City Income Tax Credit hereunder (including any credit carried forward from prior tax years) in any Tax Year in which the Grantee is not in full compliance with all requirements of this Agreement.
13. COMPLIANCE WITH IMMIGRATION AND NATIONALITY ACT. In the performance of its obligations under this Agreement, the Grantee agrees to comply with the provisions of the Immigration and Nationality Act codified at 8 U.S.C. §§ 1324a(a)(1)(A) and (a)(2). Any noncompliance with such provisions shall be solely determined by either the federal agencies authorized to enforce the Immigration and Nationality Act or the U.S. Attorney General, in accordance with Executive Order 12989 of the U.S. President dated February 13, 1996, and as amended by Executive Order 13465 of the U.S. President dated June 6, 2008.
14. INDEMNIFICATION. The Grantee shall indemnify, defend and save the City, its agents and employees harmless from and against any and all losses, claims, damages, liabilities, costs or expenses (including reasonable fees, disbursements, settlement costs and other charges of counsel) imposed on, incurred by or asserted against any of them in connection with any litigation, investigation, claim or proceeding commenced or threatened related to the negotiation, preparation, execution, delivery, enforcement, performance or administration of this Agreement, any other documents related to this Agreement or any undertaking or proceeding related to any of the transactions contemplated hereby or thereby or any act, omission, event or transaction related or attendant thereto, including amounts paid in settlement, court costs and the fees and expenses of counsel, except that the Grantee shall not have any obligation under this Section to the extent that such losses, claims, damages, liabilities, costs or expenses do not result from an act or omission by the Grantee. To the extent that the undertaking to indemnify, pay and hold harmless set forth in this Section may be unenforceable because it violates any law or public policy, the Grantee shall pay the maximum portion which it is permitted to pay under applicable law to the City in satisfaction of indemnified matters under this Section. To the extent permitted by applicable law, neither the Grantee nor the City shall assert, and each of the Grantee and the City hereby waives, any claim against either the Grantee or the City, as applicable, on any theory of liability for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other documents related to this Agreement or any undertaking or transaction contemplate hereby. All amounts due under this Section shall be payable upon demand. The foregoing indemnity shall survive the termination of this Agreement.
15. CITY IDENTIFICATION IN MARKETING MATERIALS. The Grantee shall acknowledge the financial support of the City with respect to this Agreement in all printed materials (including but not limited to informational releases, pamphlets and brochures, construction signs, project and identification signage and stationary) and any publicity (such as but not limited to materials appearing on the Internet, television, cable television, radio or in the press or any other printed media). In identifying the City as a funding source, the Grantee shall use either the phrase "Funded by the City of Cincinnati" or a City of Cincinnati logotype or other form of acknowledgement that has been approved in advance in writing by the City. The Grantee's obligations under this Section shall be in effect throughout the term of this Agreement.
16. CONFLICT OF INTEREST. The Grantee agrees that no officer, employee or agent of the City who exercises any functions or responsibilities in connection with the planning and carrying out of this

Agreement, nor any immediate family member, close business associate or organization which is about to employ any such person, shall have any personal financial interest, direct or indirect, in the Grantee or in this Agreement and the Grantee shall take appropriate steps to assure compliance.

17. MISCELLANEOUS.

- (A) Relocation of Project Site Within the City. During the term of the Tax Credit, the Grantee may change the location of the Project Site to another location, but only within the City of Cincinnati's corporate boundaries.
- (B) Governing Law. This Agreement shall be governed by the laws of the State of Ohio as to all matters, including but not limited to matters of validity, construction, effect and performance.
- (C) Forum and Venue. All actions regarding this Agreement shall be brought in a court of competent subject matter jurisdiction in Hamilton County, Ohio.
- (D) Entire Document. This Agreement and its exhibits and any documents referred to herein constitute the complete understanding of the parties and merge and supersede any and all other discussions, agreements and understandings, either oral or written, between the parties with respect to the subject matter hereof.
- (E) Severability. If any provisions of this Agreement are declared by final non-appealable court order to be unlawful or invalid under applicable law, then such order shall not invalidate the remainder of this Agreement not found to be unlawful or invalid and shall not create any liability to the City resulting from the unlawfulness or invalidity of such provisions. Any provision so declared to be unlawful or invalid shall, if possible, be construed in a manner which will give effect to the terms of such provision to the fullest extent possible while remaining lawful and valid.
- (F) Assignment. Neither this Agreement nor any rights, duties, or obligations described herein shall be assigned or subcontracted by the Grantee without the prior express written consent of the City.
- (G) Successor in Interest. Each and all of the Grantee's obligations under this Agreement shall extend to and bind not only the Grantee, but its successors and assigns. Only in the case of assignment consented to by the City (as provided in subsection (F) above), the Grantee's benefits hereunder shall inure to the benefit of any approved assignee.
- (H) Certification as to Non-Debarment. Grantee represents that neither it nor any of its principals is presently debarred by any federal, state, or local government agency. In completing the Project, Grantee shall not solicit bids from any contractors or subcontractors who are identified as being debarred by any federal, state, or local government agency. If Grantee or any of its principals becomes debarred by any federal, state, or local government agency during the term of this Agreement, Grantee shall be considered in default under this Agreement.
- (I) Notices. All notices, consents, demands, requests and other communications given hereunder shall be in writing and shall be deemed duly given if personally delivered or sent by mail, registered or certified, to the addresses set forth hereunder, or to such other address as the other party hereto may designate in written notice transmitted in accordance with this provision.

To the City:

City of Cincinnati
801 Plum Street, Room 152
Cincinnati, Ohio 45202
Attention: City Manager

with a copy to:

City of Cincinnati
Centennial Plaza Two, Suite 700
805 Central Avenue
Cincinnati, Ohio 45202
Attention: Director, Department of Community and Economic Development

To the Grantee:

CTI – Clinical Trial Services, Inc.
100 East River Center Blvd, Suite 1600
Covington, KY 41011
Attention: Brian Lawrence, VP of Finance

If the Grantee sends a notice to the City alleging that the City is in breach of this Agreement, the Grantee shall simultaneously send a copy of such notice by U.S. certified mail to: City of Cincinnati, 801 Plum Street, Room 214, Cincinnati, OH 45202, Attention: City Solicitor.

- (J) Wage Enforcement. This Agreement is or may be subject to the Wage Enforcement provisions of the Cincinnati Municipal Code. These provisions require that any person who has an agreement with the City, or a contractor or subcontractor of that person, shall report all complaints or adverse determinations of Wage Theft and Payroll Fraud (as defined in Chapter 326 of the Cincinnati Municipal Code) against the person, contractor or subcontractors to the Department of Economic Inclusion within 30 days of notification of the complaint or adverse determination. Under the Wage Enforcement provisions, the City shall have the authority, under certain circumstances, to terminate this Agreement or reduce the incentives or subsidies to be provided under this Agreement and to seek other remedies.
- (K) Legal Requirements. In completing and operating the Project, and in undertaking the matters contemplated by this Agreement, the Grantee shall comply with all applicable statutes, ordinances, regulations, and rules of the government of the United States, State of Ohio, County of Hamilton, and City of Cincinnati.
- (L) Counterparts and Electronic Signatures. This Agreement may be executed by the parties hereto in two or more counterparts and each executed counterpart shall be considered an original but all of which together shall constitute one and the same instrument. This Agreement may be executed and delivered by electronic signature; any original signatures that are initially delivered electronically shall be physically delivered as soon as reasonably possible.
18. FEES. The Grantee shall pay to the City (i) within 10 days following the Effective Date, an initial administrative fee in connection with the City's application, underwriting, processing and documentation costs equal to \$3,000.00, and (ii) concurrently with the submission of each required annual report under Section 7, an annual monitoring, review and administration fee of \$2,000.00.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates indicated below, the latest date of which shall be the "Effective Date."

CTI – CLINICAL TRIAL SERVICES, INC.,
an Ohio corporation

By: _____

Printed Name: _____

Title: _____

Date: _____, 2021

As authorized by corporate resolution dated _____, 2021

CITY OF CINCINNATI,
an Ohio municipal corporation

By: _____

Paula Boggs Muething, City Manager

Date: _____

Approved as to Form:

Assistant City Solicitor

Certification of Funds:

Certified Date: _____

Fund/Code: _____

Amount: _____

By: _____

Karen Alder, City Finance Director

August 2, 2021

To: Members of the Budget and Finance Committee 202102526
From: Paula Boggs Muething, City Manager
Subject: **Emergency Ordinance – Approving and Authorizing CRA Tax Exemption Agreement with 254 Mohawk, LLC**

Attached is an Emergency Ordinance captioned:

APPROVING AND AUTHORIZING the City Manager to execute a *Community Reinvestment Area Tax Exemption Agreement* with 254 Mohawk LLC, thereby authorizing a 12-year tax exemption for 100% of the value of improvements made to real property located at 254 Mohawk Street in the Over-the-Rhine neighborhood of Cincinnati, in connection with the remodeling of two existing buildings to create approximately 3,655 square feet of residential space consisting of 9 residential units, at a total construction cost of approximately \$725,847.

BACKGROUND/CURRENT CONDITIONS

254 Mohawk, LLC owns and will undertake the renovation of the property located at 254 Mohawk Street in the Mohawk area of Over-the-Rhine. The property contains two historic buildings that are in severe disrepair and have been vacant for over 20 years. 254 Mohawk, LLC purchased the property from the City in 2020 for the appraised value of \$2,000 after an initial Request for Proposals released in 2018 was unawarded. In December 2020, the project was awarded State and Federal Historic Tax Credits.

DEVELOPER INFORMATION

254 Mohawk, LLC is a subsidiary of Kunst Development, LLC, a Cincinnati-based development company owned by John Blatchford. Kunst has completed several historic rehab projects in northern Over-the-Rhine including 205 -207 West McMicken, 222 Mohawk, and 1733 Elm.

PROJECT DESCRIPTION

Developer will complete a historic renovation of the two buildings to create nine (9) residential units, which include five (5) one-bedroom units and four (4) units in a co-living space. Rents will be market rate and range from \$620 for a co-living unit to \$960 for a one-bedroom loft unit.

Total project cost is projected to be \$855,394, with construction cost at \$725,847. The project is estimated to take 24 months to complete and will support the creation of 18 temporary construction jobs with a total annual payroll of \$250,000. The project will create 0.5 permanent FTE jobs in property management with a total annual payroll of \$18,000. Developer intends to commence construction upon the execution of a CRA Agreement.

This project achieves Goal 3 of the Live Initiative Area of *Plan Cincinnati* (pages 164-178) by providing a full spectrum of housing options and improving housing quality and affordability. Additionally, the project achieves Goal 2 of the Live Initiative Area of *Plan Cincinnati* (pages 156-163) by creating a more livable community by activating property that has long been vacant in the northern portion of the Over-the-Rhine neighborhood.

PROPOSED INCENTIVE

DCED is recommending a 12-year net 52% CRA tax exemption. The exemption only applies to the increase in improvement value attributed to the construction.

Pursuant to the Commercial CRA policy established by City Council, this project is located in the Streetcar VTICA Area and is therefore subject to analysis based on project underwriting, VTICA contribution, and job creation to determine abatement terms. The project merits a 12-year net 52% abatement based on the following criteria:

- Underwriting project, a low cash-on-cash rate of return
- Fifteen percent annual Streetcar VTICA contribution totals to \$24,262 over the 12-year period
- Project creates 18 temporary construction jobs and provides a \$1.78 return for every dollar of City investment.

SUMMARY	
Incentive Value	
Annual Net Abatement (Savings to Developer)	\$7,009
Total Term Net Abatement (Savings to Developer)	\$84,107
City's Portion of Property Taxes Forgone	\$20,875
Public Benefit	
CPS PILOT	
Annual CPS Pilot	\$4,448
Total Term CPS PILOT	\$53,376
VTICA	
Annual VTICA	\$2,022
Total Term VTICA PILOT	\$24,262
Income Tax (Max)	\$12,888

New Permanent Jobs	0.5
Total Public Benefit (CPS PILOT/VTICA PILOT/Income Tax)	\$90,526
Total Public Benefit ROI	\$1.08
City's ROI	\$1.78

PROJECT TEAM & TIMELINE

The project's legislative team (listed below) is available to answer questions regarding this project.

- Assistant City Manager: Billy Weber (Ext. 3318)
- DCED Deputy Director: Dan Bower (Ext. 1955)
- Project Attorney: Kaitlyn Geiger (Ext. 4544)

The anticipated council timeline is as follows:

- August 2, 2021: Budget and Finance
- August 4, 2021: City Council for Final Approval

RECOMMENDATION

The Administration recommends approval of this Emergency Ordinance. The emergency clause is needed so that the project can meet its construction commencement deadlines.

Attachment: A. Property location and photographs

Copy: Markiea L. Carter, Director, Department of Community & Economic Development



EMERGENCY

City of Cincinnati

JML

AWB

An Ordinance No. _____

- 2021

APPROVING AND AUTHORIZING the City Manager to execute a *Community Reinvestment Area Tax Exemption Agreement* with 254 Mohawk LLC, thereby authorizing a 12-year tax exemption for 100% of the value of improvements made to real property located at 254 Mohawk Street in the Over-the-Rhine neighborhood of Cincinnati, in connection with the remodeling of two existing buildings to create approximately 3,655 square feet of residential space consisting of 9 residential units, at a total construction cost of approximately \$725,847.

WHEREAS, to encourage the development of real property and the acquisition of personal property, the Council of the City of Cincinnati by Ordinance No. 274-2017 passed on September 27, 2017, designated the area within the corporate boundaries of the City of Cincinnati as a “Community Reinvestment Area” pursuant to Ohio Revised Code (“ORC”) Sections 3735.65 through 3735.70 (the “Statute”); and

WHEREAS, Ordinance No. 275-2017 passed by this Council on September 27, 2017, as amended by Ordinance No. 339-2018, passed by this Council on October 31, 2018, sets forth certain additional policies, conditions and limitations regarding newly constructed or remodeled commercial and residential structures in the Community Reinvestment Area; and

WHEREAS, effective October 23, 2017, the Director of Development of the State of Ohio determined that the area within the corporate boundaries of the City of Cincinnati contains the characteristics set forth in the Statute and confirmed such area as a Community Reinvestment Area under the Statute; and

WHEREAS, 254 Mohawk LLC (the “Company”) desires to remodel two existing buildings to create approximately 3,655 square feet of residential space consisting of 9 residential units on real property at 254 Mohawk Street located within the corporate boundaries of the City of Cincinnati (the “Improvements”), provided that the appropriate development incentives are available to support the economic viability of the Improvements; and

WHEREAS, to provide an appropriate development incentive for the Improvements, the City Manager has recommended a *Community Reinvestment Area Tax Exemption Agreement*, in substantially the form of Attachment A to this ordinance, to authorize a real property tax exemption for the Improvements in accordance with the Statute; and

WHEREAS, the property is located within the Cincinnati City School District; and

WHEREAS, the Board of Education of the Cincinnati City School District (the “Board of Education”), pursuant to that certain *Tax Incentive Agreement* effective as of April 28, 2020 (as may be amended, the “Board of Education Agreement”), has approved exemptions of up to 100% of Community Reinvestment Area projects, waived advance notice and the right to review

such projects, and waived sharing or allocation of municipal income taxes in connection with such projects; and

WHEREAS, pursuant to the Board of Education Agreement, the Company has entered into (or will enter into) an agreement with the Board of Education requiring the Company to pay the Board of Education amounts equal to 33% of the exempt real property taxes; and

WHEREAS, the Company has represented that it has entered into (or will enter into) a voluntary tax incentive contribution agreement with a third-party organization for amounts equal to 15% of the exempt real property taxes, which funds shall be committed by the third-party organization to pay for streetcar operations that specially benefit the property; and

WHEREAS, the Improvements do not involve relocation of part or all of the Company's operations from another county or municipal corporation in Ohio or, if there is relocation, notice has been given per ORC Section 3735.673; now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio:

Section 1. That Council approves a *Community Reinvestment Area Tax Exemption Agreement* with 254 Mohawk LLC (the "Agreement"), thereby authorizing a 12-year tax exemption for 100% of the assessed value of improvements to be made to real property located at 254 Mohawk Street in Cincinnati, as calculated by the Hamilton County Auditor, in connection with the remodeling of two existing buildings to create approximately 3,655 square feet of residential space consisting of 9 residential units, to be completed at a total construction cost of approximately \$725,847.

Section 2. That Council authorizes the City Manager:

- (i) to execute the Agreement on behalf of the City in substantially the form of Attachment A to this ordinance; and
- (ii) to forward on behalf of Council a copy of the Agreement, within fifteen (15) days after execution, to the Director of the Ohio Development Services Agency in accordance with Ohio Revised Code Section 3735.671(F); and
- (iii) to submit on behalf of Council annual reports on the Agreement to the Director of the Ohio Development Services Agency and to the Board of Education of the Cincinnati City School District, in accordance with Ohio Revised Code Section 3735.672; and

- (iv) to take all necessary and proper actions to fulfill the City's obligations under the Agreement.

Section 3. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to allow the remodeling described in this ordinance and the corresponding revitalization of the City of Cincinnati and the benefits to the City's economic welfare to begin at the earliest possible time.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

Attachment A to Ordinance

CRA Tax Exemption Agreement

SEE ATTACHED

Community Reinvestment Area Tax Exemption Agreement

This Community Reinvestment Area Tax Exemption Agreement (this "Agreement") is made and entered into as of the Effective Date (as defined on the signature page hereof) by and between the CITY OF CINCINNATI, an Ohio municipal corporation (the "City"), and 254 MOHAWK LLC, an Ohio limited liability company (the "Company").

Recitals:

- A. The City, through the adoption of Ordinance No. 274-2017 on September 27, 2017, designated the entire City of Cincinnati as a Community Reinvestment Area to encourage the development of real property and the acquisition of personal property in that area, pursuant to Ohio Revised Code Sections 3735.65 through 3735.70 (the "Statute").
- B. In accordance with the Statute, the Ohio Director of Development has forwarded to the City the Director's determination dated October 23, 2017, stating that the findings contained in Ordinance No. 274-2017 are valid and that the entire City is a Community Reinvestment Area under the Statute. By such determination, the Director of Development of the State of Ohio determined that the area within the corporate boundaries of the City of Cincinnati contains the characteristics set forth in the Statute and confirmed such area as a Community Reinvestment Area under the Statute.
- C. The Council of the City of Cincinnati has also passed Ordinance No. 275-2017 as of September 27, 2017, as amended by Ordinance No. 339-2018 passed on October 31, 2018 (the "Commercial Policy Ordinance"), which sets forth certain additional policies, conditions and limitations regarding newly constructed or remodeled commercial and residential structures in the Community Reinvestment Area.
- D. The Company is the sole owner of certain real property within the City, located at 254 Mohawk Street, Cincinnati, Ohio 45214 (the "Property"), as further described in Exhibit A (Legal Description of Property) hereto. Notwithstanding the foregoing, the Property shall not include any residential condominiums being developed in connection with the Project (as defined below) (the "Excluded Property"), and the Company acknowledges and agrees that the City's Community Reinvestment Area program entails separate applications by the owner of any residential condominium units included within the Project. For the avoidance of doubt, the Excluded Property shall not be exempt under this Agreement; however, this provision shall not be deemed to prohibit any owners from time to time of any Excluded Property from separately applying for a tax abatement in accordance with applicable law.
- E. The Company has proposed to remodel existing buildings located on the Property, within the boundaries of the City of Cincinnati, as more fully described in Section 1 herein (the "Project"), provided that the appropriate development incentives are available to support the economic viability of the Project.
- F. The Statute provides that if any part of a project is to be used for commercial or industrial purposes, including projects containing four or more dwelling units, in order to be eligible for tax exemption the City and the Company must enter into an agreement pursuant to Ohio Revised Code Section 3735.671 prior to commencement of construction or remodeling.
- G. The City, having appropriate authority under the Statute for this type of project, agrees (as provided herein and subject to all conditions herein) to provide the Company with the tax exemption incentives stated herein, available under the Statute, for development of the Project.
- H. The Company has submitted to the City an application for this tax exemption agreement (the "Application"), a copy of which is attached hereto as Exhibit B, has remitted with the Application (i) the City application fee of One Thousand Two Hundred Fifty Dollars (\$1,250) made payable to

the City and (ii) in accordance with Ohio Revised Code Section 3735.672(C), the state application fee of Seven Hundred Fifty Dollars (\$750) made payable to the Ohio Development Services Agency ("ODSA"), to be forwarded to the ODSA with an executed copy of this Agreement.

- I. The Director of the City's Department of Community and Economic Development has recommended approval of the Application on the basis that the Company is qualified by financial responsibility and business experience to create and preserve employment opportunities and improve the economic climate of the City.
- J. The Board of Education of the Cincinnati City School District (the "Board of Education"), pursuant to that certain *Tax Incentive Agreement* effective as of April 28, 2020, has approved exemptions of up to one hundred percent (100%) of Community Reinvestment Area projects, waived advance notice and right to review such projects, and waived sharing or allocation of municipal income taxes in connection with such projects.
- K. The Company has entered into (or will enter into) an agreement with the Board of Education requiring the Company to pay the Board of Education amounts equal to thirty-three percent (33%) of the full amount of exempt real property taxes that would have been paid to Hamilton County if this Agreement were not in effect (the "Board of Education Agreement").
- L. The Company represents and warrants to the City that the Company and its major tenants, if any, do not intend to relocate part or all of their operations to the City from another county or municipal corporation in the State of Ohio (the "State").
- M. The Company represents that within the past five (5) years neither the Company, nor any related member of the Company nor any entity to which the Company is a successor has discontinued operations at a project site in the State during the term of a property tax exemption agreement (under Ohio Revised Code Section 3735.671, 5709.62, 5709.63 or 5709.632) applicable to that site, and the Company acknowledges that misrepresentation hereunder will result in voiding of this Agreement.
- N. The Company represents and warrants to the City that the Company is not subject to an Enterprise Zone Agreement with the City of Cincinnati for the Property or the Project.
- O. City Council passed (i) Motion No. 201401368 on November 19, 2014, establishing a tax incentive policy that incentivizes each applicant for a real property tax abatement in the neighborhoods of Downtown and OTR to enter into a voluntary tax incentive contribution agreement with a third-party organization ("VTICA") for an amount equal to a percentage of the real property taxes that would have been payable on the abated property but for the City-authorized tax abatement (the "VTICA Contribution"), which funds shall be committed by a third-party organization to pay for streetcar operations that specially benefit the abated property, and (ii) Motion No. 201501592 on December 16, 2015, which established that the VTICA Contribution to be recognized by the Director of the Department of Community and Economic Development is 15% of the real property taxes that would have been payable on the abated property but for the City-authorized tax abatement. The Commercial Policy Ordinance confirmed that such motions have not been superseded and remain the will of Council.
- P. The Company acknowledges that Streetcar operations in the Central Business District and Over-the-Rhine will specially benefit the Project due to (a) the Streetcar's enhancement of public transit options in such neighborhoods and (b) the anticipated increase in property values attributable to public investment in Streetcar infrastructure.
- Q. The Company represents and warrants to the City that the Company has entered or will enter into a VTICA and shall pay the VTICA Contribution each year for the full term of the abatement.

- R. This Agreement has been authorized by Ordinance No. _____-2021, passed by Cincinnati City Council on _____, 2021.
- S. In determining to recommend and authorize this Agreement, the Department of Community and Economic Development and City Council, respectively, have acted in material reliance on the Company's representations in the Application and herein regarding the Project including, but not limited to, representations relating to the number of jobs to be created and/or retained by the Company, the Board of Education Agreement, the VTICA Contribution, and the Project's effect in promoting the general welfare of the people of Cincinnati by, for example, encouraging the development of real property located in the Community Reinvestment Area and thereby promoting economic growth and vitality in Cincinnati.

NOW, THEREFORE, pursuant to Ohio Revised Code Section 3735.67(A) and in conformity with the format required under Ohio Revised Code Section 3735.671, in consideration of the mutual covenants contained herein and the benefit to be derived by the parties from the execution hereof, the parties agree as follows:

Section 1. Project. Upon issuance of the necessary zoning and building approvals, the Company agrees to remodel two existing buildings on the Property to create approximately 3,655 square feet of residential space consisting of 9 residential units (the "Improvements") at an estimated aggregate cost of \$725,847 to commence after the execution of this Agreement and to be completed no later than December 31, 2023, *provided*, however, that the Director of the Department of Community and Economic Development (the "Housing Officer") may, in his discretion, extend such deadline for a period of up to 12 months by written notice if, in the Director's judgment, the Company is proceeding in good faith towards completion. The remodeling shall be in compliance with applicable building code requirements and zoning regulations. In addition to the foregoing, (A) the Project shall comply with the Americans with Disabilities Act, together with any and all regulations or other binding directives promulgated pursuant thereto (collectively, the "ADA"), and (B) if (i) any building(s) within the Project is subject to the accessibility requirements of the ADA (e.g., by constituting a "place of public accommodation" or another category of structure to which the ADA is applicable) and (ii) such building(s) is not already required to meet the Contractual Minimum Accessibility Requirements (as defined below) pursuant to the ADA, applicable building code requirements, or by any other legal requirement, then the Company shall cause such building(s) to comply with the Contractual Minimum Accessibility Requirements in addition to any requirements pursuant to the ADA and the applicable building code or legal requirement. As used herein, "**Contractual Minimum Accessibility Requirements**" means that a building shall, at a minimum, include (1) at least one point of entry (as used in the ADA), accessible from a public right of way, with respect to which all architectural barriers (as used in the ADA) to entry have been eliminated, and (2) if such accessible point of entry is not a building's primary point of entry, conspicuous signage directing persons to such accessible point of entry.

Section 2. Real Property Tax Exemption. Subject to the satisfaction of the conditions set forth in this Agreement, the City approves exemption from real property taxation, pursuant to and to the fullest extent authorized by the Statute, of one hundred percent (100%) of the amount by which the Improvements increase the assessed value of the Property as determined by the Hamilton County Auditor, for a period of twelve (12) years, provided that the Company shall have entered into the Board of Education Agreement. Within 120 days after completion of the Project (unless otherwise extended in writing by the City's Housing Officer), the Company must file the appropriate application for tax exemption with the City's Housing Officer. The Company is solely responsible to take this action. Upon receipt of the application for tax exemption, the City will proceed with the exemption authorized by this Agreement. In accordance with Ohio Revised Code Section 3735.67, the exemption is conditioned on verification by the Housing Officer of (A) the completion of remodeling, (B) the cost of remodeling, (C) the facts asserted in the application for exemption and (D) if a remodeled structure is a structure of historical or architectural significance as designated by the City, state or federal government, that the appropriateness of the remodeling has been certified in writing by the appropriate agency. If the required verification is made, the Housing Officer will forward the exemption application to the Hamilton County Auditor with the

necessary certification by the Housing Officer. Subject to the conditions set forth in this Agreement, the exemption commences the first tax year for which the Improvements would first be taxable were the Improvements not exempted from taxation. The dates provided in this paragraph refer to tax years in which the subject property is assessed, as opposed to years in which taxes are billed. No exemption shall commence after tax year 2024 nor extend beyond the earlier of (i) tax year 2035 or (ii) the end of the twelfth (12th) year of exemption.

Section 3. Use; Maintenance; Inspections. The Company shall use the Property solely for the purposes described in Section 1 hereof and shall properly maintain and repair the Property throughout the period of tax exemption authorized herein. The Company authorizes the Housing Officer, or the Housing Officer's designees, to enter upon the Property as reasonably required to perform property inspections in accordance with Ohio Revised Code Section 3735.68.

Section 4. Compliance with Board of Education Agreement. As a condition of the tax exemption authorized under this Agreement, the Company agrees to enter into and comply with its obligation under the Board of Education Agreement.

Section 5. Duty of Company to Pay Taxes. As required by Ohio Revised Code Section 3735.671(C)(2), the Company shall pay such real property taxes as are not exempted under this Agreement and are charged against the Property and shall file all tax reports and returns as required by law. If the Company fails to pay such taxes or file such returns and reports, exemptions from taxation granted or authorized under this Agreement are rescinded beginning with the year for which such taxes are charged or such reports or returns are required to be filed and continuing thereafter.

Section 6. Company Certifications Regarding Non-Delinquency of Tax Obligations. As required by Ohio Revised Code Section 3735.671(C)(3), the Company certifies that at the time this Agreement is executed, the Company does not owe any delinquent real or tangible personal property taxes to any taxing authority of the State, and does not owe delinquent taxes for which the Company is liable under Ohio Revised Code Chapters 5733, 5735, 5739, 5741, 5743, 5747 or 5753, or if such delinquent taxes are owed, the Company currently is paying the delinquent taxes pursuant to an undertaking enforceable by the State or an agent or instrumentality thereof, has filed a petition in bankruptcy under 101, et seq., or such a petition has been filed against the Company. For the purposes of this certification, delinquent taxes are taxes that remain unpaid on the latest day prescribed for payment without penalty under the chapter of the Ohio Revised Code governing payment of those taxes.

Section 7. Covenant of Satisfaction of Tax and Other Obligations. In accordance with Ohio Revised Code Section 9.66, (A) the Company affirmatively covenants that it does not owe: (i) any delinquent taxes to the State or to a political subdivision of the State; (ii) any moneys to the State or a State agency for the administration or enforcement of any environmental laws of the State; or (iii) any other moneys to the State, a State agency or a political subdivision of the State that are past due, regardless of whether the amounts owed are being contested in a court of law or not; (B) the Company authorizes the City and/or the State to inspect the personal financial statements of the Company, including tax records and other similar information not ordinarily open to public inspection; and (C) the Company authorizes the Ohio Environmental Protection Agency and the Ohio Department of Taxation to release information to the City and or other State departments in connection with the above statements. As provided by statute, a knowingly false statement under this section may be prosecuted as a first degree misdemeanor under Ohio Revised Code Section 2921.13, may render the Company ineligible for any future economic development assistance from the State or any political subdivision of the State, and will result in the City requiring the Company's repayment of any assistance provided by the City in connection with the Project.

Section 8. City Cooperation. As required by Ohio Revised Code Section 3735.671(C)(4), upon specific request from the Company, the City shall perform such acts as are reasonably necessary or appropriate to effect, claim, reserve and maintain exemptions from taxation granted under this Agreement including, without limitation, joining in the execution of all documentation and providing any necessary certificates required in connection with such exemptions.

Section 9. Continuation of Exemptions. As provided in Ohio Revised Code Section 3735.671(C)(5), if for any reason the City revokes the designation of the City of Cincinnati as a Community Reinvestment Area, entitlements granted under this Agreement shall continue for the number of years specified under this Agreement, unless the Company materially fails to fulfill its obligations under this Agreement and the City terminates or modifies the exemptions from taxation authorized pursuant to this Agreement.

Section 10. City Not Liable. The Company acknowledges that the exemption authorized in this Agreement is subject to approval and implementation by the appropriate state and/or county taxing authorities. The Company acknowledges that the City does not give any guarantee or assurance that the exemption approved in this Agreement will be so approved, and the Company agrees that in no event shall the Company seek to hold the City liable in any way in the event such exemption is not granted or implemented.

Section 11. Small Business Enterprise Program.¹

A. Compliance with Small Business Enterprise Program. The policy of the City is that a fair share of contracts be awarded to Small Business Enterprises (as such term is defined in Cincinnati Municipal Code ("CMC") Section 323-1-S, "SBEs"). Pursuant to CMC Section 323-11, the City's annual goal for SBE participation shall be thirty percent (30%) of the City's total dollars spent for construction (as such term is defined in CMC Section 323-1-C4), supplies (as such term is defined in CMC Section 323-1-S5), services (as such term is defined in CMC Section 323-1-S) and professional services (as such term is defined in CMC Section 323-1-P2). Accordingly, the Company shall use its best efforts and take affirmative steps to achieve the City's goal of voluntarily meeting thirty percent (30%) SBE participation. A list of SBEs may be obtained from the City's Department of Economic Inclusion. The Company may refer interested firms to the City's Department of Economic Inclusion for review and possible certification as an SBE. The Company shall comply with the provisions of CMC Chapter 323, including without limitation taking at least the following affirmative steps:

- (i) Including qualified SBEs on solicitation lists.
- (ii) Assuring that SBEs are solicited whenever they are potential sources.

The Company must advertise, on at least two separate occasions, both in local minority publications and in other local newspapers of general circulation, invitations to SBEs to provide services, to supply materials, or to bid on construction contracts, as applicable.

(iii) When economically feasible, dividing total requirements into small tasks or quantities so as to permit maximum SBE participation.

(iv) If any subcontracts are to be let, the Company shall require the prime contractor (if different from the Company) to take the above affirmative steps.

(v) Prior to the commencement of work under any subcontracts, the Company shall provide to the City a list of such subcontractors, including information as to the dollar amount of the subcontracts and such other information as may be requested by the City. The Company shall update the report monthly.

(vi) The Company shall periodically document its best efforts and affirmative steps to meet the above SBE participation goals by submitting such information as may be requested from time to time by the City.

B. Remedies for Noncompliance with Small Business Enterprise Program. Failure of the Company or its contractors and subcontractors to take the affirmative steps specified above, to provide fair and equal opportunity to SBEs, or to provide technical assistance to SBEs as may be necessary to reach SBE participation as set out in CMC Chapter 323 may be construed by the City as failure of the Company to use its best efforts, and, in addition to other remedies under this Agreement, may be a cause for the City to file suit in Common Pleas Court to

¹ Note: this section will be revised prior to execution due to programmatic changes being implemented by the Department of Community and Economic Development as a result of recent legislation passed by City Council.

enforce specific performance of the terms of this Section. The provisions of CMC Section 323-99 are hereby incorporated by reference into this Agreement.

Section 12. Jobs. The Company represents that, as of the date of the execution of this Agreement, the Company has no existing employment at the Property or in the State.

Section 13. Job Creation and Retention.

A. Jobs to be Created by Company. The Company agrees to use its best efforts to create (i) 0.5 full-time permanent jobs and (ii) 18 part-time temporary construction jobs at the Property in connection with the Project. In the case of the construction jobs, the job creation and retention period shall be concurrent with remodeling, and in the case of the other jobs described herein, the job creation period shall begin upon completion of remodeling and shall end three (3) years thereafter.

B. Company's Estimated Payroll Increase. The Company's increase in the number of employees will result in approximately (i) \$18,000 of additional annual payroll with respect to the full-time permanent jobs, and (ii) \$250,000 of additional annual payroll prior to the completion of the Project with respect to the part-time temporary construction jobs.

C. Community Reinvestment Area Employment. The Company shall (i) adopt hiring practices to ensure that at least twenty-five percent (25%) of the new employees shall be residents of the City of Cincinnati and (ii) give preference to residents of the City relative to residents of the State who do not reside in the City when hiring new employees under this Agreement.

D. Posting Available Employment Opportunities. To the extent allowable by law, the Company shall use its best efforts to post available employment opportunities within the Company's organization or the organization of any subcontractor working with the Company with the Ohio Means Jobs Center, 1916 Central Parkway, Cincinnati, Ohio 45214-2305, through its Employer Services Unit Manager at 513-746-7200.

Section 14. Equal Employment Opportunity. This Agreement is subject to the City's Equal Employment Opportunity Program contained in CMC Chapter 325. The Equal Employment Opportunity Clause in CMC Section 325-9 is incorporated by reference in this Agreement. The term "Company" is substituted for "Contractor" throughout CMC Section 325-9 in the context of this Agreement.

Section 15. Compliance with Immigration and Nationality Act. In the performance of its obligations under this Agreement, the Company agrees to comply with the provisions of the Immigration and Nationality Act codified at 8 U.S.C. §§ 1324a(a)(1)(A) and (a)(2). Any noncompliance with such provisions shall be solely determined by either the federal agencies authorized to enforce the Immigration and Nationality Act or the U.S. Attorney General, in accordance with Executive Order 12989 of the U.S. President dated February 13, 1996, and as amended by Executive Order 13465 of the U.S. President dated June 6, 2008.

Section 16. Default. As provided in Ohio Revised Code Section 3735.671(C)(6), if the Company materially fails to fulfill its obligations under this Agreement, or if the City determines that the certification as to delinquent taxes required by this Agreement (Section 6 hereof) or the covenant of satisfaction of tax and other obligations (Section 7 hereof) is fraudulent, the City may terminate or modify the exemptions from taxation granted or authorized under this Agreement and may require the repayment by the Company of the amount of taxes that would have been payable had the Improvements not been exempted from taxation pursuant to this Agreement. A modification of exemption may be in the form of reduction in the number of years that eligible property is exempt and/or a reduction in the exemption percentage. The City shall provide written notice to the Company prior to finding the Company in default under this section. The notice shall provide the Company with not less than thirty (30) days to cure the default prior to City termination or modification of the exemptions under this Agreement. The City may

extend the cure period as reasonably necessary under the circumstances. In the event of such termination or modification, the City is authorized to so notify the appropriate taxing authorities in order to effect the termination or modification. If repayment of previously exempt taxes is required by the City under this Section, such amount shall be paid as directed by the City within thirty (30) days of written demand. The City may secure repayment of such taxes by a lien on the Property in the amount required to be repaid. Such a lien shall attach, and may be perfected, collected, and enforced, in the same manner as a mortgage lien on real property, and shall otherwise have the same force and effect as a mortgage lien on real property. Amounts due and not paid when due under this Section 16 shall bear interest at the rate specified in Ohio Revised Code Section 1343.03(A) (as in effect on the date of the City's payment demand).

Section 17. Annual Review and Report. As required by Ohio Revised Code Sections 3735.671(C)(7) and 5709.85, the Company shall provide to the City's Tax Incentive Review Council (or to the City Manager if so requested by the City) any information reasonably required by the Council or the City Manager to evaluate the Company's compliance with this Agreement, including returns filed pursuant to Ohio Revised Code Section 5711.02 if requested by the Council or City Manager. The performance of the Company's obligations stated in this Agreement shall be subject to annual review by the City's Tax Incentive Review Council (the "Annual Review and Report"). The Company shall submit information for the Annual Review and Report to the City no later than March 1 of each year.

Section 18. Revocation.

A. **Generally.** Pursuant to Ohio Revised Code Section 3735.68, the housing officer shall make annual inspections of the properties within the community reinvestment area upon which are located structures or remodeling for which an exemption has been granted under Ohio Revised Code Section 3735.67. If the housing officer finds that the property has not been properly maintained or repaired due to the neglect of the Company, the housing officer may revoke the exemption at any time after the first year of exemption. If the Company has materially failed to fulfill its obligations under this Agreement, or if the owner is determined to have violated division (E) of that section (see Section 18(B) of this Agreement), City Council, subject to the terms of the agreement, may revoke the exemption at any time after the first year of exemption. The housing officer or City Council shall notify the county auditor and the Company that the tax exemption no longer applies. If the housing officer or legislative authority revokes a tax exemption, the housing officer shall send a report of the revocation to the community reinvestment area housing council and to the tax incentive review council established pursuant to section 3735.69 or 5709.85 of the Revised Code, containing a statement of the findings as to the maintenance and repair of the property, failure to fulfill obligations under the written agreement, or violation of division (E) of Ohio Revised Code Section 3735.671, and the reason for revoking the exemption.

B. **Prior Statutory Violations.** The Company represents and warrants to the City that it is not prohibited by Ohio Revised Code Section 3735.671(E) from entering into this Agreement. As required by Ohio Revised Code Section 3735.671(C)(9), exemptions from taxation granted or authorized under this Agreement shall be revoked if it is determined that the Company, any successor to the Company or any related member (as those terms are defined in division (E) of Ohio Revised Code Section 3735.671) has violated the prohibition against entering into this Agreement under division (E) of Ohio Revised Code Section 3735.671 or under Ohio Revised Code Sections 5709.62 or 5709.63 prior to the time prescribed by that division or either of those sections.

Section 19. False Statements; Penalties; Material Representations.

A. **Generally.** As required in connection with Ohio Revised Code Section 9.66(C), the Company affirmatively covenants that it has made no false statements to the State or the City in the process of obtaining approval for this Agreement. If any representative of the Company has knowingly made a false statement to the State or the City to obtain approval for this

Agreement, or if the Company fails to provide any information expressly required under the Application, the Company shall be required to immediately return all benefits received under this Agreement (by payment of the amount of taxes exempted hereunder, paid as directed by the City within thirty (30) days of written demand) and the Company shall be ineligible for any future economic development assistance from the State, any State agency or any political subdivision of the State pursuant to Ohio Revised Code Section 9.66(C)(1). Amounts due and not paid under this Section 19 shall bear interest at the rate of twelve percent (12%) per year. Any person who provides a false statement to secure economic development assistance (as defined in Ohio Revised Code Section 9.66) may be guilty of falsification, a misdemeanor of the first degree, pursuant to Ohio Revised Code Section 2921.13(F)(1), which is punishable by fine of not more than One Thousand Dollars (\$1,000) and/or a term of imprisonment of not more than six (6) months.

B. Material Representations – Board of Education Agreement and VTICA. The Parties acknowledge and agree that a material failure by the Company to comply with its representations concerning the Board of Education Agreement or VTICA Contribution shall constitute an event of default for purposes of Section 16 (Default) and the basis for revocation under Section 18 (Revocation). Subject to the terms of the VTICA, if the VTICA is unenforceable for reasons of infeasibility or otherwise, the Company shall enter into alternative arrangements providing for the economic equivalent of the VTICA Contribution in order to support streetcar operations. Such arrangements may include, but are not limited to, providing for the economic equivalent of the VTICA Contribution through formation of a special improvement district. For purposes of this Section 19.B, alternative arrangements must result in services substantially similar to those that would have been supported through the VTICA and at a value that is the economic equivalent of the VTICA Contribution, which value shall not be required to exceed the VTICA Contribution amount that would have been payable by the Company. Any determination of infeasibility or mechanism for providing alternative arrangements is subject to approval by the City at its sole discretion. Nothing in this Section 19.B shall operate to limit the City's enforcement authority under this Agreement including, without limitation, Section 16, Section 18, and Section 19.A.

Section 20. Conflict of Interest. The Company covenants that, to the Company's knowledge, no employee of the City has any personal interest, direct or indirect, in any matters pertaining to the Project, and the Company agrees to take appropriate steps to prevent any employee of the City from obtaining any such interest throughout the term of this Agreement.

Section 21. Annual Fee. As authorized by Ohio Revised Code Section 3735.671(D), the Company shall pay an annual fee of Five Hundred Dollars (\$500) or one percent (1%) of the annual taxes exempted under this Agreement, whichever is greater, but not to exceed Two Thousand, Five Hundred Dollars (\$2,500) per annum. This fee is due with submission of the information for Annual Review and Report by March 1 of each year.

Section 22. Discontinued Operations. As provided in Ohio Revised Code Section 3735.671(E), if, prior to the expiration of the term of this Agreement, the Company discontinues operations at the Project so that the Property is no longer being used for the purposes described in Section 1 hereof, then the Company, its successors, and any related member shall not enter into an agreement under Ohio Revised Code Sections 3735.671, 5709.62, 5709.63 or 5709.632, and no legislative authority shall enter into such an agreement with the Company, its successors or any related member prior to the expiration of five (5) years after the discontinuation of operations. As used in this Section 22, "successors" and "related member" shall have the meanings set forth in Ohio Revised Code Section 3735.671(E).

Section 23. Notices. Unless otherwise specified herein, each party shall address written notices, demands and communications in connection with this Agreement to the other party as follows (or to such other address as is communicated in accordance with this Section):

To the City:

City of Cincinnati
Attention: Director of the Department of Community and Economic Development
Centennial Plaza Two, Suite 700
805 Central Avenue
Cincinnati, Ohio 45202

To the Company:

254 Mohawk LLC
Attention: John Blatchford
207 W. McMicken Ave.
Cincinnati, Ohio 45214

If the Company sends a notice to the City alleging that the City is in default under this Agreement, the Company shall simultaneously send a copy of such notice to: City Solicitor, City of Cincinnati, 801 Plum Street, Room 214, Cincinnati, OH 45202.

Section 24. Acknowledgment of City Participation. The Company agrees to acknowledge the support of the City on construction signs, project and exhibition signage, and any publicity such as that appearing on the internet, television, cable television, radio, or in the press or any other printed media. In identifying the City as a Project partner, the Company shall use either the phrase "Project Assistance by the City of Cincinnati" or a City of Cincinnati logotype or other form of acknowledgement that has been approved in advance in writing by the City.

Section 25. Entire Agreement. This Agreement and the Exhibits attached hereto constitute the entire agreement between the City and the Company with respect to the subject matter herein, superseding any prior or contemporaneous agreement with respect thereto.

Section 26. Governing Law. This Agreement is entered into and is to be performed in the State. The City and the Company agree that the law of the State of Ohio shall govern the rights, obligations, duties and liabilities of the parties to this Agreement and shall govern the interpretation of this Agreement.

Section 27. Waiver. The City's waiver of any breach by the Company of any provision of this Agreement shall not constitute or operate as a waiver by the City of any other breach of such provision or of any other provisions, nor shall any failure or delay by the City to enforce any provision hereof operate as a waiver of such provision or of any other provision.

Section 28. Severability. This Agreement shall be severable; if any part or parts of this Agreement shall for any reason be held invalid or unenforceable by a court of competent jurisdiction, all remaining parts shall remain binding and in full force and effect.

Section 29. Amendment. This Agreement may be modified or amended only by a written agreement duly executed by the parties hereto or their representatives.

Section 30. Non-Assignment. As required by Ohio Revised Code Section 3735.671(C)(8), this Agreement is not transferable or assignable by the Company without the express written approval of the City Manager of the City. If the Company has entered into a Board of Education Agreement or VTICA in connection with the Property, the City shall not approve the assignment of this Agreement unless the assignee has assumed the Company's remaining obligations under the Board of Education Agreement and VTICA, as applicable. Failure to assign or otherwise perform the Company's obligations under the Board of Education Agreement or VTICA upon transfer of the Property during the term of the tax abatement authorized by this Agreement shall be basis for revocation of the tax exemption under Section 18.

Section 31. Recording. At its election, the City may record this Agreement at the City's expense in the Hamilton County Recorder's Office.

Section 32. Legislative Action Required. As provided in Ohio Revised Code Section 3735.671(C)(10), the Company and the City acknowledge that this Agreement must be approved by formal action of the City Council of the City as a condition for this Agreement to take effect. Notwithstanding anything to the contrary herein, this Agreement shall take effect after the later of the date of such approval or the final date of execution of this Agreement by all parties.

Section 33. Additional Representations and Warranties of Company. The Company represents and warrants that (a) it is duly organized and existing and it has full power and authority to take, and has taken, all action necessary to execute and deliver this Agreement and any other documents required or permitted to be executed or delivered by it in connection with this Agreement, and to fulfill its obligations hereunder; (b) no notices to, or consents, authorizations or approvals of, any person are required (other than any already given or obtained) for its due execution, delivery and performance of this Agreement; and (c) this Agreement has been duly executed and delivered by it and constitutes the legal, valid and binding obligation of the Company.

Section 34. Certification as to Non-Debarment. The Company represents that neither it nor any of its principals is presently debarred by any federal, state, or local government agency. In completing the Project, the Company shall not solicit bids from any contractors or subcontractors who are identified as being debarred by any federal, state, or local government agency. If the Company or any of its principals becomes debarred by any federal, state, or local government agency during the term of this Agreement, the company shall be considered in default under this Agreement.

Section 35. Appeals. Pursuant to Ohio Revised Code Section 3735.70, a person aggrieved under the Statute or this Agreement may appeal to the community reinvestment area housing council, which shall have the authority to overrule any decision of a housing officer. Appeals may be taken from a decision of the council to the court of common pleas of the county where the area is located.

Section 36. Wage Enforcement.

(i) Applicability. Council passed Ordinance No. 22-2016 on February 3, 2016, which ordained Chapter 326 (Wage Enforcement) of the Cincinnati Municipal Code (the "Wage Enforcement Chapter"). The Wage Enforcement Chapter was then amended by Ordinance No. 96-2017, passed May 17, 2017. As amended, the Wage Enforcement Chapter imposes certain requirements upon persons entering into agreements with the City whereby the City provides an incentive or benefit that is projected to exceed \$25,000, as described more particularly in the Wage Enforcement Chapter. Cincinnati Municipal Code Section 326-5 requires that the language below be included in contracts subject to the Wage Enforcement Chapter.

(ii) Required Contractual Language. Capitalized terms used, but not defined, in this clause (ii) have the meanings ascribed thereto in the Wage Enforcement Chapter.

(a) This contract is or may be subject to the Wage Enforcement provisions of the Cincinnati Municipal Code. These provisions require that any Person who has an Agreement with the city or with a Contractor or Subcontractor of that Person shall report all Complaints or Adverse Determinations of Wage Theft and Payroll Fraud (as each of those terms is defined in Chapter 326 of the Cincinnati Municipal Code) against the Contractor or Subcontractors to the Department of Economic Inclusion within 30 days of notification of the Complaint or Adverse Determination.

(b) If this contract is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this contract is required to include provisions in solicitations and contracts regarding a Development Site that all employers, Contractors or Subcontractors performing or proposing to perform work on a Development Site provide an initial sworn

and notarized "Affidavit Regarding Wage Theft and Payroll Fraud" on a form prescribed by the city manager or his or her designee and, within 30 days of an Adverse Determination or Complaint of Wage Theft or Payroll Fraud, shall provide an "Amended Affidavit Regarding Wage Theft and Payroll Fraud" on a form prescribed by the city manager or his or her designee.

(c) If this contract is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this contract is required to authorize, and does hereby specifically authorize, any local, state or federal agency, court, administrative body or other entity investigating a complaint of Wage Theft or Payroll Fraud against the Person (collectively "investigative bodies") to release to the City's Department of Economic Inclusion any and all evidence, findings, complaints and determinations associated with the allegations of Wage Theft or Payroll Fraud upon the City's request and further authorizes such investigative bodies to keep the City advised regarding the status of the investigation and ultimate determination. If the investigative bodies require the Person to provide additional authorization on a prescribed form or in another manner, the Person shall be required to provide such additional authorization within 14 days of a request by the City.

(d) If this Agreement is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this Agreement shall include in its contracts with all Contractors language that requires the Contractors to provide the authorizations set forth in subsection (c) above and that further requires each Contractor to include in its contracts with Subcontractors those same obligations for each Subcontractor and each lower tier subcontractor.

(e) If this Agreement is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this Agreement shall post a conspicuous notice on the Development Site throughout the entire period work is being performed pursuant to the Agreement indicating that the work being performed is subject to Cincinnati Municipal Code Chapter 326, Wage Enforcement, as administered by the City of Cincinnati Department of Economic Inclusion. Such notice shall include contact information for the Department of Economic Inclusion as provided by the department.

(f) Under the Wage Enforcement provisions, the City shall have the authority, under appropriate circumstances, to terminate this contract or to reduce the incentives or subsidies to be provided under this contract and to seek other remedies, including debarment.

Section 37. Legal Requirements. In completing and operating the Project, the Company shall comply with all applicable statutes, ordinances, regulations, and rules of the government of the United States, State of Ohio, County of Hamilton, and City of Cincinnati.

Section 38. Counterparts and Electronic Signatures. This Agreement may be executed by the parties hereto in two or more counterparts and each executed counterpart shall be considered an original but all of which together shall constitute one and the same instrument. This Agreement may be executed and delivered by electronic signature; any original signatures that are initially delivered electronically shall be physically delivered as soon as reasonably possible.

Remainder of this page intentionally left blank. Signature page follows.

Executed by the parties on the dates indicated below, effective as of the later of such dates (the "Effective Date").

CITY OF CINCINNATI,
an Ohio municipal corporation

254 MOHAWK LLC,
an Ohio limited liability company

By: _____
Paula Boggs Muething, City Manager

By: _____

Date: _____, 2021

Printed Name: _____

Title: _____

Date: _____, 2021

Authorized by resolution dated _____

Approved as to Form:

Assistant City Solicitor

Certified Date: _____

Fund/Code: _____

Amount: _____

By: _____
Karen Alder, City Finance Director

Exhibit A to CRA Agreement

LEGAL DESCRIPTION OF PROPERTY

254 Mohawk Street, Auditor's Parcel ID No. 096-0004-0177-00:

Plat Book 96, Page 4, Parcel 177 *See By Plat*

Situate in the City of Cincinnati, Hamilton County, Ohio, and being Lot No. Eleven (11) on the recorded Plat of N. Longworth's Subdivision of the Sloo Tract, as the same is recorded in Deed Book 94, page 489 of the Deed Records of Hamilton County, Ohio, less and excepting therefrom a strip of ground at the northwest corner of said Lot being 2 feet on the south side of Wright Alley and extending southwardly along the west line of said Lot 11 a distance of 45 feet.

Prior Instrument Reference: OR 9021, Page 3012, Hamilton County, Ohio Records.

Exhibit B to CRA Agreement
APPLICATION FOR TAX EXEMPTION

TO BE ATTACHED

Community Reinvestment Area Tax Exemption Agreement

This Community Reinvestment Area Tax Exemption Agreement (this "Agreement") is made and entered into as of the Effective Date (as defined on the signature page hereof) by and between the CITY OF CINCINNATI, an Ohio municipal corporation (the "City"), and 254 MOHAWK LLC, an Ohio limited liability company (the "Company").

Recitals:

- A. The City, through the adoption of Ordinance No. 274-2017 on September 27, 2017, designated the entire City of Cincinnati as a Community Reinvestment Area to encourage the development of real property and the acquisition of personal property in that area, pursuant to Ohio Revised Code Sections 3735.65 through 3735.70 (the "Statute").
- B. In accordance with the Statute, the Ohio Director of Development has forwarded to the City the Director's determination dated October 23, 2017, stating that the findings contained in Ordinance No. 274-2017 are valid and that the entire City is a Community Reinvestment Area under the Statute. By such determination, the Director of Development of the State of Ohio determined that the area within the corporate boundaries of the City of Cincinnati contains the characteristics set forth in the Statute and confirmed such area as a Community Reinvestment Area under the Statute.
- C. The Council of the City of Cincinnati has also passed Ordinance No. 275-2017 as of September 27, 2017, as amended by Ordinance No. 339-2018 passed on October 31, 2018 (the "Commercial Policy Ordinance"), which sets forth certain additional policies, conditions and limitations regarding newly constructed or remodeled commercial and residential structures in the Community Reinvestment Area.
- D. The Company is the sole owner of certain real property within the City, located at 254 Mohawk Street, Cincinnati, Ohio 45214 (the "Property"), as further described in Exhibit A (Legal Description of Property) hereto. Notwithstanding the foregoing, the Property shall not include any residential condominiums being developed in connection with the Project (as defined below) (the "Excluded Property"), and the Company acknowledges and agrees that the City's Community Reinvestment Area program entails separate applications by the owner of any residential condominium units included within the Project. For the avoidance of doubt, the Excluded Property shall not be exempt under this Agreement; however, this provision shall not be deemed to prohibit any owners from time to time of any Excluded Property from separately applying for a tax abatement in accordance with applicable law.
- E. The Company has proposed to remodel existing buildings located on the Property, within the boundaries of the City of Cincinnati, as more fully described in Section 1 herein (the "Project"), provided that the appropriate development incentives are available to support the economic viability of the Project.
- F. The Statute provides that if any part of a project is to be used for commercial or industrial purposes, including projects containing four or more dwelling units, in order to be eligible for tax exemption the City and the Company must enter into an agreement pursuant to Ohio Revised Code Section 3735.671 prior to commencement of construction or remodeling.
- G. The City, having appropriate authority under the Statute for this type of project, agrees (as provided herein and subject to all conditions herein) to provide the Company with the tax exemption incentives stated herein, available under the Statute, for development of the Project.
- H. The Company has submitted to the City an application for this tax exemption agreement (the "Application"), a copy of which is attached hereto as Exhibit B, has remitted with the Application (i) the City application fee of One Thousand Two Hundred Fifty Dollars (\$1,250) made payable to

the City and (ii) in accordance with Ohio Revised Code Section 3735.672(C), the state application fee of Seven Hundred Fifty Dollars (\$750) made payable to the Ohio Development Services Agency ("ODSA"), to be forwarded to the ODSA with an executed copy of this Agreement.

- I. The Director of the City's Department of Community and Economic Development has recommended approval of the Application on the basis that the Company is qualified by financial responsibility and business experience to create and preserve employment opportunities and improve the economic climate of the City.
- J. The Board of Education of the Cincinnati City School District (the "Board of Education"), pursuant to that certain *Tax Incentive Agreement* effective as of April 28, 2020, has approved exemptions of up to one hundred percent (100%) of Community Reinvestment Area projects, waived advance notice and right to review such projects, and waived sharing or allocation of municipal income taxes in connection with such projects.
- K. The Company has entered into (or will enter into) an agreement with the Board of Education requiring the Company to pay the Board of Education amounts equal to thirty-three percent (33%) of the full amount of exempt real property taxes that would have been paid to Hamilton County if this Agreement were not in effect (the "Board of Education Agreement").
- L. The Company represents and warrants to the City that the Company and its major tenants, if any, do not intend to relocate part or all of their operations to the City from another county or municipal corporation in the State of Ohio (the "State").
- M. The Company represents that within the past five (5) years neither the Company, nor any related member of the Company nor any entity to which the Company is a successor has discontinued operations at a project site in the State during the term of a property tax exemption agreement (under Ohio Revised Code Section 3735.671, 5709.62, 5709.63 or 5709.632) applicable to that site, and the Company acknowledges that misrepresentation hereunder will result in voiding of this Agreement.
- N. The Company represents and warrants to the City that the Company is not subject to an Enterprise Zone Agreement with the City of Cincinnati for the Property or the Project.
- O. City Council passed (i) Motion No. 201401368 on November 19, 2014, establishing a tax incentive policy that incentivizes each applicant for a real property tax abatement in the neighborhoods of Downtown and OTR to enter into a voluntary tax incentive contribution agreement with a third-party organization ("VTICA") for an amount equal to a percentage of the real property taxes that would have been payable on the abated property but for the City-authorized tax abatement (the "VTICA Contribution"), which funds shall be committed by a third-party organization to pay for streetcar operations that specially benefit the abated property, and (ii) Motion No. 201501592 on December 16, 2015, which established that the VTICA Contribution to be recognized by the Director of the Department of Community and Economic Development is 15% of the real property taxes that would have been payable on the abated property but for the City-authorized tax abatement. The Commercial Policy Ordinance confirmed that such motions have not been superseded and remain the will of Council.
- P. The Company acknowledges that Streetcar operations in the Central Business District and Over-the-Rhine will specially benefit the Project due to (a) the Streetcar's enhancement of public transit options in such neighborhoods and (b) the anticipated increase in property values attributable to public investment in Streetcar infrastructure.
- Q. The Company represents and warrants to the City that the Company has entered or will enter into a VTICA and shall pay the VTICA Contribution each year for the full term of the abatement.

- R. This Agreement has been authorized by Ordinance No. _____-2021, passed by Cincinnati City Council on _____, 2021.
- S. In determining to recommend and authorize this Agreement, the Department of Community and Economic Development and City Council, respectively, have acted in material reliance on the Company's representations in the Application and herein regarding the Project including, but not limited to, representations relating to the number of jobs to be created and/or retained by the Company, the Board of Education Agreement, the VTICA Contribution, and the Project's effect in promoting the general welfare of the people of Cincinnati by, for example, encouraging the development of real property located in the Community Reinvestment Area and thereby promoting economic growth and vitality in Cincinnati.

NOW, THEREFORE, pursuant to Ohio Revised Code Section 3735.67(A) and in conformity with the format required under Ohio Revised Code Section 3735.671, in consideration of the mutual covenants contained herein and the benefit to be derived by the parties from the execution hereof, the parties agree as follows:

Section 1. Project. Upon issuance of the necessary zoning and building approvals, the Company agrees to remodel two existing buildings on the Property to create approximately 3,655 square feet of residential space consisting of 9 residential units (the "Improvements") at an estimated aggregate cost of \$725,847 to commence after the execution of this Agreement and to be completed no later than December 31, 2023, *provided*, however, that the Director of the Department of Community and Economic Development (the "Housing Officer") may, in his discretion, extend such deadline for a period of up to 12 months by written notice if, in the Director's judgment, the Company is proceeding in good faith towards completion. The remodeling shall be in compliance with applicable building code requirements and zoning regulations. In addition to the foregoing, (A) the Project shall comply with the Americans with Disabilities Act, together with any and all regulations or other binding directives promulgated pursuant thereto (collectively, the "**ADA**"), and (B) if (i) any building(s) within the Project is subject to the accessibility requirements of the ADA (e.g., by constituting a "place of public accommodation" or another category of structure to which the ADA is applicable) and (ii) such building(s) is not already required to meet the Contractual Minimum Accessibility Requirements (as defined below) pursuant to the ADA, applicable building code requirements, or by any other legal requirement, then the Company shall cause such building(s) to comply with the Contractual Minimum Accessibility Requirements in addition to any requirements pursuant to the ADA and the applicable building code or legal requirement. As used herein, "**Contractual Minimum Accessibility Requirements**" means that a building shall, at a minimum, include (1) at least one point of entry (as used in the ADA), accessible from a public right of way, with respect to which all architectural barriers (as used in the ADA) to entry have been eliminated, and (2) if such accessible point of entry is not a building's primary point of entry, conspicuous signage directing persons to such accessible point of entry.

Section 2. Real Property Tax Exemption. Subject to the satisfaction of the conditions set forth in this Agreement, the City approves exemption from real property taxation, pursuant to and to the fullest extent authorized by the Statute, of one hundred percent (100%) of the amount by which the Improvements increase the assessed value of the Property as determined by the Hamilton County Auditor, for a period of twelve (12) years, provided that the Company shall have entered into the Board of Education Agreement. Within 120 days after completion of the Project (unless otherwise extended in writing by the City's Housing Officer), the Company must file the appropriate application for tax exemption with the City's Housing Officer. The Company is solely responsible to take this action. Upon receipt of the application for tax exemption, the City will proceed with the exemption authorized by this Agreement. In accordance with Ohio Revised Code Section 3735.67, the exemption is conditioned on verification by the Housing Officer of (A) the completion of remodeling, (B) the cost of remodeling, (C) the facts asserted in the application for exemption and (D) if a remodeled structure is a structure of historical or architectural significance as designated by the City, state or federal government, that the appropriateness of the remodeling has been certified in writing by the appropriate agency. If the required verification is made, the Housing Officer will forward the exemption application to the Hamilton County Auditor with the

necessary certification by the Housing Officer. Subject to the conditions set forth in this Agreement, the exemption commences the first tax year for which the Improvements would first be taxable were the Improvements not exempted from taxation. The dates provided in this paragraph refer to tax years in which the subject property is assessed, as opposed to years in which taxes are billed. No exemption shall commence after tax year 2024 nor extend beyond the earlier of (i) tax year 2035 or (ii) the end of the twelfth (12th) year of exemption.

Section 3. Use; Maintenance; Inspections. The Company shall use the Property solely for the purposes described in Section 1 hereof and shall properly maintain and repair the Property throughout the period of tax exemption authorized herein. The Company authorizes the Housing Officer, or the Housing Officer's designees, to enter upon the Property as reasonably required to perform property inspections in accordance with Ohio Revised Code Section 3735.68.

Section 4. Compliance with Board of Education Agreement. As a condition of the tax exemption authorized under this Agreement, the Company agrees to enter into and comply with its obligation under the Board of Education Agreement.

Section 5. Duty of Company to Pay Taxes. As required by Ohio Revised Code Section 3735.671(C)(2), the Company shall pay such real property taxes as are not exempted under this Agreement and are charged against the Property and shall file all tax reports and returns as required by law. If the Company fails to pay such taxes or file such returns and reports, exemptions from taxation granted or authorized under this Agreement are rescinded beginning with the year for which such taxes are charged or such reports or returns are required to be filed and continuing thereafter.

Section 6. Company Certifications Regarding Non-Delinquency of Tax Obligations. As required by Ohio Revised Code Section 3735.671(C)(3), the Company certifies that at the time this Agreement is executed, the Company does not owe any delinquent real or tangible personal property taxes to any taxing authority of the State, and does not owe delinquent taxes for which the Company is liable under Ohio Revised Code Chapters 5733, 5735, 5739, 5741, 5743, 5747 or 5753, or if such delinquent taxes are owed, the Company currently is paying the delinquent taxes pursuant to an undertaking enforceable by the State or an agent or instrumentality thereof, has filed a petition in bankruptcy under 101, et seq., or such a petition has been filed against the Company. For the purposes of this certification, delinquent taxes are taxes that remain unpaid on the latest day prescribed for payment without penalty under the chapter of the Ohio Revised Code governing payment of those taxes.

Section 7. Covenant of Satisfaction of Tax and Other Obligations. In accordance with Ohio Revised Code Section 9.66, (A) the Company affirmatively covenants that it does not owe: (i) any delinquent taxes to the State or to a political subdivision of the State; (ii) any moneys to the State or a State agency for the administration or enforcement of any environmental laws of the State; or (iii) any other moneys to the State, a State agency or a political subdivision of the State that are past due, regardless of whether the amounts owed are being contested in a court of law or not; (B) the Company authorizes the City and/or the State to inspect the personal financial statements of the Company, including tax records and other similar information not ordinarily open to public inspection; and (C) the Company authorizes the Ohio Environmental Protection Agency and the Ohio Department of Taxation to release information to the City and or other State departments in connection with the above statements. As provided by statute, a knowingly false statement under this section may be prosecuted as a first degree misdemeanor under Ohio Revised Code Section 2921.13, may render the Company ineligible for any future economic development assistance from the State or any political subdivision of the State, and will result in the City requiring the Company's repayment of any assistance provided by the City in connection with the Project.

Section 8. City Cooperation. As required by Ohio Revised Code Section 3735.671(C)(4), upon specific request from the Company, the City shall perform such acts as are reasonably necessary or appropriate to effect, claim, reserve and maintain exemptions from taxation granted under this Agreement including, without limitation, joining in the execution of all documentation and providing any necessary certificates required in connection with such exemptions.

Section 9. Continuation of Exemptions. As provided in Ohio Revised Code Section 3735.671(C)(5), if for any reason the City revokes the designation of the City of Cincinnati as a Community Reinvestment Area, entitlements granted under this Agreement shall continue for the number of years specified under this Agreement, unless the Company materially fails to fulfill its obligations under this Agreement and the City terminates or modifies the exemptions from taxation authorized pursuant to this Agreement.

Section 10. City Not Liable. The Company acknowledges that the exemption authorized in this Agreement is subject to approval and implementation by the appropriate state and/or county taxing authorities. The Company acknowledges that the City does not give any guarantee or assurance that the exemption approved in this Agreement will be so approved, and the Company agrees that in no event shall the Company seek to hold the City liable in any way in the event such exemption is not granted or implemented.

Section 11. Small Business Enterprise Program.¹

A. Compliance with Small Business Enterprise Program. The policy of the City is that a fair share of contracts be awarded to Small Business Enterprises (as such term is defined in Cincinnati Municipal Code (“CMC”) Section 323-1-S, “SBEs”). Pursuant to CMC Section 323-11, the City’s annual goal for SBE participation shall be thirty percent (30%) of the City’s total dollars spent for construction (as such term is defined in CMC Section 323-1-C4), supplies (as such term is defined in CMC Section 323-1-S5), services (as such term is defined in CMC Section 323-1-S) and professional services (as such term is defined in CMC Section 323-1-P2). Accordingly, the Company shall use its best efforts and take affirmative steps to achieve the City’s goal of voluntarily meeting thirty percent (30%) SBE participation. A list of SBEs may be obtained from the City’s Department of Economic Inclusion. The Company may refer interested firms to the City’s Department of Economic Inclusion for review and possible certification as an SBE. The Company shall comply with the provisions of CMC Chapter 323, including without limitation taking at least the following affirmative steps:

(i) Including qualified SBEs on solicitation lists.

(ii) Assuring that SBEs are solicited whenever they are potential sources.

The Company must advertise, on at least two separate occasions, both in local minority publications and in other local newspapers of general circulation, invitations to SBEs to provide services, to supply materials, or to bid on construction contracts, as applicable.

(iii) When economically feasible, dividing total requirements into small tasks or quantities so as to permit maximum SBE participation.

(iv) If any subcontracts are to be let, the Company shall require the prime contractor (if different from the Company) to take the above affirmative steps.

(v) Prior to the commencement of work under any subcontracts, the Company shall provide to the City a list of such subcontractors, including information as to the dollar amount of the subcontracts and such other information as may be requested by the City. The Company shall update the report monthly.

(vi) The Company shall periodically document its best efforts and affirmative steps to meet the above SBE participation goals by submitting such information as may be requested from time to time by the City.

B. Remedies for Noncompliance with Small Business Enterprise Program. Failure of the Company or its contractors and subcontractors to take the affirmative steps specified above, to provide fair and equal opportunity to SBEs, or to provide technical assistance to SBEs as may be necessary to reach SBE participation as set out in CMC Chapter 323 may be construed by the City as failure of the Company to use its best efforts, and, in addition to other remedies under this Agreement, may be a cause for the City to file suit in Common Pleas Court to

¹ Note: this section will be revised prior to execution due to programmatic changes being implemented by the Department of Community and Economic Development as a result of recent legislation passed by City Council.

enforce specific performance of the terms of this Section. The provisions of CMC Section 323-99 are hereby incorporated by reference into this Agreement.

Section 12. Jobs. The Company represents that, as of the date of the execution of this Agreement, the Company has no existing employment at the Property or in the State.

Section 13. Job Creation and Retention.

A. Jobs to be Created by Company. The Company agrees to use its best efforts to create (i) 0.5 full-time permanent jobs and (ii) 18 part-time temporary construction jobs at the Property in connection with the Project. In the case of the construction jobs, the job creation and retention period shall be concurrent with remodeling, and in the case of the other jobs described herein, the job creation period shall begin upon completion of remodeling and shall end three (3) years thereafter.

B. Company's Estimated Payroll Increase. The Company's increase in the number of employees will result in approximately (i) \$18,000 of additional annual payroll with respect to the full-time permanent jobs, and (ii) \$250,000 of additional annual payroll prior to the completion of the Project with respect to the part-time temporary construction jobs.

C. Community Reinvestment Area Employment. The Company shall (i) adopt hiring practices to ensure that at least twenty-five percent (25%) of the new employees shall be residents of the City of Cincinnati and (ii) give preference to residents of the City relative to residents of the State who do not reside in the City when hiring new employees under this Agreement.

D. Posting Available Employment Opportunities. To the extent allowable by law, the Company shall use its best efforts to post available employment opportunities within the Company's organization or the organization of any subcontractor working with the Company with the Ohio Means Jobs Center, 1916 Central Parkway, Cincinnati, Ohio 45214-2305, through its Employer Services Unit Manager at 513-746-7200.

Section 14. Equal Employment Opportunity. This Agreement is subject to the City's Equal Employment Opportunity Program contained in CMC Chapter 325. The Equal Employment Opportunity Clause in CMC Section 325-9 is incorporated by reference in this Agreement. The term "Company" is substituted for "Contractor" throughout CMC Section 325-9 in the context of this Agreement.

Section 15. Compliance with Immigration and Nationality Act. In the performance of its obligations under this Agreement, the Company agrees to comply with the provisions of the Immigration and Nationality Act codified at 8 U.S.C. §§ 1324a(a)(1)(A) and (a)(2). Any noncompliance with such provisions shall be solely determined by either the federal agencies authorized to enforce the Immigration and Nationality Act or the U.S. Attorney General, in accordance with Executive Order 12989 of the U.S. President dated February 13, 1996, and as amended by Executive Order 13465 of the U.S. President dated June 6, 2008.

Section 16. Default. As provided in Ohio Revised Code Section 3735.671(C)(6), if the Company materially fails to fulfill its obligations under this Agreement, or if the City determines that the certification as to delinquent taxes required by this Agreement (Section 6 hereof) or the covenant of satisfaction of tax and other obligations (Section 7 hereof) is fraudulent, the City may terminate or modify the exemptions from taxation granted or authorized under this Agreement and may require the repayment by the Company of the amount of taxes that would have been payable had the Improvements not been exempted from taxation pursuant to this Agreement. A modification of exemption may be in the form of reduction in the number of years that eligible property is exempt and/or a reduction in the exemption percentage. The City shall provide written notice to the Company prior to finding the Company in default under this section. The notice shall provide the Company with not less than thirty (30) days to cure the default prior to City termination or modification of the exemptions under this Agreement. The City may

extend the cure period as reasonably necessary under the circumstances. In the event of such termination or modification, the City is authorized to so notify the appropriate taxing authorities in order to effect the termination or modification. If repayment of previously exempt taxes is required by the City under this Section, such amount shall be paid as directed by the City within thirty (30) days of written demand. The City may secure repayment of such taxes by a lien on the Property in the amount required to be repaid. Such a lien shall attach, and may be perfected, collected, and enforced, in the same manner as a mortgage lien on real property, and shall otherwise have the same force and effect as a mortgage lien on real property. Amounts due and not paid when due under this Section 16 shall bear interest at the rate specified in Ohio Revised Code Section 1343.03(A) (as in effect on the date of the City's payment demand).

Section 17. Annual Review and Report. As required by Ohio Revised Code Sections 3735.671(C)(7) and 5709.85, the Company shall provide to the City's Tax Incentive Review Council (or to the City Manager if so requested by the City) any information reasonably required by the Council or the City Manager to evaluate the Company's compliance with this Agreement, including returns filed pursuant to Ohio Revised Code Section 5711.02 if requested by the Council or City Manager. The performance of the Company's obligations stated in this Agreement shall be subject to annual review by the City's Tax Incentive Review Council (the "Annual Review and Report"). The Company shall submit information for the Annual Review and Report to the City no later than March 1 of each year.

Section 18. Revocation.

A. Generally. Pursuant to Ohio Revised Code Section 3735.68, the housing officer shall make annual inspections of the properties within the community reinvestment area upon which are located structures or remodeling for which an exemption has been granted under Ohio Revised Code Section 3735.67. If the housing officer finds that the property has not been properly maintained or repaired due to the neglect of the Company, the housing officer may revoke the exemption at any time after the first year of exemption. If the Company has materially failed to fulfill its obligations under this Agreement, or if the owner is determined to have violated division (E) of that section (see Section 18(B) of this Agreement), City Council, subject to the terms of the agreement, may revoke the exemption at any time after the first year of exemption. The housing officer or City Council shall notify the county auditor and the Company that the tax exemption no longer applies. If the housing officer or legislative authority revokes a tax exemption, the housing officer shall send a report of the revocation to the community reinvestment area housing council and to the tax incentive review council established pursuant to section 3735.69 or 5709.85 of the Revised Code, containing a statement of the findings as to the maintenance and repair of the property, failure to fulfill obligations under the written agreement, or violation of division (E) of Ohio Revised Code Section 3735.671, and the reason for revoking the exemption.

B. Prior Statutory Violations. The Company represents and warrants to the City that it is not prohibited by Ohio Revised Code Section 3735.671(E) from entering into this Agreement. As required by Ohio Revised Code Section 3735.671(C)(9), exemptions from taxation granted or authorized under this Agreement shall be revoked if it is determined that the Company, any successor to the Company or any related member (as those terms are defined in division (E) of Ohio Revised Code Section 3735.671) has violated the prohibition against entering into this Agreement under division (E) of Ohio Revised Code Section 3735.671 or under Ohio Revised Code Sections 5709.62 or 5709.63 prior to the time prescribed by that division or either of those sections.

Section 19. False Statements; Penalties; Material Representations.

A. Generally. As required in connection with Ohio Revised Code Section 9.66(C), the Company affirmatively covenants that it has made no false statements to the State or the City in the process of obtaining approval for this Agreement. If any representative of the Company has knowingly made a false statement to the State or the City to obtain approval for this

Agreement, or if the Company fails to provide any information expressly required under the Application, the Company shall be required to immediately return all benefits received under this Agreement (by payment of the amount of taxes exempted hereunder, paid as directed by the City within thirty (30) days of written demand) and the Company shall be ineligible for any future economic development assistance from the State, any State agency or any political subdivision of the State pursuant to Ohio Revised Code Section 9.66(C)(1). Amounts due and not paid under this Section 19 shall bear interest at the rate of twelve percent (12%) per year. Any person who provides a false statement to secure economic development assistance (as defined in Ohio Revised Code Section 9.66) may be guilty of falsification, a misdemeanor of the first degree, pursuant to Ohio Revised Code Section 2921.13(F)(1), which is punishable by fine of not more than One Thousand Dollars (\$1,000) and/or a term of imprisonment of not more than six (6) months.

B. Material Representations – Board of Education Agreement and VTICA. The Parties acknowledge and agree that a material failure by the Company to comply with its representations concerning the Board of Education Agreement or VTICA Contribution shall constitute an event of default for purposes of Section 16 (Default) and the basis for revocation under Section 18 (Revocation). Subject to the terms of the VTICA, if the VTICA is unenforceable for reasons of infeasibility or otherwise, the Company shall enter into alternative arrangements providing for the economic equivalent of the VTICA Contribution in order to support streetcar operations. Such arrangements may include, but are not limited to, providing for the economic equivalent of the VTICA Contribution through formation of a special improvement district. For purposes of this Section 19.B, alternative arrangements must result in services substantially similar to those that would have been supported through the VTICA and at a value that is the economic equivalent of the VTICA Contribution, which value shall not be required to exceed the VTICA Contribution amount that would have been payable by the Company. Any determination of infeasibility or mechanism for providing alternative arrangements is subject to approval by the City at its sole discretion. Nothing in this Section 19.B shall operate to limit the City's enforcement authority under this Agreement including, without limitation, Section 16, Section 18, and Section 19.A.

Section 20. Conflict of Interest. The Company covenants that, to the Company's knowledge, no employee of the City has any personal interest, direct or indirect, in any matters pertaining to the Project, and the Company agrees to take appropriate steps to prevent any employee of the City from obtaining any such interest throughout the term of this Agreement.

Section 21. Annual Fee. As authorized by Ohio Revised Code Section 3735.671(D), the Company shall pay an annual fee of Five Hundred Dollars (\$500) or one percent (1%) of the annual taxes exempted under this Agreement, whichever is greater, but not to exceed Two Thousand, Five Hundred Dollars (\$2,500) per annum. This fee is due with submission of the information for Annual Review and Report by March 1 of each year.

Section 22. Discontinued Operations. As provided in Ohio Revised Code Section 3735.671(E), if, prior to the expiration of the term of this Agreement, the Company discontinues operations at the Project so that the Property is no longer being used for the purposes described in Section 1 hereof, then the Company, its successors, and any related member shall not enter into an agreement under Ohio Revised Code Sections 3735.671, 5709.62, 5709.63 or 5709.632, and no legislative authority shall enter into such an agreement with the Company, its successors or any related member prior to the expiration of five (5) years after the discontinuation of operations. As used in this Section 22, "successors" and "related member" shall have the meanings set forth in Ohio Revised Code Section 3735.671(E).

Section 23. Notices. Unless otherwise specified herein, each party shall address written notices, demands and communications in connection with this Agreement to the other party as follows (or to such other address as is communicated in accordance with this Section):

To the City:

City of Cincinnati
Attention: Director of the Department of Community and Economic Development
Centennial Plaza Two, Suite 700
805 Central Avenue
Cincinnati, Ohio 45202

To the Company:

254 Mohawk LLC
Attention: John Blatchford
207 W. McMicken Ave.
Cincinnati, Ohio 45214

If the Company sends a notice to the City alleging that the City is in default under this Agreement, the Company shall simultaneously send a copy of such notice to: City Solicitor, City of Cincinnati, 801 Plum Street, Room 214, Cincinnati, OH 45202.

Section 24. Acknowledgment of City Participation. The Company agrees to acknowledge the support of the City on construction signs, project and exhibition signage, and any publicity such as that appearing on the internet, television, cable television, radio, or in the press or any other printed media. In identifying the City as a Project partner, the Company shall use either the phrase "Project Assistance by the City of Cincinnati" or a City of Cincinnati logotype or other form of acknowledgement that has been approved in advance in writing by the City.

Section 25. Entire Agreement. This Agreement and the Exhibits attached hereto constitute the entire agreement between the City and the Company with respect to the subject matter herein, superseding any prior or contemporaneous agreement with respect thereto.

Section 26. Governing Law. This Agreement is entered into and is to be performed in the State. The City and the Company agree that the law of the State of Ohio shall govern the rights, obligations, duties and liabilities of the parties to this Agreement and shall govern the interpretation of this Agreement.

Section 27. Waiver. The City's waiver of any breach by the Company of any provision of this Agreement shall not constitute or operate as a waiver by the City of any other breach of such provision or of any other provisions, nor shall any failure or delay by the City to enforce any provision hereof operate as a waiver of such provision or of any other provision.

Section 28. Severability. This Agreement shall be severable; if any part or parts of this Agreement shall for any reason be held invalid or unenforceable by a court of competent jurisdiction, all remaining parts shall remain binding and in full force and effect.

Section 29. Amendment. This Agreement may be modified or amended only by a written agreement duly executed by the parties hereto or their representatives.

Section 30. Non-Assignment. As required by Ohio Revised Code Section 3735.671(C)(8), this Agreement is not transferable or assignable by the Company without the express written approval of the City Manager of the City. If the Company has entered into a Board of Education Agreement or VTICA in connection with the Property, the City shall not approve the assignment of this Agreement unless the assignee has assumed the Company's remaining obligations under the Board of Education Agreement and VTICA, as applicable. Failure to assign or otherwise perform the Company's obligations under the Board of Education Agreement or VTICA upon transfer of the Property during the term of the tax abatement authorized by this Agreement shall be basis for revocation of the tax exemption under Section 18.

Section 31. Recording. At its election, the City may record this Agreement at the City's expense in the Hamilton County Recorder's Office.

Section 32. Legislative Action Required. As provided in Ohio Revised Code Section 3735.671(C)(10), the Company and the City acknowledge that this Agreement must be approved by formal action of the City Council of the City as a condition for this Agreement to take effect. Notwithstanding anything to the contrary herein, this Agreement shall take effect after the later of the date of such approval or the final date of execution of this Agreement by all parties.

Section 33. Additional Representations and Warranties of Company. The Company represents and warrants that (a) it is duly organized and existing and it has full power and authority to take, and has taken, all action necessary to execute and deliver this Agreement and any other documents required or permitted to be executed or delivered by it in connection with this Agreement, and to fulfill its obligations hereunder; (b) no notices to, or consents, authorizations or approvals of, any person are required (other than any already given or obtained) for its due execution, delivery and performance of this Agreement; and (c) this Agreement has been duly executed and delivered by it and constitutes the legal, valid and binding obligation of the Company.

Section 34. Certification as to Non-Debarment. The Company represents that neither it nor any of its principals is presently debarred by any federal, state, or local government agency. In completing the Project, the Company shall not solicit bids from any contractors or subcontractors who are identified as being debarred by any federal, state, or local government agency. If the Company or any of its principals becomes debarred by any federal, state, or local government agency during the term of this Agreement, the company shall be considered in default under this Agreement.

Section 35. Appeals. Pursuant to Ohio Revised Code Section 3735.70, a person aggrieved under the Statute or this Agreement may appeal to the community reinvestment area housing council, which shall have the authority to overrule any decision of a housing officer. Appeals may be taken from a decision of the council to the court of common pleas of the county where the area is located.

Section 36. Wage Enforcement.

(i) Applicability. Council passed Ordinance No. 22-2016 on February 3, 2016, which ordained Chapter 326 (Wage Enforcement) of the Cincinnati Municipal Code (the "Wage Enforcement Chapter"). The Wage Enforcement Chapter was then amended by Ordinance No. 96-2017, passed May 17, 2017. As amended, the Wage Enforcement Chapter imposes certain requirements upon persons entering into agreements with the City whereby the City provides an incentive or benefit that is projected to exceed \$25,000, as described more particularly in the Wage Enforcement Chapter. Cincinnati Municipal Code Section 326-5 requires that the language below be included in contracts subject to the Wage Enforcement Chapter.

(ii) Required Contractual Language. Capitalized terms used, but not defined, in this clause (ii) have the meanings ascribed thereto in the Wage Enforcement Chapter.

(a) This contract is or may be subject to the Wage Enforcement provisions of the Cincinnati Municipal Code. These provisions require that any Person who has an Agreement with the city or with a Contractor or Subcontractor of that Person shall report all Complaints or Adverse Determinations of Wage Theft and Payroll Fraud (as each of those terms is defined in Chapter 326 of the Cincinnati Municipal Code) against the Contractor or Subcontractors to the Department of Economic Inclusion within 30 days of notification of the Complaint or Adverse Determination.

(b) If this contract is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this contract is required to include provisions in solicitations and contracts regarding a Development Site that all employers, Contractors or Subcontractors performing or proposing to perform work on a Development Site provide an initial sworn

and notarized "Affidavit Regarding Wage Theft and Payroll Fraud" on a form prescribed by the city manager or his or her designee and, within 30 days of an Adverse Determination or Complaint of Wage Theft or Payroll Fraud, shall provide an "Amended Affidavit Regarding Wage Theft and Payroll Fraud" on a form prescribed by the city manager or his or her designee.

(c) If this contract is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this contract is required to authorize, and does hereby specifically authorize, any local, state or federal agency, court, administrative body or other entity investigating a complaint of Wage Theft or Payroll Fraud against the Person (collectively "investigative bodies") to release to the City's Department of Economic Inclusion any and all evidence, findings, complaints and determinations associated with the allegations of Wage Theft or Payroll Fraud upon the City's request and further authorizes such investigative bodies to keep the City advised regarding the status of the investigation and ultimate determination. If the investigative bodies require the Person to provide additional authorization on a prescribed form or in another manner, the Person shall be required to provide such additional authorization within 14 days of a request by the City.

(d) If this Agreement is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this Agreement shall include in its contracts with all Contractors language that requires the Contractors to provide the authorizations set forth in subsection (c) above and that further requires each Contractor to include in its contracts with Subcontractors those same obligations for each Subcontractor and each lower tier subcontractor.

(e) If this Agreement is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this Agreement shall post a conspicuous notice on the Development Site throughout the entire period work is being performed pursuant to the Agreement indicating that the work being performed is subject to Cincinnati Municipal Code Chapter 326, Wage Enforcement, as administered by the City of Cincinnati Department of Economic Inclusion. Such notice shall include contact information for the Department of Economic Inclusion as provided by the department.

(f) Under the Wage Enforcement provisions, the City shall have the authority, under appropriate circumstances, to terminate this contract or to reduce the incentives or subsidies to be provided under this contract and to seek other remedies, including debarment.

Section 37. Legal Requirements. In completing and operating the Project, the Company shall comply with all applicable statutes, ordinances, regulations, and rules of the government of the United States, State of Ohio, County of Hamilton, and City of Cincinnati.

Section 38. Counterparts and Electronic Signatures. This Agreement may be executed by the parties hereto in two or more counterparts and each executed counterpart shall be considered an original but all of which together shall constitute one and the same instrument. This Agreement may be executed and delivered by electronic signature; any original signatures that are initially delivered electronically shall be physically delivered as soon as reasonably possible.

Remainder of this page intentionally left blank. Signature page follows.

Executed by the parties on the dates indicated below, effective as of the later of such dates (the "Effective Date").

CITY OF CINCINNATI,
an Ohio municipal corporation

254 MOHAWK LLC,
an Ohio limited liability company

By: _____
Paula Boggs Muething, City Manager

Date: _____, 2021

By: _____

Printed Name: _____

Title: _____

Date: _____, 2021

Authorized by resolution dated _____

Approved as to Form:

Assistant City Solicitor

Certified Date: _____

Fund/Code: _____

Amount: _____

By: _____
Karen Alder, City Finance Director

Exhibit A to CRA Agreement

LEGAL DESCRIPTION OF PROPERTY

254 Mohawk Street, Auditor's Parcel ID No. 096-0004-0177-00:

Plat Book 96, Page 4, Parcel 177

See By Prior

Situate in the City of Cincinnati, Hamilton County, Ohio, and being Lot No. Eleven (11) on the recorded Plat of N. Longworth's Subdivision of the Sloo Tract, as the same is recorded in Deed Book 94, page 489 of the Deed Records of Hamilton County, Ohio, less and excepting therefrom a strip of ground at the northwest corner of said Lot being 2 feet on the south side of Wright Alley and extending southwardly along the west line of said Lot 11 a distance of 45 feet.

Prior Instrument Reference: OR 9021, Page 3012, Hamilton County, Ohio Records.

Exhibit B to CRA Agreement
APPLICATION FOR TAX EXEMPTION

TO BE ATTACHED

August 2, 2021

To: Members of the Budget and Finance Committee 202102528
From: Paula Boggs Muething, City Manager
Subject: **Emergency Ordinance – Approving and Authorizing CRA Tax Exemption Agreement with KeyMark, LLC**

Attached is an Emergency Ordinance captioned:

APPROVING AND AUTHORIZING the City Manager to execute a *Community Reinvestment Area Tax Exemption Agreement* with CH KeyMark LLC, thereby authorizing a 15-year tax exemption for 100% of the value of improvements made to real property located at 5906-5910 and 6060 Hamilton Avenue in the College Hill neighborhood of Cincinnati, in connection with the remodeling of 3 existing buildings to create 15,100 square feet of residential space consisting of 26 apartments, 3,395 square feet of commercial office space, and 1,487 square feet of commercial retail space, at a total construction cost of approximately \$3,632,132.

BACKGROUND/CURRENT CONDITIONS

The proposed development comprises three vacant and blighted buildings located at 6060 Hamilton Avenue, 5904 Hamilton Avenue, and 5910 Hamilton Avenue in the College Hill neighborhood of Cincinnati. 6060 Hamilton Avenue, commonly referred to as the Megard Lanes building, was purchased in 2018 through an NBDIP Grant from the City of Cincinnati. Additionally, College Hill Community Urban Redevelopment Corporation purchased 5904 and 5910 Hamilton Avenue in December 2018 as part of a more extensive acquisition. The Developer packaged the properties in a Request For Proposal that highlighted the risk and subsequent difficulty to develop these properties in addition to Hollywood Theatre. Following COVID-19, College Hill CURC pared down its development package and submitted the KeyMark development to the City's 2020 Notice of Funding Availability, through which it was awarded a \$1,000,000 loan.

DEVELOPER INFORMATION

CH KeyMark, LLC is a partnership between College Hill Community Urban Redevelopment Corporation (CHCURC) and 8K Development Corporation (8K). CHCURC is the community development corporation of the College Hill neighborhood of Cincinnati. CHCURC has been responsible for more than \$54 million in neighborhood revitalization improvement over the past ten years. In addition, 8K Development has completed over \$10 Million in development projects, many of which involved affordable housing and historic rehabilitation.

PROJECT DESCRIPTION

KeyMark, LLC is to lead the rehabilitation of a twenty-six (26) unit mixed-use development. 5910 Hamilton Avenue shall be converted into a community center that will consist of 1,300 square feet of commercial space, 1,300 square feet of office space for CHCURC, and a co-working space. 6060 Hamilton Avenue includes fifteen (15) residential units, a mix of studio and one-bedroom apartments ranging from 575 square feet to 750 square feet. 5904 Hamilton Avenue is to include eleven (11) 750 square feet one-bedroom units. All twenty-six (26) units shall be affordable to households earning eighty percent (80%) or less of the Area Median Income (AMI). These affordable monthly rents will range from \$450 for a studio to \$750 for a one-bedroom.

The total project cost is anticipated to be \$5,812,582 with construction costs at anticipated at \$3,632,132. Construction is also anticipated to create twenty-five (25) temporary construction jobs with a total annual payroll of \$1.3 million as well as eighteen and a half (18.5) permanent on-site jobs in case management and facilities management generating \$852,712 in annual payroll.

This project achieves Goal 3 of the Live Initiative Area of *Plan Cincinnati* (pages 164-178) by providing a full spectrum of housing options and improving housing quality and affordability. Additionally, the project accomplishes Goal 2 of the Live Initiative Area of *Plan Cincinnati* (pages 156-163) by creating a more livable community by activating property that has been vacant.

PROPOSED INCENTIVE

DCED is recommending a 15-year, net 67% CRA tax exemption. The exemption applies only to the increase in improvement value attributed to the renovation.

Pursuant to the Commercial CRA policy established by City Council, this project was deemed undercapitalized. Therefore, the project is subject to financial gap analysis that proved the need for the recommended incentive. Accordingly, the project merits a fifteen-year (15-year) net 67% CRA tax abatement based on the following criteria.

- The deep affordability requirements set by the City awarded HOME funds.
- The absence of a tax abatement would reduce cash flow, and the project would not support the debt service required to complete the construction.
- Project meets HOME funds financial feasibility requirements with abatement.

SUMMARY	
Incentive Value	
Annual Net Abatement (Savings to Developer)	\$45,190
Total Term Net Abatement (Savings to Developer)	\$677,848
City's Portion of Property Taxes Forgone	\$130,573
Public Benefit	
CPS PILOT	
Annual CPS Pilot	\$22,258
Total Term CPS PILOT	\$333,865
VTICA	
Annual VTICA	\$0
Total Term VTICA PILOT	\$0
Income Tax (Max)	\$300,432
New Permanent Jobs	18.5
Total Public Benefit (CPS PILOT/VTICA PILOT/Income Tax)	\$634,298
Total Public Benefit ROI	\$0.94
City's ROI	\$2.30

PROJECT TEAM & TIMELINE

The project's legislative team (listed below) is available to answer questions regarding this project.

- Assistant City Manager: Billy Weber (Ext. 3318)
- DCED Deputy Director: Dan Bower (Ext. 1955)
- Project Attorney: Kaitlyn Geiger (Ext. 4544)

The anticipated council timeline is as follows:

- August 2, 2021: Budget and Finance (1)
- August 4, 2021: City Council for Final Approval

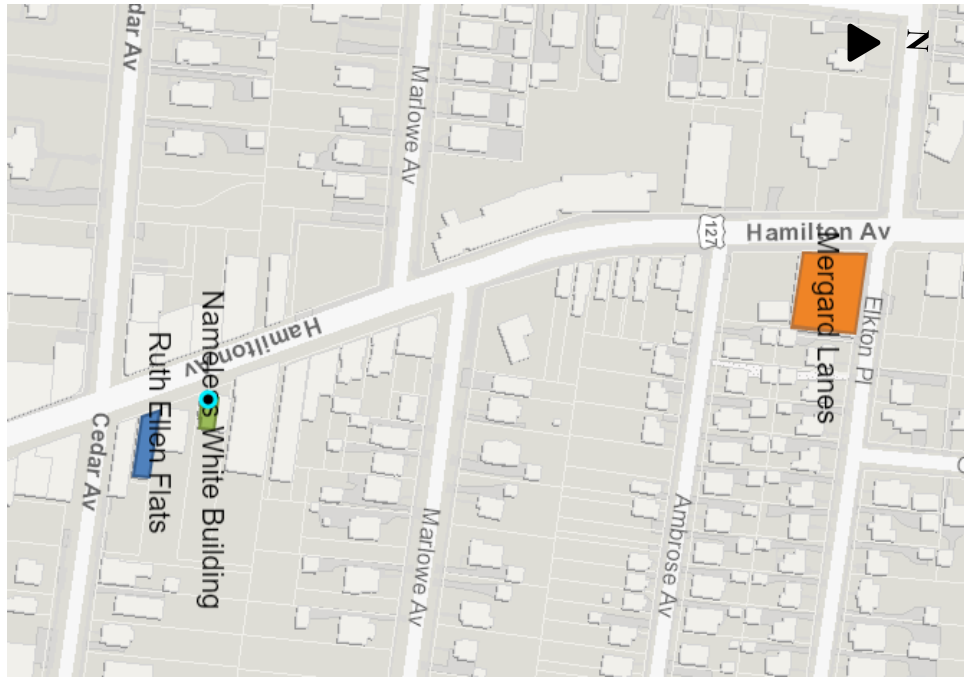
RECOMMENDATION

The Administration recommends approval of this Emergency Ordinance. This is an emergency ordinance so that the developer can begin construction as soon as possible preserving both the historic tax credit allocation and the new market tax credit allocation as well as construction pricing.

Attachment: A. Property location and photographs

Copy: Markiea L. Carter, Director, Department of Community & Economic Development

Attachment A: Location and Photographs



5000 to 6000 Block of Hamilton Avenue College Hill



*6060 Hamilton Avenue
(Mergard Lanes)*



*5910 Hamilton Avenue
(Ruth Ellen Flats)*



*5904 Hamilton Avenue
(Nameless White Building)*

EMERGENCY

City of Cincinnati

DSC

AWG

An Ordinance No. _____

- 2021

APPROVING AND AUTHORIZING the City Manager to execute a *Community Reinvestment Area Tax Exemption Agreement* with CH KeyMark LLC, thereby authorizing a 15-year tax exemption for 100% of the value of improvements made to real property located at 5906-5910 and 6060 Hamilton Avenue in the College Hill neighborhood of Cincinnati, in connection with the remodeling of 3 existing buildings to create 15,100 square feet of residential space consisting of 26 apartments, 3,395 square feet of commercial office space, and 1,487 square feet of commercial retail space, at a total construction cost of approximately \$3,632,132.

WHEREAS, to encourage the development of real property and the acquisition of personal property, the Council of the City of Cincinnati by Ordinance No. 274-2017 passed on September 27, 2017, designated the area within the corporate boundaries of the City of Cincinnati as a “Community Reinvestment Area” pursuant to Ohio Revised Code (“ORC”) Sections 3735.65 through 3735.70 (the “Statute”); and

WHEREAS, Ordinance No. 275-2017 passed by this Council on September 27, 2017, as amended by Ordinance No. 339-2018, passed by this Council on October 31, 2018, sets forth certain additional policies, conditions and limitations regarding newly constructed or remodeled commercial and residential structures in the Community Reinvestment Area; and

WHEREAS, effective October 23, 2017, the Director of Development of the State of Ohio determined that the area within the corporate boundaries of the City of Cincinnati contains the characteristics set forth in the Statute and confirmed such area as a Community Reinvestment Area under the Statute; and

WHEREAS, CH KeyMark LLC (the “Company”) desires to remodel 3 existing buildings to create 15,100 square feet of residential space consisting of 26 apartments, 3,395 square feet of commercial office space, and 1,487 square feet of commercial retail space on real property at 5906-5910 and 6060 Hamilton Avenue located within the corporate boundaries of the City of Cincinnati (the “Improvements”), provided that the appropriate development incentives are available to support the economic viability of the Improvements; and

WHEREAS, to provide an appropriate development incentive for the Improvements, the City Manager has recommended a *Community Reinvestment Area Tax Exemption Agreement*, in substantially the form of Attachment A to this ordinance, to authorize a real property tax exemption for the Improvements in accordance with the Statute; and

WHEREAS, the property is located within the Cincinnati City School District; and

WHEREAS, the Board of Education of the Cincinnati City School District (the “Board of Education”), pursuant to that certain *Tax Incentive Agreement* effective as of April 28, 2020 (as

may be amended, the “Board of Education Agreement”), has approved exemptions of up to 100% of Community Reinvestment Area projects, waived advance notice and the right to review such projects, and waived sharing or allocation of municipal income taxes in connection with such projects; and

WHEREAS, pursuant to the Board of Education Agreement, the Company has entered into (or will enter into) an agreement with the Board of Education requiring the Company to pay the Board of Education amounts equal to 33% of the exempt real property taxes; and

WHEREAS, the Improvements do not involve relocation of part or all of the Company’s operations from another county or municipal corporation in Ohio or, if there is relocation, notice has been given per ORC Section 3735.673; now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio:

Section 1. That Council approves a *Community Reinvestment Area Tax Exemption Agreement* with CH KeyMark LLC (the “Agreement”), thereby authorizing a 15-year tax exemption for 100% of the assessed value of improvements to be made to real property located at 5906-5910 and 6060 Hamilton Avenue in Cincinnati, as calculated by the Hamilton County Auditor, in connection with the remodeling of 3 existing buildings to create 15,100 square feet of residential space consisting of 26 apartments, 3,395 square feet of commercial office space, and 1,487 square feet of commercial retail space, to be completed at a total construction cost of approximately \$3,632,132.

Section 2. That Council authorizes the City Manager:

- (i) to execute the Agreement on behalf of the City in substantially the form of Attachment A to this ordinance; and
- (ii) to forward on behalf of Council a copy of the Agreement, within fifteen (15) days after execution, to the Director of the Ohio Development Services Agency in accordance with Ohio Revised Code Section 3735.671(F); and
- (iii) to submit on behalf of Council annual reports on the Agreement to the Director of the Ohio Development Services Agency and to the Board of Education of the Cincinnati City School District, in accordance with Ohio Revised Code Section 3735.672; and
- (iv) to take all necessary and proper actions to fulfill the City’s obligations under the Agreement.

Section 3. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to allow the remodeling described in this ordinance and the corresponding revitalization of the City of Cincinnati and the benefits to the City's economic welfare to begin at the earliest possible time.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____

Attachment A to Ordinance

CRA Tax Exemption Agreement

SEE ATTACHED

Community Reinvestment Area Tax Exemption Agreement

This Community Reinvestment Area Tax Exemption Agreement (this "Agreement") is made and entered into as of the Effective Date (as defined on the signature page hereof) by and between the CITY OF CINCINNATI, an Ohio municipal corporation (the "City"), and CH KEYMARK LLC, an Ohio limited liability company (the "Company").

Recitals:

- A. The City and the Company are parties to a *HOME Investment Partnerships Program Funding Agreement* dated _____, 2021 (the "Funding Agreement"), pursuant to which the City agreed to provide the Company with financial support for the Project (as defined below).
- B. The City, through the adoption of Ordinance No. 274-2017 on September 27, 2017, designated the entire City of Cincinnati as a Community Reinvestment Area to encourage the development of real property and the acquisition of personal property in that area, pursuant to Ohio Revised Code Sections 3735.65 through 3735.70 (the "Statute").
- C. In accordance with the Statute, the Ohio Director of Development has forwarded to the City the Director's determination dated October 23, 2017, stating that the findings contained in Ordinance No. 274-2017 are valid and that the entire City is a Community Reinvestment Area under the Statute. By such determination, the Director of Development of the State of Ohio determined that the area within the corporate boundaries of the City of Cincinnati contains the characteristics set forth in the Statute and confirmed such area as a Community Reinvestment Area under the Statute.
- D. The Council of the City of Cincinnati has also passed Ordinance No. 275-2017 as of September 27, 2017, as amended by Ordinance No. 339-2018 passed on October 31, 2018 (the "Commercial Policy Ordinance"), which sets forth certain additional policies, conditions and limitations regarding newly constructed or remodeled commercial and residential structures in the Community Reinvestment Area.
- E. The Company is the sole owner of certain real property within the City, located at 5906-5910 and 6060 Hamilton Avenue, Cincinnati, Ohio 45224 (the "Property"), as further described in Exhibit A (Legal Description of Property) hereto. Notwithstanding the foregoing, the Property shall not include any residential condominiums being developed in connection with the Project (as defined below) (the "Excluded Property"), and the Company acknowledges and agrees that the City's Community Reinvestment Area program entails separate applications by the owner of any residential condominium units included within the Project. For the avoidance of doubt, the Excluded Property shall not be exempt under this Agreement; however, this provision shall not be deemed to prohibit any owners from time to time of any Excluded Property from separately applying for a tax abatement in accordance with applicable law.
- F. The Company has proposed to remodel 3 existing buildings located on the Property, within the boundaries of the City of Cincinnati, as more fully described in Section 1 herein (the "Project"), provided that the appropriate development incentives are available to support the economic viability of the Project.
- G. The Statute provides that if any part of a project is to be used for commercial or industrial purposes, including projects containing four or more dwelling units, in order to be eligible for tax exemption the City and the Company must enter into an agreement pursuant to Ohio Revised Code Section 3735.671 prior to commencement of construction or remodeling.

- H. The City, having appropriate authority under the Statute for this type of project, agrees (as provided herein and subject to all conditions herein) to provide the Company with the tax exemption incentives stated herein, available under the Statute, for development of the Project.
- I. The Company has submitted to the City an application for this tax exemption agreement (the "Application"), a copy of which is attached hereto as Exhibit B, has remitted with the Application (i) the City application fee of One Thousand Two Hundred Fifty Dollars (\$1,250) made payable to the City and (ii) in accordance with Ohio Revised Code Section 3735.672(C), the state application fee of Seven Hundred Fifty Dollars (\$750) made payable to the Ohio Development Services Agency ("ODSA"), to be forwarded to the ODSA with an executed copy of this Agreement.
- J. The Director of the City's Department of Community and Economic Development has recommended approval of the Application on the basis that the Company is qualified by financial responsibility and business experience to create and preserve employment opportunities and improve the economic climate of the City.
- K. The Board of Education of the Cincinnati City School District (the "Board of Education"), pursuant to that certain *Tax Incentive Agreement* effective as of April 28, 2020, has approved exemptions of up to one hundred percent (100%) of Community Reinvestment Area projects, waived advance notice and right to review such projects, and waived sharing or allocation of municipal income taxes in connection with such projects.
- L. The Company has entered into (or will enter into) an agreement with the Board of Education requiring the Company to pay the Board of Education amounts equal to thirty-three percent (33%) of the full amount of exempt real property taxes that would have been paid to Hamilton County if this Agreement were not in effect (the "Board of Education Agreement").
- M. The Company represents and warrants to the City that the Company and its major tenants, if any, do not intend to relocate part or all of their operations to the City from another county or municipal corporation in the State of Ohio (the "State").
- N. The Company represents that within the past five (5) years neither the Company, nor any related member of the Company, nor any entity to which the Company is a successor has discontinued operations at a project site in the State during the term of a property tax exemption agreement (under Ohio Revised Code Section 3735.671, 5709.62, 5709.63 or 5709.632) applicable to that site, and the Company acknowledges that misrepresentation hereunder will result in voiding of this Agreement.
- O. The Company represents and warrants to the City that the Company is not subject to an Enterprise Zone Agreement with the City of Cincinnati for the Property or the Project.
- P. This Agreement has been authorized by Ordinance No. ____-2021, passed by Cincinnati City Council on _____, 2021.
- Q. In determining to recommend and authorize this Agreement, the Department of Community and Economic Development and City Council, respectively, have acted in material reliance on the Company's representations in the Application and herein regarding the Project including, but not limited to, representations relating to the number of jobs to be created and/or retained by the Company, the Board of Education Agreement, and the Project's effect in promoting the general welfare of the people of Cincinnati by, for example, encouraging the development of real property located in the Community Reinvestment Area and thereby promoting economic growth and vitality in Cincinnati.

NOW, THEREFORE, pursuant to Ohio Revised Code Section 3735.67(A) and in conformity with the format required under Ohio Revised Code Section 3735.671, in consideration of the mutual covenants

contained herein and the benefit to be derived by the parties from the execution hereof, the parties agree as follows:

Section 1. Project. Upon issuance of the necessary zoning and building approvals, the Company agrees to remodel 3 existing buildings to create 15,100 square feet of residential space consisting of 26 apartments, 3,395 square feet of commercial office space, and 1,487 square feet of commercial retail space on the Property (the "Improvements") at an estimated aggregate cost of \$3,632,132, to commence after the execution of this Agreement and to be completed no later than June 30, 2023; *provided*, however, that the Director of the Department of Community and Economic Development (the "Housing Officer") may, in his or her discretion, extend such deadline for a period of up to 12 months by written notice if, in the Director's judgment, the Company is proceeding in good faith towards completion. The remodeling shall be in compliance with applicable building code requirements and zoning regulations. In addition to the foregoing, (A) the Project shall comply with the Americans with Disabilities Act, together with any and all regulations or other binding directives promulgated pursuant thereto (collectively, the "ADA"), and (B) if (i) any building(s) within the Project is subject to the accessibility requirements of the ADA (e.g., by constituting a "place of public accommodation" or another category of structure to which the ADA is applicable) and (ii) such building(s) is not already required to meet the Contractual Minimum Accessibility Requirements (as defined below) pursuant to the ADA, applicable building code requirements, or by any other legal requirement, then the Company shall cause such building(s) to comply with the Contractual Minimum Accessibility Requirements in addition to any requirements pursuant to the ADA and the applicable building code or legal requirement. As used herein, "**Contractual Minimum Accessibility Requirements**" means that a building shall, at a minimum, include (1) at least one point of entry (as used in the ADA), accessible from a public right of way, with respect to which all architectural barriers (as used in the ADA) to entry have been eliminated, and (2) if such accessible point of entry is not a building's primary point of entry, conspicuous signage directing persons to such accessible point of entry.

Section 2. Real Property Tax Exemption. Subject to the satisfaction of the conditions set forth in this Agreement, the City approves exemption from real property taxation, pursuant to and to the fullest extent authorized by the Statute, of one hundred percent (100%) of the amount by which the Improvements increase the assessed value of the Property as determined by the Hamilton County Auditor, for a period of fifteen (15) years, provided that the Company shall have entered into the Board of Education Agreement. Within 120 days after completion of the Project (unless otherwise extended in writing by the City's Housing Officer), the Company must file the appropriate application for tax exemption with the City's Housing Officer. The Company is solely responsible to take this action. Upon receipt of the application for tax exemption, the City will proceed with the exemption authorized by this Agreement. In accordance with Ohio Revised Code Section 3735.67, the exemption is conditioned on verification by the Housing Officer of (A) the completion of remodeling, (B) the cost of remodeling, (C) the facts asserted in the application for exemption and (D) if a remodeled structure is a structure of historical or architectural significance as designated by the City, state or federal government, that the appropriateness of the remodeling has been certified in writing by the appropriate agency. If the required verification is made, the Housing Officer will forward the exemption application to the Hamilton County Auditor with the necessary certification by the Housing Officer. Subject to the conditions set forth in this Agreement, the exemption commences the first tax year for which the Improvements would first be taxable were the Improvements not exempted from taxation. The dates provided in this paragraph refer to tax years in which the subject property is assessed, as opposed to years in which taxes are billed. No exemption shall commence after tax year 2023 nor extend beyond the earlier of (i) tax year 2037 or (ii) the end of the 15th year of exemption.

Section 3. Use; Maintenance; Inspections. The Company shall use the Property solely for the purposes described in Section 1 hereof and shall properly maintain and repair the Property throughout the period of tax exemption authorized herein. The Company authorizes the Housing Officer, or the Housing Officer's designees, to enter upon the Property as reasonably required to perform property inspections in accordance with Ohio Revised Code Section 3735.68.

Section 4. Compliance with Board of Education Agreement. As a condition of the tax exemption authorized under this Agreement, the Company agrees to enter into and comply with its obligation under the Board of Education Agreement.

Section 5. Duty of Company to Pay Taxes. As required by Ohio Revised Code Section 3735.671(C)(2), the Company shall pay such real property taxes as are not exempted under this Agreement and are charged against the Property and shall file all tax reports and returns as required by law. If the Company fails to pay such taxes or file such returns and reports, exemptions from taxation granted or authorized under this Agreement are rescinded beginning with the year for which such taxes are charged or such reports or returns are required to be filed and continuing thereafter.

Section 6. Company Certifications Regarding Non-Delinquency of Tax Obligations. As required by Ohio Revised Code Section 3735.671(C)(3), the Company certifies that at the time this Agreement is executed, the Company does not owe any delinquent real or tangible personal property taxes to any taxing authority of the State, and does not owe delinquent taxes for which the Company is liable under Ohio Revised Code Chapters 5733, 5735, 5739, 5741, 5743, 5747 or 5753, or if such delinquent taxes are owed, the Company currently is paying the delinquent taxes pursuant to an undertaking enforceable by the State or an agent or instrumentality thereof, has filed a petition in bankruptcy under 101, et seq., or such a petition has been filed against the Company. For the purposes of this certification, delinquent taxes are taxes that remain unpaid on the latest day prescribed for payment without penalty under the chapter of the Ohio Revised Code governing payment of those taxes.

Section 7. Covenant of Satisfaction of Tax and Other Obligations. In accordance with Ohio Revised Code Section 9.66, (A) the Company affirmatively covenants that it does not owe: (i) any delinquent taxes to the State or to a political subdivision of the State; (ii) any moneys to the State or a State agency for the administration or enforcement of any environmental laws of the State; or (iii) any other moneys to the State, a State agency or a political subdivision of the State that are past due, regardless of whether the amounts owed are being contested in a court of law or not; (B) the Company authorizes the City and/or the State to inspect the personal financial statements of the Company, including tax records and other similar information not ordinarily open to public inspection; and (C) the Company authorizes the Ohio Environmental Protection Agency and the Ohio Department of Taxation to release information to the City and or other State departments in connection with the above statements. As provided by statute, a knowingly false statement under this section may be prosecuted as a first degree misdemeanor under Ohio Revised Code Section 2921.13, may render the Company ineligible for any future economic development assistance from the State or any political subdivision of the State, and will result in the City requiring the Company's repayment of any assistance provided by the City in connection with the Project.

Section 8. City Cooperation. As required by Ohio Revised Code Section 3735.671(C)(4), upon specific request from the Company, the City shall perform such acts as are reasonably necessary or appropriate to effect, claim, reserve and maintain exemptions from taxation granted under this Agreement including, without limitation, joining in the execution of all documentation and providing any necessary certificates required in connection with such exemptions.

Section 9. Continuation of Exemptions. As provided in Ohio Revised Code Section 3735.671(C)(5), if for any reason the City revokes the designation of the City of Cincinnati as a Community Reinvestment Area, entitlements granted under this Agreement shall continue for the number of years specified under this Agreement, unless the Company materially fails to fulfill its obligations under this Agreement and the City terminates or modifies the exemptions from taxation authorized pursuant to this Agreement.

Section 10. City Not Liable. The Company acknowledges that the exemption authorized in this Agreement is subject to approval and implementation by the appropriate state and/or county taxing authorities. The Company acknowledges that the City does not give any guarantee or assurance that the exemption approved in this Agreement will be so approved, and the Company agrees that in no event

shall the Company seek to hold the City liable in any way in the event such exemption is not granted or implemented.

Section 11. Small Business Enterprise Program.¹

A. Compliance with Small Business Enterprise Program. The policy of the City is that a fair share of contracts be awarded to Small Business Enterprises (as such term is defined in Cincinnati Municipal Code (“CMC”) Section 323-1-S, “SBEs”). Pursuant to CMC Section 323-11, the City’s annual goal for SBE participation shall be thirty percent (30%) of the City’s total dollars spent for construction (as such term is defined in CMC Section 323-1-C4), supplies (as such term is defined in CMC Section 323-1-S5), services (as such term is defined in CMC Section 323-1-S) and professional services (as such term is defined in CMC Section 323-1-P2). Accordingly, the Company shall use its best efforts and take affirmative steps to achieve the City’s goal of voluntarily meeting thirty percent (30%) SBE participation. A list of SBEs may be obtained from the City’s Department of Economic Inclusion. The Company may refer interested firms to the City’s Department of Economic Inclusion for review and possible certification as an SBE. The Company shall comply with the provisions of CMC Chapter 323, including without limitation taking at least the following affirmative steps:

- (i) Including qualified SBEs on solicitation lists.
- (ii) Assuring that SBEs are solicited whenever they are potential sources.

The Company must advertise, on at least two separate occasions, both in local minority publications and in other local newspapers of general circulation, invitations to SBEs to provide services, to supply materials, or to bid on construction contracts, as applicable.

(iii) When economically feasible, dividing total requirements into small tasks or quantities so as to permit maximum SBE participation.

(iv) If any subcontracts are to be let, the Company shall require the prime contractor (if different from the Company) to take the above affirmative steps.

(v) Prior to the commencement of work under any subcontracts, the Company shall provide to the City a list of such subcontractors, including information as to the dollar amount of the subcontracts and such other information as may be requested by the City. The Company shall update the report monthly.

(vi) The Company shall periodically document its best efforts and affirmative steps to meet the above SBE participation goals by submitting such information as may be requested from time to time by the City.

B. Remedies for Noncompliance with Small Business Enterprise Program. Failure of the Company or its contractors and subcontractors to take the affirmative steps specified above, to provide fair and equal opportunity to SBEs, or to provide technical assistance to SBEs as may be necessary to reach SBE participation as set out in CMC Chapter 323 may be construed by the City as failure of the Company to use its best efforts, and, in addition to other remedies under this Agreement, may be a cause for the City to file suit in Common Pleas Court to enforce specific performance of the terms of this Section. The provisions of CMC Section 323-99 are hereby incorporated by reference into this Agreement.

Section 12. Jobs. The Company represents that, as of the date of the execution of this Agreement, the Company has no existing employment at the Property or in the State.

Section 13. Job Creation and Retention.

A. Jobs to be Created by Company. The Company agrees to use its best efforts to create (i) 18.5 full-time permanent jobs, and (ii) 25 full-time temporary construction jobs, at the Property in connection with the Project. In the case of the construction jobs, the job creation and retention period shall be concurrent with remodeling, and in the case of the other jobs described

¹ Note: this section will be revised prior to execution due to programmatic changes being implemented by the Department of Community and Economic Development as a result of recent legislation passed by City Council.

herein, the job creation period shall begin upon completion of remodeling and shall end three (3) years thereafter.

B. Company's Estimated Payroll Increase. The Company's increase in the number of employees will result in approximately (i) \$852,712 of additional annual payroll with respect to the full-time permanent jobs, and (ii) \$1,300,000 of additional annual payroll prior to the completion of the Project with respect to the full-time temporary construction jobs.

C. Community Reinvestment Area Employment. The Company shall (i) adopt hiring practices to ensure that at least twenty-five percent (25%) of the new employees shall be residents of the City of Cincinnati and (ii) give preference to residents of the City relative to residents of the State who do not reside in the City when hiring new employees under this Agreement.

D. Posting Available Employment Opportunities. To the extent allowable by law, the Company shall use its best efforts to post available employment opportunities within the Company's organization or the organization of any subcontractor working with the Company with the Ohio Means Jobs Center, 1916 Central Parkway, Cincinnati, Ohio 45214-2305, through its Employer Services Unit Manager at 513-746-7200.

Section 14. Equal Employment Opportunity. This Agreement is subject to the City's Equal Employment Opportunity Program contained in CMC Chapter 325. The Equal Employment Opportunity Clause in CMC Section 325-9 is incorporated by reference in this Agreement. The term "Company" is substituted for "Contractor" throughout CMC Section 325-9 in the context of this Agreement.

Section 15. Compliance with Immigration and Nationality Act. In the performance of its obligations under this Agreement, the Company agrees to comply with the provisions of the Immigration and Nationality Act codified at 8 U.S.C. §§ 1324a(a)(1)(A) and (a)(2). Any noncompliance with such provisions shall be solely determined by either the federal agencies authorized to enforce the Immigration and Nationality Act or the U.S. Attorney General, in accordance with Executive Order 12989 of the U.S. President dated February 13, 1996, and as amended by Executive Order 13465 of the U.S. President dated June 6, 2008.

Section 16. Default. As provided in Ohio Revised Code Section 3735.671(C)(6), if the Company materially fails to fulfill its obligations under this Agreement or the Funding Agreement, or if the City determines that the certification as to delinquent taxes required by this Agreement (Section 6 hereof) or the covenant of satisfaction of tax and other obligations (Section 7 hereof) is fraudulent, the City may terminate or modify the exemptions from taxation granted or authorized under this Agreement and may require the repayment by the Company of the amount of taxes that would have been payable had the Improvements not been exempted from taxation pursuant to this Agreement. A modification of exemption may be in the form of reduction in the number of years that eligible property is exempt and/or a reduction in the exemption percentage. The City shall provide written notice to the Company prior to finding the Company in default under this section. The notice shall provide the Company with not less than thirty (30) days to cure the default prior to City termination or modification of the exemptions under this Agreement. The City may extend the cure period as reasonably necessary under the circumstances. In the event of such termination or modification, the City is authorized to so notify the appropriate taxing authorities in order to effect the termination or modification. If repayment of previously exempt taxes is required by the City under this Section, such amount shall be paid as directed by the City within thirty (30) days of written demand. The City may secure repayment of such taxes by a lien on the Property in the amount required to be repaid. Such a lien shall attach, and may be perfected, collected, and enforced, in the same manner as a mortgage lien on real property, and shall otherwise have the same force and effect as a mortgage lien on real property. Amounts due and not paid when due under this Section 16 shall bear interest at the rate specified in Ohio Revised Code Section 1343.03(A) (as in effect on the date of the City's payment demand).

Section 17. Annual Review and Report. As required by Ohio Revised Code Sections 3735.671(C)(7) and 5709.85, the Company shall provide to the City's Tax Incentive Review Council (or to the City Manager if so requested by the City) any information reasonably required by the Council or the City Manager to evaluate the Company's compliance with this Agreement, including returns filed pursuant to Ohio Revised Code Section 5711.02 if requested by the Council or City Manager. The performance of the Company's obligations stated in this Agreement shall be subject to annual review by the City's Tax Incentive Review Council (the "Annual Review and Report"). The Company shall submit information for the Annual Review and Report to the City no later than March 1 of each year.

Section 18. Revocation.

A. Generally. Pursuant to Ohio Revised Code Section 3735.68, the housing officer shall make annual inspections of the properties within the community reinvestment area upon which are located structures or remodeling for which an exemption has been granted under Ohio Revised Code Section 3735.67. If the housing officer finds that the property has not been properly maintained or repaired due to the neglect of the Company, the housing officer may revoke the exemption at any time after the first year of exemption. If the Company has materially failed to fulfill its obligations under this Agreement, or if the owner is determined to have violated division (E) of that section (see Section 18(B) of this Agreement), City Council, subject to the terms of the agreement, may revoke the exemption at any time after the first year of exemption. The housing officer or City Council shall notify the county auditor and the Company that the tax exemption no longer applies. If the housing officer or legislative authority revokes a tax exemption, the housing officer shall send a report of the revocation to the community reinvestment area housing council and to the tax incentive review council established pursuant to section 3735.69 or 5709.85 of the Revised Code, containing a statement of the findings as to the maintenance and repair of the property, failure to fulfill obligations under the written agreement, or violation of division (E) of Ohio Revised Code Section 3735.671, and the reason for revoking the exemption.

B. Prior Statutory Violations. The Company represents and warrants to the City that it is not prohibited by Ohio Revised Code Section 3735.671(E) from entering into this Agreement. As required by Ohio Revised Code Section 3735.671(C)(9), exemptions from taxation granted or authorized under this Agreement shall be revoked if it is determined that the Company, any successor to the Company or any related member (as those terms are defined in division (E) of Ohio Revised Code Section 3735.671) has violated the prohibition against entering into this Agreement under division (E) of Ohio Revised Code Section 3735.671 or under Ohio Revised Code Sections 5709.62 or 5709.63 prior to the time prescribed by that division or either of those sections.

Section 19. False Statements; Penalties; Material Representations.

A. Generally. As required in connection with Ohio Revised Code Section 9.66(C), the Company affirmatively covenants that it has made no false statements to the State or the City in the process of obtaining approval for this Agreement. If any representative of the Company has knowingly made a false statement to the State or the City to obtain approval for this Agreement, or if the Company fails to provide any information expressly required under the Application, the Company shall be required to immediately return all benefits received under this Agreement (by payment of the amount of taxes exempted hereunder, paid as directed by the City within thirty (30) days of written demand) and the Company shall be ineligible for any future economic development assistance from the State, any State agency or any political subdivision of the State pursuant to Ohio Revised Code Section 9.66(C)(1). Amounts due and not paid under this Section 19 shall bear interest at the rate of twelve percent (12%) per year. Any person who provides a false statement to secure economic development assistance (as defined in Ohio Revised Code Section 9.66) may be guilty of falsification, a misdemeanor of the first degree, pursuant to Ohio Revised Code Section 2921.13(F)(1), which is punishable by fine of not more than One Thousand Dollars (\$1,000) and/or a term of imprisonment of not more than six (6)

months.

B. Material Representations. The Parties acknowledge and agree that a material failure by the Company to comply with its representations concerning the Board of Education Agreement shall constitute an event of default for purposes of Section 16 (*Default*) and the basis for revocation under Section 18 (*Revocation*). Nothing in this Section 19.B shall operate to limit the City's enforcement authority under this Agreement including, without limitation, Section 16, Section 18, and Section 19.A.

Section 20. Conflict of Interest. The Company covenants that, to the Company's knowledge, no employee of the City has any personal interest, direct or indirect, in any matters pertaining to the Project, and the Company agrees to take appropriate steps to prevent any employee of the City from obtaining any such interest throughout the term of this Agreement.

Section 21. Annual Fee. As authorized by Ohio Revised Code Section 3735.671(D), the Company shall pay an annual fee of Five Hundred Dollars (\$500) or one percent (1%) of the annual taxes exempted under this Agreement, whichever is greater, but not to exceed Two Thousand, Five Hundred Dollars (\$2,500) per annum. This fee is due with submission of the information for Annual Review and Report by March 1 of each year.

Section 22. Discontinued Operations. As provided in Ohio Revised Code Section 3735.671(E), if, prior to the expiration of the term of this Agreement, the Company discontinues operations at the Project so that the Property is no longer being used for the purposes described in Section 1 hereof, then the Company, its successors, and any related member shall not enter into an agreement under Ohio Revised Code Sections 3735.671, 5709.62, 5709.63 or 5709.632, and no legislative authority shall enter into such an agreement with the Company, its successors or any related member prior to the expiration of five (5) years after the discontinuation of operations. As used in this Section 22, "successors" and "related member" shall have the meanings set forth in Ohio Revised Code Section 3735.671(E).

Section 23. Notices. Unless otherwise specified herein, each party shall address written notices, demands and communications in connection with this Agreement to the other party as follows (or to such other address as is communicated in accordance with this Section):

To the City:

City of Cincinnati
Attention: Director of the Department of Community and Economic Development
Centennial Plaza Two, Suite 700
805 Central Avenue
Cincinnati, Ohio 45202

To the Company:

CH KeyMark LLC
6107 Hamilton Avenue
Cincinnati, Ohio 45224
Attention: Seth Walsh

If the Company sends a notice to the City alleging that the City is in default under this Agreement, the Company shall simultaneously send a copy of such notice to: City Solicitor, City of Cincinnati, 801 Plum Street, Room 214, Cincinnati, Ohio 45202.

Section 24. Acknowledgment of City Participation. The Company agrees to acknowledge the support of the City on construction signs, project and exhibition signage, and any publicity such as that

appearing on the internet, television, cable television, radio, or in the press or any other printed media. In identifying the City as a Project partner, the Company shall use either the phrase "Project Assistance by the City of Cincinnati" or a City of Cincinnati logotype or other form of acknowledgement that has been approved in advance in writing by the City.

Section 25. Entire Agreement. This Agreement and the Exhibits attached hereto constitute the entire agreement between the City and the Company with respect to the subject matter herein, superseding any prior or contemporaneous agreement with respect thereto.

Section 26. Governing Law. This Agreement is entered into and is to be performed in the State. The City and the Company agree that the law of the State of Ohio shall govern the rights, obligations, duties and liabilities of the parties to this Agreement and shall govern the interpretation of this Agreement.

Section 27. Waiver. The City's waiver of any breach by the Company of any provision of this Agreement shall not constitute or operate as a waiver by the City of any other breach of such provision or of any other provisions, nor shall any failure or delay by the City to enforce any provision hereof operate as a waiver of such provision or of any other provision.

Section 28. Severability. This Agreement shall be severable; if any part or parts of this Agreement shall for any reason be held invalid or unenforceable by a court of competent jurisdiction, all remaining parts shall remain binding and in full force and effect.

Section 29. Amendment. This Agreement may be modified or amended only by a written agreement duly executed by the parties hereto or their representatives.

Section 30. Non-Assignment. As required by Ohio Revised Code Section 3735.671(C)(8), this Agreement is not transferable or assignable by the Company without the express written approval of the City Manager of the City. If the Company has entered into a Board of Education Agreement in connection with the Property, the City shall not approve the assignment of this Agreement unless the assignee has assumed the Company's remaining obligations under the Board of Education Agreement. Failure to assign or otherwise perform the Company's obligations under the Board of Education Agreement upon transfer of the Property during the term of the tax abatement authorized by this Agreement shall be basis for revocation of the tax exemption under Section 18.

Section 31. Recording. At its election, the City may record this Agreement at the City's expense in the Hamilton County Recorder's Office.

Section 32. Legislative Action Required. As provided in Ohio Revised Code Section 3735.671(C)(10), the Company and the City acknowledge that this Agreement must be approved by formal action of the City Council of the City as a condition for this Agreement to take effect. Notwithstanding anything to the contrary herein, this Agreement shall take effect after the later of the date of such approval or the final date of execution of this Agreement by all parties.

Section 33. Additional Representations and Warranties of Company. The Company represents and warrants that (a) it is duly organized and existing and it has full power and authority to take, and has taken, all action necessary to execute and deliver this Agreement and any other documents required or permitted to be executed or delivered by it in connection with this Agreement, and to fulfill its obligations hereunder; (b) no notices to, or consents, authorizations or approvals of, any person are required (other than any already given or obtained) for its due execution, delivery and performance of this Agreement; and (c) this Agreement has been duly executed and delivered by it and constitutes the legal, valid and binding obligation of the Company.

Section 34. Certification as to Non-Debarment. The Company represents that neither it nor any of its principals is presently debarred by any federal, state, or local government agency. In completing the Project, the Company shall not solicit bids from any contractors or subcontractors who are identified

as being debarred by any federal, state, or local government agency. If the Company or any of its principals becomes debarred by any federal, state, or local government agency during the term of this Agreement, the company shall be considered in default under this Agreement.

Section 35. Appeals. Pursuant to Ohio Revised Code Section 3735.70, a person aggrieved under the Statute or this Agreement may appeal to the community reinvestment area housing council, which shall have the authority to overrule any decision of a housing officer. Appeals may be taken from a decision of the council to the court of common pleas of the county where the area is located.

Section 36. Wage Enforcement.

(i) Applicability. Council passed Ordinance No. 22-2016 on February 3, 2016, which ordained Chapter 326 (Wage Enforcement) of the Cincinnati Municipal Code (the "Wage Enforcement Chapter"). The Wage Enforcement Chapter was then amended by Ordinance No. 96-2017, passed May 17, 2017. As amended, the Wage Enforcement Chapter imposes certain requirements upon persons entering into agreements with the City whereby the City provides an incentive or benefit that is projected to exceed \$25,000, as described more particularly in the Wage Enforcement Chapter. Cincinnati Municipal Code Section 326-5 requires that the language below be included in contracts subject to the Wage Enforcement Chapter.

(ii) Required Contractual Language. Capitalized terms used, but not defined, in this clause (ii) have the meanings ascribed thereto in the Wage Enforcement Chapter.

(a) This contract is or may be subject to the Wage Enforcement provisions of the Cincinnati Municipal Code. These provisions require that any Person who has an Agreement with the city or with a Contractor or Subcontractor of that Person shall report all Complaints or Adverse Determinations of Wage Theft and Payroll Fraud (as each of those terms is defined in Chapter 326 of the Cincinnati Municipal Code) against the Contractor or Subcontractors to the Department of Economic Inclusion within 30 days of notification of the Complaint or Adverse Determination.

(b) If this contract is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this contract is required to include provisions in solicitations and contracts regarding a Development Site that all employers, Contractors or Subcontractors performing or proposing to perform work on a Development Site provide an initial sworn and notarized "Affidavit Regarding Wage Theft and Payroll Fraud" on a form prescribed by the city manager or his or her designee and, within 30 days of an Adverse Determination or Complaint of Wage Theft or Payroll Fraud, shall provide an "Amended Affidavit Regarding Wage Theft and Payroll Fraud" on a form prescribed by the city manager or his or her designee.

(c) If this contract is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this contract is required to authorize, and does hereby specifically authorize, any local, state or federal agency, court, administrative body or other entity investigating a complaint of Wage Theft or Payroll Fraud against the Person (collectively "investigative bodies") to release to the City's Department of Economic Inclusion any and all evidence, findings, complaints and determinations associated with the allegations of Wage Theft or Payroll Fraud upon the City's request and further authorizes such investigative bodies to keep the City advised regarding the status of the investigation and ultimate determination. If the investigative bodies require the Person to provide additional authorization on a prescribed form or in another manner, the Person shall be required to provide such additional authorization within 14 days of a request by the City.

(d) If this Agreement is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this Agreement shall include in its contracts with all Contractors language that requires the Contractors to provide the authorizations set forth in subsection (c) above and that further requires each Contractor to include in its contracts with Subcontractors those same obligations for each Subcontractor and each lower tier subcontractor.

(e) If this Agreement is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this Agreement shall post a conspicuous notice on the Development Site throughout the entire period work is being performed pursuant to the Agreement indicating that the work being performed is subject to Cincinnati Municipal Code Chapter 326, Wage Enforcement, as administered by the City of Cincinnati Department of Economic Inclusion. Such notice shall include contact information for the Department of Economic Inclusion as provided by the department.

(f) Under the Wage Enforcement provisions, the City shall have the authority, under appropriate circumstances, to terminate this contract or to reduce the incentives or subsidies to be provided under this contract and to seek other remedies, including debarment.

Section 37. Legal Requirements. In completing and operating the Project, the Company shall comply with all applicable statutes, ordinances, regulations, and rules of the government of the United States, State of Ohio, County of Hamilton, and City of Cincinnati.

Section 38. Counterparts and Electronic Signatures. This Agreement may be executed by the parties hereto in two or more counterparts and each executed counterpart shall be considered an original but all of which together shall constitute one and the same instrument. This Agreement may be executed and delivered by electronic signature; any original signatures that are initially delivered electronically shall be physically delivered as soon as reasonably possible.

Remainder of this page intentionally left blank. Signature page follows.

Executed by the parties on the dates indicated below, effective as of the later of such dates (the "Effective Date").

CITY OF CINCINNATI,
an Ohio municipal corporation

CH KEYMARK LLC,
an Ohio limited liability company

By: _____
Paula Boggs Muething, City Manager

Date: _____, 2021

By: _____

Printed Name: _____

Title: _____

Date: _____, 2021

Authorized by resolution dated _____

Approved as to Form:

Assistant City Solicitor

Certified Date: _____

Fund/Code: _____

Amount: _____

By: _____

Karen Alder, City Finance Director

Exhibit A to CRA Agreement

LEGAL DESCRIPTION OF PROPERTY

Parcel I:

Property Address: 6060 Hamilton Avenue, Cincinnati, Ohio 45224

Parcel No.: 233-0003-0139-00

Situate in the City of Cincinnati, County of Hamilton, State of Ohio, in Section 30, Township 3, Fractional Range 2 of the Miami Purchase, and being more particularly described as follows:

Beginning at the southeast corner of Hamilton Avenue and Elkton Place; thence South 86° 47' East with the south line of Elkton Place 122.38 feet; thence South 0° 45' West 94.64 feet to the northeast corner of the real estate conveyed by William H. Dixon and Spencer M. Wyckoff to William A. Schwartz by deed dated July 17, 1924, and recorded in Deed Book 1337, Page 228; thence North 86° 47' West and on a line parallel to the north line of Ambrose Avenue, to a point in the east line of Hamilton Avenue; thence north with the east line of Hamilton Avenue 96.04 feet to the place of beginning.

Parcel II:

Property Address: 5910 Hamilton Avenue, Cincinnati, Ohio 45224

Parcel No.: 233-0004-0015-00

Situate in the Village of College Hill, now City of Cincinnati, Hamilton County, Ohio, and more particularly described as follows:

Beginning at a point in the east side of Hamilton Avenue, the said beginning point being the southwest corner of Lot No. 2 of S. F. Cary's Second Subdivision; thence northwardly along the east line of Hamilton Avenue, 50 feet to a point; thence eastwardly parallel with the south line of said Lot No. 2 to the east line of said lot; thence southwardly with the east line of said lot to its southeast corner; thence westwardly with the south line of said Lot No. 2, 242.54 feet to the point of beginning, and being the south part of Lot 2 of S. F. Cary's Second Subdivision, as recorded in Plat Book 11, Page 54, of the Recorder's Office of Hamilton County, Ohio.

Parcel III:

Property Address: 5906 Hamilton Avenue, Cincinnati, Ohio 45224

Parcel No.: 233-0004-0016-00

Beginning at a point in the east side of Hamilton Avenue at the northwest corner of Lot Number One (1) of S.F. Cary's Second Subdivision, recorded in Plat Book 11, Page 54 of the Recorder's Office, Hamilton County, Ohio. Said beginning point which is the northwest corner of Lot Number One (1) is one hundred and twenty-three and seventy-eight hundredths (123.78) feet northwest of the ~~northwest~~^{east} corner of Hamilton and Cedar Avenues on a line parallel with the west line of Lot Number One (1); thence in an easterly direction parallel with the south line of Lot One (1) of said subdivision two hundred and forty-two and fifty-four hundredths (242.54) feet to a point; thence in a southerly direction fifty-five (55) feet to a point; thence westerly along a line parallel with the south line of said Lot Number One (1), two hundred and sixteen and thirteen hundredths (216.13) feet to a point; thence in a north-westerly direction on a line parallel with the west line of Lot Number One (1), sixty-one and eighty-nine hundredths (61.89) feet to the northwest corner of Lot Number One (1), the place of beginning, known as fifty-nine hundred and six (5906) Hamilton Avenue.

Also beginning on the north side of Cedar Avenue one hundred eighty-nine and seventy-three hundredths (189.73) feet east of the southwest corner of Lot One of S.F. Cary's Second Subdivision; thence eastwardly ten (10) feet along Cedar Avenue; thence northwardly parallel with the east line of Lot One (1), two hundred twenty (220) feet; thence westwardly ten (10) feet; thence southwardly two hundred twenty (220) feet to the place of beginning, being the west part of Lot Fourteen of S.F. Cary's Second Subdivision, recorded in Plat 11, Page 54, Recorder's Office and known as No. 5906 Hamilton Avenue, Cincinnati, Ohio.

Exhibit B to CRA Agreement
APPLICATION FOR TAX EXEMPTION

TO BE ATTACHED

Community Reinvestment Area Tax Exemption Agreement

This Community Reinvestment Area Tax Exemption Agreement (this "Agreement") is made and entered into as of the Effective Date (as defined on the signature page hereof) by and between the CITY OF CINCINNATI, an Ohio municipal corporation (the "City"), and CH KEYMARK LLC, an Ohio limited liability company (the "Company").

Recitals:

- A. The City and the Company are parties to a *HOME Investment Partnerships Program Funding Agreement* dated _____, 2021 (the "Funding Agreement"), pursuant to which the City agreed to provide the Company with financial support for the Project (as defined below).
- B. The City, through the adoption of Ordinance No. 274-2017 on September 27, 2017, designated the entire City of Cincinnati as a Community Reinvestment Area to encourage the development of real property and the acquisition of personal property in that area, pursuant to Ohio Revised Code Sections 3735.65 through 3735.70 (the "Statute").
- C. In accordance with the Statute, the Ohio Director of Development has forwarded to the City the Director's determination dated October 23, 2017, stating that the findings contained in Ordinance No. 274-2017 are valid and that the entire City is a Community Reinvestment Area under the Statute. By such determination, the Director of Development of the State of Ohio determined that the area within the corporate boundaries of the City of Cincinnati contains the characteristics set forth in the Statute and confirmed such area as a Community Reinvestment Area under the Statute.
- D. The Council of the City of Cincinnati has also passed Ordinance No. 275-2017 as of September 27, 2017, as amended by Ordinance No. 339-2018 passed on October 31, 2018 (the "Commercial Policy Ordinance"), which sets forth certain additional policies, conditions and limitations regarding newly constructed or remodeled commercial and residential structures in the Community Reinvestment Area.
- E. The Company is the sole owner of certain real property within the City, located at 5906-5910 and 6060 Hamilton Avenue, Cincinnati, Ohio 45224 (the "Property"), as further described in Exhibit A (Legal Description of Property) hereto. Notwithstanding the foregoing, the Property shall not include any residential condominiums being developed in connection with the Project (as defined below) (the "Excluded Property"), and the Company acknowledges and agrees that the City's Community Reinvestment Area program entails separate applications by the owner of any residential condominium units included within the Project. For the avoidance of doubt, the Excluded Property shall not be exempt under this Agreement; however, this provision shall not be deemed to prohibit any owners from time to time of any Excluded Property from separately applying for a tax abatement in accordance with applicable law.
- F. The Company has proposed to remodel 3 existing buildings located on the Property, within the boundaries of the City of Cincinnati, as more fully described in Section 1 herein (the "Project"), provided that the appropriate development incentives are available to support the economic viability of the Project.
- G. The Statute provides that if any part of a project is to be used for commercial or industrial purposes, including projects containing four or more dwelling units, in order to be eligible for tax exemption the City and the Company must enter into an agreement pursuant to Ohio Revised Code Section 3735.671 prior to commencement of construction or remodeling.

- H. The City, having appropriate authority under the Statute for this type of project, agrees (as provided herein and subject to all conditions herein) to provide the Company with the tax exemption incentives stated herein, available under the Statute, for development of the Project.
- I. The Company has submitted to the City an application for this tax exemption agreement (the "Application"), a copy of which is attached hereto as Exhibit B, has remitted with the Application (i) the City application fee of One Thousand Two Hundred Fifty Dollars (\$1,250) made payable to the City and (ii) in accordance with Ohio Revised Code Section 3735.672(C), the state application fee of Seven Hundred Fifty Dollars (\$750) made payable to the Ohio Development Services Agency ("ODSA"), to be forwarded to the ODSA with an executed copy of this Agreement.
- J. The Director of the City's Department of Community and Economic Development has recommended approval of the Application on the basis that the Company is qualified by financial responsibility and business experience to create and preserve employment opportunities and improve the economic climate of the City.
- K. The Board of Education of the Cincinnati City School District (the "Board of Education"), pursuant to that certain *Tax Incentive Agreement* effective as of April 28, 2020, has approved exemptions of up to one hundred percent (100%) of Community Reinvestment Area projects, waived advance notice and right to review such projects, and waived sharing or allocation of municipal income taxes in connection with such projects.
- L. The Company has entered into (or will enter into) an agreement with the Board of Education requiring the Company to pay the Board of Education amounts equal to thirty-three percent (33%) of the full amount of exempt real property taxes that would have been paid to Hamilton County if this Agreement were not in effect (the "Board of Education Agreement").
- M. The Company represents and warrants to the City that the Company and its major tenants, if any, do not intend to relocate part or all of their operations to the City from another county or municipal corporation in the State of Ohio (the "State").
- N. The Company represents that within the past five (5) years neither the Company, nor any related member of the Company, nor any entity to which the Company is a successor has discontinued operations at a project site in the State during the term of a property tax exemption agreement (under Ohio Revised Code Section 3735.671, 5709.62, 5709.63 or 5709.632) applicable to that site, and the Company acknowledges that misrepresentation hereunder will result in voiding of this Agreement.
- O. The Company represents and warrants to the City that the Company is not subject to an Enterprise Zone Agreement with the City of Cincinnati for the Property or the Project.
- P. This Agreement has been authorized by Ordinance No. ____-2021, passed by Cincinnati City Council on _____, 2021.
- Q. In determining to recommend and authorize this Agreement, the Department of Community and Economic Development and City Council, respectively, have acted in material reliance on the Company's representations in the Application and herein regarding the Project including, but not limited to, representations relating to the number of jobs to be created and/or retained by the Company, the Board of Education Agreement, and the Project's effect in promoting the general welfare of the people of Cincinnati by, for example, encouraging the development of real property located in the Community Reinvestment Area and thereby promoting economic growth and vitality in Cincinnati.

NOW, THEREFORE, pursuant to Ohio Revised Code Section 3735.67(A) and in conformity with the format required under Ohio Revised Code Section 3735.671, in consideration of the mutual covenants

contained herein and the benefit to be derived by the parties from the execution hereof, the parties agree as follows:

Section 1. Project. Upon issuance of the necessary zoning and building approvals, the Company agrees to remodel 3 existing buildings to create 15,100 square feet of residential space consisting of 26 apartments, 3,395 square feet of commercial office space, and 1,487 square feet of commercial retail space on the Property (the "Improvements") at an estimated aggregate cost of \$3,632,132, to commence after the execution of this Agreement and to be completed no later than June 30, 2023; *provided*, however, that the Director of the Department of Community and Economic Development (the "Housing Officer") may, in his or her discretion, extend such deadline for a period of up to 12 months by written notice if, in the Director's judgment, the Company is proceeding in good faith towards completion. The remodeling shall be in compliance with applicable building code requirements and zoning regulations. In addition to the foregoing, (A) the Project shall comply with the Americans with Disabilities Act, together with any and all regulations or other binding directives promulgated pursuant thereto (collectively, the "**ADA**"), and (B) if (i) any building(s) within the Project is subject to the accessibility requirements of the ADA (e.g., by constituting a "place of public accommodation" or another category of structure to which the ADA is applicable) and (ii) such building(s) is not already required to meet the Contractual Minimum Accessibility Requirements (as defined below) pursuant to the ADA, applicable building code requirements, or by any other legal requirement, then the Company shall cause such building(s) to comply with the Contractual Minimum Accessibility Requirements in addition to any requirements pursuant to the ADA and the applicable building code or legal requirement. As used herein, "**Contractual Minimum Accessibility Requirements**" means that a building shall, at a minimum, include (1) at least one point of entry (as used in the ADA), accessible from a public right of way, with respect to which all architectural barriers (as used in the ADA) to entry have been eliminated, and (2) if such accessible point of entry is not a building's primary point of entry, conspicuous signage directing persons to such accessible point of entry.

Section 2. Real Property Tax Exemption. Subject to the satisfaction of the conditions set forth in this Agreement, the City approves exemption from real property taxation, pursuant to and to the fullest extent authorized by the Statute, of one hundred percent (100%) of the amount by which the Improvements increase the assessed value of the Property as determined by the Hamilton County Auditor, for a period of fifteen (15) years, provided that the Company shall have entered into the Board of Education Agreement. Within 120 days after completion of the Project (unless otherwise extended in writing by the City's Housing Officer), the Company must file the appropriate application for tax exemption with the City's Housing Officer. The Company is solely responsible to take this action. Upon receipt of the application for tax exemption, the City will proceed with the exemption authorized by this Agreement. In accordance with Ohio Revised Code Section 3735.67, the exemption is conditioned on verification by the Housing Officer of (A) the completion of remodeling, (B) the cost of remodeling, (C) the facts asserted in the application for exemption and (D) if a remodeled structure is a structure of historical or architectural significance as designated by the City, state or federal government, that the appropriateness of the remodeling has been certified in writing by the appropriate agency. If the required verification is made, the Housing Officer will forward the exemption application to the Hamilton County Auditor with the necessary certification by the Housing Officer. Subject to the conditions set forth in this Agreement, the exemption commences the first tax year for which the Improvements would first be taxable were the Improvements not exempted from taxation. The dates provided in this paragraph refer to tax years in which the subject property is assessed, as opposed to years in which taxes are billed. No exemption shall commence after tax year 2023 nor extend beyond the earlier of (i) tax year 2037 or (ii) the end of the 15th year of exemption.

Section 3. Use; Maintenance; Inspections. The Company shall use the Property solely for the purposes described in Section 1 hereof and shall properly maintain and repair the Property throughout the period of tax exemption authorized herein. The Company authorizes the Housing Officer, or the Housing Officer's designees, to enter upon the Property as reasonably required to perform property inspections in accordance with Ohio Revised Code Section 3735.68.

Section 4. Compliance with Board of Education Agreement. As a condition of the tax exemption authorized under this Agreement, the Company agrees to enter into and comply with its obligation under the Board of Education Agreement.

Section 5. Duty of Company to Pay Taxes. As required by Ohio Revised Code Section 3735.671(C)(2), the Company shall pay such real property taxes as are not exempted under this Agreement and are charged against the Property and shall file all tax reports and returns as required by law. If the Company fails to pay such taxes or file such returns and reports, exemptions from taxation granted or authorized under this Agreement are rescinded beginning with the year for which such taxes are charged or such reports or returns are required to be filed and continuing thereafter.

Section 6. Company Certifications Regarding Non-Delinquency of Tax Obligations. As required by Ohio Revised Code Section 3735.671(C)(3), the Company certifies that at the time this Agreement is executed, the Company does not owe any delinquent real or tangible personal property taxes to any taxing authority of the State, and does not owe delinquent taxes for which the Company is liable under Ohio Revised Code Chapters 5733, 5735, 5739, 5741, 5743, 5747 or 5753, or if such delinquent taxes are owed, the Company currently is paying the delinquent taxes pursuant to an undertaking enforceable by the State or an agent or instrumentality thereof, has filed a petition in bankruptcy under 101, et seq., or such a petition has been filed against the Company. For the purposes of this certification, delinquent taxes are taxes that remain unpaid on the latest day prescribed for payment without penalty under the chapter of the Ohio Revised Code governing payment of those taxes.

Section 7. Covenant of Satisfaction of Tax and Other Obligations. In accordance with Ohio Revised Code Section 9.66, (A) the Company affirmatively covenants that it does not owe: (i) any delinquent taxes to the State or to a political subdivision of the State; (ii) any moneys to the State or a State agency for the administration or enforcement of any environmental laws of the State; or (iii) any other moneys to the State, a State agency or a political subdivision of the State that are past due, regardless of whether the amounts owed are being contested in a court of law or not; (B) the Company authorizes the City and/or the State to inspect the personal financial statements of the Company, including tax records and other similar information not ordinarily open to public inspection; and (C) the Company authorizes the Ohio Environmental Protection Agency and the Ohio Department of Taxation to release information to the City and or other State departments in connection with the above statements. As provided by statute, a knowingly false statement under this section may be prosecuted as a first degree misdemeanor under Ohio Revised Code Section 2921.13, may render the Company ineligible for any future economic development assistance from the State or any political subdivision of the State, and will result in the City requiring the Company's repayment of any assistance provided by the City in connection with the Project.

Section 8. City Cooperation. As required by Ohio Revised Code Section 3735.671(C)(4), upon specific request from the Company, the City shall perform such acts as are reasonably necessary or appropriate to effect, claim, reserve and maintain exemptions from taxation granted under this Agreement including, without limitation, joining in the execution of all documentation and providing any necessary certificates required in connection with such exemptions.

Section 9. Continuation of Exemptions. As provided in Ohio Revised Code Section 3735.671(C)(5), if for any reason the City revokes the designation of the City of Cincinnati as a Community Reinvestment Area, entitlements granted under this Agreement shall continue for the number of years specified under this Agreement, unless the Company materially fails to fulfill its obligations under this Agreement and the City terminates or modifies the exemptions from taxation authorized pursuant to this Agreement.

Section 10. City Not Liable. The Company acknowledges that the exemption authorized in this Agreement is subject to approval and implementation by the appropriate state and/or county taxing authorities. The Company acknowledges that the City does not give any guarantee or assurance that the exemption approved in this Agreement will be so approved, and the Company agrees that in no event

shall the Company seek to hold the City liable in any way in the event such exemption is not granted or implemented.

Section 11. Small Business Enterprise Program.¹

A. Compliance with Small Business Enterprise Program. The policy of the City is that a fair share of contracts be awarded to Small Business Enterprises (as such term is defined in Cincinnati Municipal Code (“CMC”) Section 323-1-S, “SBEs”). Pursuant to CMC Section 323-11, the City’s annual goal for SBE participation shall be thirty percent (30%) of the City’s total dollars spent for construction (as such term is defined in CMC Section 323-1-C4), supplies (as such term is defined in CMC Section 323-1-S5), services (as such term is defined in CMC Section 323-1-S) and professional services (as such term is defined in CMC Section 323-1-P2). Accordingly, the Company shall use its best efforts and take affirmative steps to achieve the City’s goal of voluntarily meeting thirty percent (30%) SBE participation. A list of SBEs may be obtained from the City’s Department of Economic Inclusion. The Company may refer interested firms to the City’s Department of Economic Inclusion for review and possible certification as an SBE. The Company shall comply with the provisions of CMC Chapter 323, including without limitation taking at least the following affirmative steps:

(i) Including qualified SBEs on solicitation lists.

(ii) Assuring that SBEs are solicited whenever they are potential sources.

The Company must advertise, on at least two separate occasions, both in local minority publications and in other local newspapers of general circulation, invitations to SBEs to provide services, to supply materials, or to bid on construction contracts, as applicable.

(iii) When economically feasible, dividing total requirements into small tasks or quantities so as to permit maximum SBE participation.

(iv) If any subcontracts are to be let, the Company shall require the prime contractor (if different from the Company) to take the above affirmative steps.

(v) Prior to the commencement of work under any subcontracts, the Company shall provide to the City a list of such subcontractors, including information as to the dollar amount of the subcontracts and such other information as may be requested by the City. The Company shall update the report monthly.

(vi) The Company shall periodically document its best efforts and affirmative steps to meet the above SBE participation goals by submitting such information as may be requested from time to time by the City.

B. Remedies for Noncompliance with Small Business Enterprise Program. Failure of the Company or its contractors and subcontractors to take the affirmative steps specified above, to provide fair and equal opportunity to SBEs, or to provide technical assistance to SBEs as may be necessary to reach SBE participation as set out in CMC Chapter 323 may be construed by the City as failure of the Company to use its best efforts, and, in addition to other remedies under this Agreement, may be a cause for the City to file suit in Common Pleas Court to enforce specific performance of the terms of this Section. The provisions of CMC Section 323-99 are hereby incorporated by reference into this Agreement.

Section 12. Jobs. The Company represents that, as of the date of the execution of this Agreement, the Company has no existing employment at the Property or in the State.

Section 13. Job Creation and Retention.

A. Jobs to be Created by Company. The Company agrees to use its best efforts to create (i) 18.5 full-time permanent jobs, and (ii) 25 full-time temporary construction jobs, at the Property in connection with the Project. In the case of the construction jobs, the job creation and retention period shall be concurrent with remodeling, and in the case of the other jobs described

¹ Note: this section will be revised prior to execution due to programmatic changes being implemented by the Department of Community and Economic Development as a result of recent legislation passed by City Council.

herein, the job creation period shall begin upon completion of remodeling and shall end three (3) years thereafter.

B. Company's Estimated Payroll Increase. The Company's increase in the number of employees will result in approximately (i) \$852,712 of additional annual payroll with respect to the full-time permanent jobs, and (ii) \$1,300,000 of additional annual payroll prior to the completion of the Project with respect to the full-time temporary construction jobs.

C. Community Reinvestment Area Employment. The Company shall (i) adopt hiring practices to ensure that at least twenty-five percent (25%) of the new employees shall be residents of the City of Cincinnati and (ii) give preference to residents of the City relative to residents of the State who do not reside in the City when hiring new employees under this Agreement.

D. Posting Available Employment Opportunities. To the extent allowable by law, the Company shall use its best efforts to post available employment opportunities within the Company's organization or the organization of any subcontractor working with the Company with the Ohio Means Jobs Center, 1916 Central Parkway, Cincinnati, Ohio 45214-2305, through its Employer Services Unit Manager at 513-746-7200.

Section 14. Equal Employment Opportunity. This Agreement is subject to the City's Equal Employment Opportunity Program contained in CMC Chapter 325. The Equal Employment Opportunity Clause in CMC Section 325-9 is incorporated by reference in this Agreement. The term "Company" is substituted for "Contractor" throughout CMC Section 325-9 in the context of this Agreement.

Section 15. Compliance with Immigration and Nationality Act. In the performance of its obligations under this Agreement, the Company agrees to comply with the provisions of the Immigration and Nationality Act codified at 8 U.S.C. §§ 1324a(a)(1)(A) and (a)(2). Any noncompliance with such provisions shall be solely determined by either the federal agencies authorized to enforce the Immigration and Nationality Act or the U.S. Attorney General, in accordance with Executive Order 12989 of the U.S. President dated February 13, 1996, and as amended by Executive Order 13465 of the U.S. President dated June 6, 2008.

Section 16. Default. As provided in Ohio Revised Code Section 3735.671(C)(6), if the Company materially fails to fulfill its obligations under this Agreement or the Funding Agreement, or if the City determines that the certification as to delinquent taxes required by this Agreement (Section 6 hereof) or the covenant of satisfaction of tax and other obligations (Section 7 hereof) is fraudulent, the City may terminate or modify the exemptions from taxation granted or authorized under this Agreement and may require the repayment by the Company of the amount of taxes that would have been payable had the Improvements not been exempted from taxation pursuant to this Agreement. A modification of exemption may be in the form of reduction in the number of years that eligible property is exempt and/or a reduction in the exemption percentage. The City shall provide written notice to the Company prior to finding the Company in default under this section. The notice shall provide the Company with not less than thirty (30) days to cure the default prior to City termination or modification of the exemptions under this Agreement. The City may extend the cure period as reasonably necessary under the circumstances. In the event of such termination or modification, the City is authorized to so notify the appropriate taxing authorities in order to effect the termination or modification. If repayment of previously exempt taxes is required by the City under this Section, such amount shall be paid as directed by the City within thirty (30) days of written demand. The City may secure repayment of such taxes by a lien on the Property in the amount required to be repaid. Such a lien shall attach, and may be perfected, collected, and enforced, in the same manner as a mortgage lien on real property, and shall otherwise have the same force and effect as a mortgage lien on real property. Amounts due and not paid when due under this Section 16 shall bear interest at the rate specified in Ohio Revised Code Section 1343.03(A) (as in effect on the date of the City's payment demand).

Section 17. Annual Review and Report. As required by Ohio Revised Code Sections 3735.671(C)(7) and 5709.85, the Company shall provide to the City's Tax Incentive Review Council (or to the City Manager if so requested by the City) any information reasonably required by the Council or the City Manager to evaluate the Company's compliance with this Agreement, including returns filed pursuant to Ohio Revised Code Section 5711.02 if requested by the Council or City Manager. The performance of the Company's obligations stated in this Agreement shall be subject to annual review by the City's Tax Incentive Review Council (the "Annual Review and Report"). The Company shall submit information for the Annual Review and Report to the City no later than March 1 of each year.

Section 18. Revocation.

A. Generally. Pursuant to Ohio Revised Code Section 3735.68, the housing officer shall make annual inspections of the properties within the community reinvestment area upon which are located structures or remodeling for which an exemption has been granted under Ohio Revised Code Section 3735.67. If the housing officer finds that the property has not been properly maintained or repaired due to the neglect of the Company, the housing officer may revoke the exemption at any time after the first year of exemption. If the Company has materially failed to fulfill its obligations under this Agreement, or if the owner is determined to have violated division (E) of that section (see Section 18(B) of this Agreement), City Council, subject to the terms of the agreement, may revoke the exemption at any time after the first year of exemption. The housing officer or City Council shall notify the county auditor and the Company that the tax exemption no longer applies. If the housing officer or legislative authority revokes a tax exemption, the housing officer shall send a report of the revocation to the community reinvestment area housing council and to the tax incentive review council established pursuant to section 3735.69 or 5709.85 of the Revised Code, containing a statement of the findings as to the maintenance and repair of the property, failure to fulfill obligations under the written agreement, or violation of division (E) of Ohio Revised Code Section 3735.671, and the reason for revoking the exemption.

B. Prior Statutory Violations. The Company represents and warrants to the City that it is not prohibited by Ohio Revised Code Section 3735.671(E) from entering into this Agreement. As required by Ohio Revised Code Section 3735.671(C)(9), exemptions from taxation granted or authorized under this Agreement shall be revoked if it is determined that the Company, any successor to the Company or any related member (as those terms are defined in division (E) of Ohio Revised Code Section 3735.671) has violated the prohibition against entering into this Agreement under division (E) of Ohio Revised Code Section 3735.671 or under Ohio Revised Code Sections 5709.62 or 5709.63 prior to the time prescribed by that division or either of those sections.

Section 19. False Statements; Penalties; Material Representations.

A. Generally. As required in connection with Ohio Revised Code Section 9.66(C), the Company affirmatively covenants that it has made no false statements to the State or the City in the process of obtaining approval for this Agreement. If any representative of the Company has knowingly made a false statement to the State or the City to obtain approval for this Agreement, or if the Company fails to provide any information expressly required under the Application, the Company shall be required to immediately return all benefits received under this Agreement (by payment of the amount of taxes exempted hereunder, paid as directed by the City within thirty (30) days of written demand) and the Company shall be ineligible for any future economic development assistance from the State, any State agency or any political subdivision of the State pursuant to Ohio Revised Code Section 9.66(C)(1). Amounts due and not paid under this Section 19 shall bear interest at the rate of twelve percent (12%) per year. Any person who provides a false statement to secure economic development assistance (as defined in Ohio Revised Code Section 9.66) may be guilty of falsification, a misdemeanor of the first degree, pursuant to Ohio Revised Code Section 2921.13(F)(1), which is punishable by fine of not more than One Thousand Dollars (\$1,000) and/or a term of imprisonment of not more than six (6)

months.

B. Material Representations. The Parties acknowledge and agree that a material failure by the Company to comply with its representations concerning the Board of Education Agreement shall constitute an event of default for purposes of Section 16 (*Default*) and the basis for revocation under Section 18 (*Revocation*). Nothing in this Section 19.B shall operate to limit the City's enforcement authority under this Agreement including, without limitation, Section 16, Section 18, and Section 19.A.

Section 20. Conflict of Interest. The Company covenants that, to the Company's knowledge, no employee of the City has any personal interest, direct or indirect, in any matters pertaining to the Project, and the Company agrees to take appropriate steps to prevent any employee of the City from obtaining any such interest throughout the term of this Agreement.

Section 21. Annual Fee. As authorized by Ohio Revised Code Section 3735.671(D), the Company shall pay an annual fee of Five Hundred Dollars (\$500) or one percent (1%) of the annual taxes exempted under this Agreement, whichever is greater, but not to exceed Two Thousand, Five Hundred Dollars (\$2,500) per annum. This fee is due with submission of the information for Annual Review and Report by March 1 of each year.

Section 22. Discontinued Operations. As provided in Ohio Revised Code Section 3735.671(E), if, prior to the expiration of the term of this Agreement, the Company discontinues operations at the Project so that the Property is no longer being used for the purposes described in Section 1 hereof, then the Company, its successors, and any related member shall not enter into an agreement under Ohio Revised Code Sections 3735.671, 5709.62, 5709.63 or 5709.632, and no legislative authority shall enter into such an agreement with the Company, its successors or any related member prior to the expiration of five (5) years after the discontinuation of operations. As used in this Section 22, "successors" and "related member" shall have the meanings set forth in Ohio Revised Code Section 3735.671(E).

Section 23. Notices. Unless otherwise specified herein, each party shall address written notices, demands and communications in connection with this Agreement to the other party as follows (or to such other address as is communicated in accordance with this Section):

To the City:

City of Cincinnati
Attention: Director of the Department of Community and Economic Development
Centennial Plaza Two, Suite 700
805 Central Avenue
Cincinnati, Ohio 45202

To the Company:

CH KeyMark LLC
6107 Hamilton Avenue
Cincinnati, Ohio 45224
Attention: Seth Walsh

If the Company sends a notice to the City alleging that the City is in default under this Agreement, the Company shall simultaneously send a copy of such notice to: City Solicitor, City of Cincinnati, 801 Plum Street, Room 214, Cincinnati, Ohio 45202.

Section 24. Acknowledgment of City Participation. The Company agrees to acknowledge the support of the City on construction signs, project and exhibition signage, and any publicity such as that

appearing on the internet, television, cable television, radio, or in the press or any other printed media. In identifying the City as a Project partner, the Company shall use either the phrase "Project Assistance by the City of Cincinnati" or a City of Cincinnati logotype or other form of acknowledgement that has been approved in advance in writing by the City.

Section 25. Entire Agreement. This Agreement and the Exhibits attached hereto constitute the entire agreement between the City and the Company with respect to the subject matter herein, superseding any prior or contemporaneous agreement with respect thereto.

Section 26. Governing Law. This Agreement is entered into and is to be performed in the State. The City and the Company agree that the law of the State of Ohio shall govern the rights, obligations, duties and liabilities of the parties to this Agreement and shall govern the interpretation of this Agreement.

Section 27. Waiver. The City's waiver of any breach by the Company of any provision of this Agreement shall not constitute or operate as a waiver by the City of any other breach of such provision or of any other provisions, nor shall any failure or delay by the City to enforce any provision hereof operate as a waiver of such provision or of any other provision.

Section 28. Severability. This Agreement shall be severable; if any part or parts of this Agreement shall for any reason be held invalid or unenforceable by a court of competent jurisdiction, all remaining parts shall remain binding and in full force and effect.

Section 29. Amendment. This Agreement may be modified or amended only by a written agreement duly executed by the parties hereto or their representatives.

Section 30. Non-Assignment. As required by Ohio Revised Code Section 3735.671(C)(8), this Agreement is not transferable or assignable by the Company without the express written approval of the City Manager of the City. If the Company has entered into a Board of Education Agreement in connection with the Property, the City shall not approve the assignment of this Agreement unless the assignee has assumed the Company's remaining obligations under the Board of Education Agreement. Failure to assign or otherwise perform the Company's obligations under the Board of Education Agreement upon transfer of the Property during the term of the tax abatement authorized by this Agreement shall be basis for revocation of the tax exemption under Section 18.

Section 31. Recording. At its election, the City may record this Agreement at the City's expense in the Hamilton County Recorder's Office.

Section 32. Legislative Action Required. As provided in Ohio Revised Code Section 3735.671(C)(10), the Company and the City acknowledge that this Agreement must be approved by formal action of the City Council of the City as a condition for this Agreement to take effect. Notwithstanding anything to the contrary herein, this Agreement shall take effect after the later of the date of such approval or the final date of execution of this Agreement by all parties.

Section 33. Additional Representations and Warranties of Company. The Company represents and warrants that (a) it is duly organized and existing and it has full power and authority to take, and has taken, all action necessary to execute and deliver this Agreement and any other documents required or permitted to be executed or delivered by it in connection with this Agreement, and to fulfill its obligations hereunder; (b) no notices to, or consents, authorizations or approvals of, any person are required (other than any already given or obtained) for its due execution, delivery and performance of this Agreement; and (c) this Agreement has been duly executed and delivered by it and constitutes the legal, valid and binding obligation of the Company.

Section 34. Certification as to Non-Debarment. The Company represents that neither it nor any of its principals is presently debarred by any federal, state, or local government agency. In completing the Project, the Company shall not solicit bids from any contractors or subcontractors who are identified

as being debarred by any federal, state, or local government agency. If the Company or any of its principals becomes debarred by any federal, state, or local government agency during the term of this Agreement, the company shall be considered in default under this Agreement.

Section 35. Appeals. Pursuant to Ohio Revised Code Section 3735.70, a person aggrieved under the Statute or this Agreement may appeal to the community reinvestment area housing council, which shall have the authority to overrule any decision of a housing officer. Appeals may be taken from a decision of the council to the court of common pleas of the county where the area is located.

Section 36. Wage Enforcement.

(i) Applicability. Council passed Ordinance No. 22-2016 on February 3, 2016, which ordained Chapter 326 (Wage Enforcement) of the Cincinnati Municipal Code (the "Wage Enforcement Chapter"). The Wage Enforcement Chapter was then amended by Ordinance No. 96-2017, passed May 17, 2017. As amended, the Wage Enforcement Chapter imposes certain requirements upon persons entering into agreements with the City whereby the City provides an incentive or benefit that is projected to exceed \$25,000, as described more particularly in the Wage Enforcement Chapter. Cincinnati Municipal Code Section 326-5 requires that the language below be included in contracts subject to the Wage Enforcement Chapter.

(ii) Required Contractual Language. Capitalized terms used, but not defined, in this clause (ii) have the meanings ascribed thereto in the Wage Enforcement Chapter.

(a) This contract is or may be subject to the Wage Enforcement provisions of the Cincinnati Municipal Code. These provisions require that any Person who has an Agreement with the city or with a Contractor or Subcontractor of that Person shall report all Complaints or Adverse Determinations of Wage Theft and Payroll Fraud (as each of those terms is defined in Chapter 326 of the Cincinnati Municipal Code) against the Contractor or Subcontractors to the Department of Economic Inclusion within 30 days of notification of the Complaint or Adverse Determination.

(b) If this contract is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this contract is required to include provisions in solicitations and contracts regarding a Development Site that all employers, Contractors or Subcontractors performing or proposing to perform work on a Development Site provide an initial sworn and notarized "Affidavit Regarding Wage Theft and Payroll Fraud" on a form prescribed by the city manager or his or her designee and, within 30 days of an Adverse Determination or Complaint of Wage Theft or Payroll Fraud, shall provide an "Amended Affidavit Regarding Wage Theft and Payroll Fraud" on a form prescribed by the city manager or his or her designee.

(c) If this contract is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this contract is required to authorize, and does hereby specifically authorize, any local, state or federal agency, court, administrative body or other entity investigating a complaint of Wage Theft or Payroll Fraud against the Person (collectively "investigative bodies") to release to the City's Department of Economic Inclusion any and all evidence, findings, complaints and determinations associated with the allegations of Wage Theft or Payroll Fraud upon the City's request and further authorizes such investigative bodies to keep the City advised regarding the status of the investigation and ultimate determination. If the investigative bodies require the Person to provide additional authorization on a prescribed form or in another manner, the Person shall be required to provide such additional authorization within 14 days of a request by the City.

(d) If this Agreement is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this Agreement shall include in its contracts with all Contractors language that requires the Contractors to provide the authorizations set forth in subsection (c) above and that further requires each Contractor to include in its contracts with Subcontractors those same obligations for each Subcontractor and each lower tier subcontractor.

(e) If this Agreement is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this Agreement shall post a conspicuous notice on the Development Site throughout the entire period work is being performed pursuant to the Agreement indicating that the work being performed is subject to Cincinnati Municipal Code Chapter 326, Wage Enforcement, as administered by the City of Cincinnati Department of Economic Inclusion. Such notice shall include contact information for the Department of Economic Inclusion as provided by the department.

(f) Under the Wage Enforcement provisions, the City shall have the authority, under appropriate circumstances, to terminate this contract or to reduce the incentives or subsidies to be provided under this contract and to seek other remedies, including debarment.

Section 37. Legal Requirements. In completing and operating the Project, the Company shall comply with all applicable statutes, ordinances, regulations, and rules of the government of the United States, State of Ohio, County of Hamilton, and City of Cincinnati.

Section 38. Counterparts and Electronic Signatures. This Agreement may be executed by the parties hereto in two or more counterparts and each executed counterpart shall be considered an original but all of which together shall constitute one and the same instrument. This Agreement may be executed and delivered by electronic signature; any original signatures that are initially delivered electronically shall be physically delivered as soon as reasonably possible.

Remainder of this page intentionally left blank. Signature page follows.

Executed by the parties on the dates indicated below, effective as of the later of such dates (the "Effective Date").

CITY OF CINCINNATI,
an Ohio municipal corporation

CH KEYMARK LLC,
an Ohio limited liability company

By: _____
Paula Boggs Muething, City Manager

Date: _____, 2021

By: _____

Printed Name: _____

Title: _____

Date: _____, 2021

Authorized by resolution dated _____

Approved as to Form:

Assistant City Solicitor

Certified Date: _____

Fund/Code: _____

Amount: _____

By: _____
Karen Alder, City Finance Director

Exhibit A to CRA Agreement

LEGAL DESCRIPTION OF PROPERTY

Parcel I:

Property Address: 6060 Hamilton Avenue, Cincinnati, Ohio 45224

Parcel No.: 233-0003-0139-00

Situate in the City of Cincinnati, County of Hamilton, State of Ohio, in Section 30, Township 3, Fractional Range 2 of the Miami Purchase, and being more particularly described as follows:

Beginning at the southeast corner of Hamilton Avenue and Elkton Place; thence South 86° 47' East with the south line of Elkton Place 122.38 feet; thence South 0° 45' West 94.64 feet to the northeast corner of the real estate conveyed by William H. Dixon and Spencer M. Wyckoff to William A. Schwartz by deed dated July 17, 1924, and recorded in Deed Book 1337, Page 228; thence North 86° 47' West and on a line parallel to the north line of Ambrose Avenue, to a point in the east line of Hamilton Avenue; thence north with the east line of Hamilton Avenue 96.04 feet to the place of beginning.

Parcel II:

Property Address: 5910 Hamilton Avenue, Cincinnati, Ohio 45224

Parcel No.: 233-0004-0015-00

Situate in the Village of College Hill, now City of Cincinnati, Hamilton County, Ohio, and more particularly described as follows:

Beginning at a point in the east side of Hamilton Avenue, the said beginning point being the southwest corner of Lot No. 2 of S. F. Cary's Second Subdivision; thence northwardly along the east line of Hamilton Avenue, 50 feet to a point; thence eastwardly parallel with the south line of said Lot No. 2 to the east line of said lot; thence southwardly with the east line of said lot to its southeast corner; thence westwardly with the south line of said Lot No. 2, 242.54 feet to the point of beginning, and being the south part of Lot 2 of S. F. Cary's Second Subdivision, as recorded in Plat Book 11, Page 54, of the Recorder's Office of Hamilton County, Ohio.

Parcel III:

Property Address: 5906 Hamilton Avenue, Cincinnati, Ohio 45224

Parcel No.: 233-0004-0016-00

Beginning at a point in the east side of Hamilton Avenue at the northwest corner of Lot Number One (1) of S.F. Cary's Second Subdivision, recorded in Plat Book 11, Page 54 of the Recorder's Office, Hamilton County, Ohio. Said beginning point which is the northwest corner of Lot Number One (1) is one hundred and twenty-three and seventy-eight hundredths (123.78) feet northwest of the ~~northwest~~^{east} corner of Hamilton and Cedar Avenues on a line parallel with the west line of Lot Number One (1); thence in an easterly direction parallel with the south line of Lot One (1) of said subdivision two hundred and forty-two and fifty-four hundredths (242.54) feet to a point; thence in a southerly direction fifty-five (55) feet to a point; thence westerly along a line parallel with the south line of said Lot Number One (1), two hundred and sixteen and thirteen hundredths (216.13) feet to a point; thence in a north-westerly direction on a line parallel with the west line of Lot Number One (1), sixty-one and eighty-nine hundredths (61.89) feet to the northwest corner of Lot Number One (1), the place of beginning, known as fifty-nine hundred and six (5906) Hamilton Avenue.

Also beginning on the north side of Cedar Avenue one hundred eighty-nine and seventy-three hundredths (189.73) feet east of the southwest corner of Lot One of S.F. Cary's Second Subdivision; thence eastwardly ten (10) feet along Cedar Avenue; thence northwardly parallel with the east line of Lot One (1), two hundred twenty (220) feet; thence westwardly ten (10) feet; thence southwardly two hundred twenty (220) feet to the place of beginning, being the west part of Lot Fourteen of S.F. Cary's Second Subdivision, recorded in Plat 11, Page 54, Recorder's Office and known as No. 5906 Hamilton Avenue, Cincinnati, Ohio.

Exhibit B to CRA Agreement
APPLICATION FOR TAX EXEMPTION

TO BE ATTACHED

August 2, 2021

To: Members of the Budget and Finance Committee 202102534

From: Paula Boggs Muething, City Manager

Subject: **Emergency Ordinance – West Price Hill Glenway Properties Development Project**

Attached is an Emergency Ordinance captioned:

AUTHORIZING the establishment of new capital improvement program project account no. 980x164x221647, “West Price Hill Glenway Properties Development,” for the purpose of providing resources for permanent public improvements in the right of way as well as the renovation or new construction of residential or commercial structures all in the West Price Hill business district, including planning, design, acquisition, demolition, and construction of these improvements and structures; **AUTHORIZING** the transfer and return to source of the sum of \$1,900,000 from capital improvement program project account no. 980x162x171640, “West Price Hill Mixed-Use Development,” to the unappropriated surplus of Urban Development Bond Fund 862; **AUTHORIZING** the transfer and appropriation of the sum of \$1,900,000 from the unappropriated surplus of Urban Development Bond Fund 862 to newly established capital improvement program project account no. 980x164x221647, “West Price Hill Glenway Properties Development,” for the purpose of providing resources for permanent public improvements in the right of way as well as the renovation or new construction of residential or commercial structures all in the West Price Hill business district, including planning, design, acquisition, demolition, and construction; and further **DECLARING** expenditures from capital improvement program project account no. 980x164x221647, “West Price Hill Glenway Properties Development,” to be for a public purpose.

Approval of this Emergency Ordinance authorizes the establishment of new capital improvement program project account no. 980x164x221647, “West Price Hill Glenway Properties Development,” for the purpose of providing resources for permanent public improvements in the right of way as well as the renovation or new construction of residential or commercial structures all in the West Price Hill business district, including planning, design, acquisition, demolition, and construction of these improvements and structures. Approval of this Emergency Ordinance also authorizes the transfer and return to source the sum of \$1,900,000 from capital improvement program project account no. 980x162x171640, “West Price Hill Mixed-Use Development” to the unappropriated surplus of Urban Development

Bond Fund 862. The Emergency Ordinance further authorizes the transfer and appropriation of the sum of \$1,900,000 from the unappropriated surplus of Urban Development Bond Fund 862 to newly established capital improvement program project account no. 980x164x221647, “West Price Hill Glenway Properties Development,” for the purpose of providing resources for permanent public improvements in the right of way as well as the renovation or new construction of residential or commercial structures all in the West Price Hill business district, including planning, design, acquisition, demolition, and construction. Finally, the Emergency Ordinance will declare expenditures from capital improvement program project account no. 980x164x221647, “West Price Hill Glenway Properties Development” to be for a public purpose by stabilizing and revitalizing the West Price Hill business district.

The West Price Hill Glenway Properties Development serves the public purpose of stabilizing and revitalizing the West Price Hill business district and creating a capital improvement project account and transferring funds into the new account are necessary steps for the project.

The renovation of distressed buildings in the West Price Hill Business District is in accordance with the “Compete” strategy to “foster a climate conducive to growth, investment, stability, and opportunity” as described on pages 103-113 of Plan Cincinnati (2012).

The reason for the emergency is the need to allow the developer, Price Hill Will, to begin construction for the prospective tenants as soon as possible.

The Administration recommends passage of this Emergency Ordinance.

cc: Andrew M. Dudas, Budget Director
Karen Alder, Finance Director

Attachment





EMERGENCY

City of Cincinnati

CFG

AWG

An Ordinance No. _____

-2021

AUTHORIZING the establishment of new capital improvement program project account no. 980x164x221647, “West Price Hill Glenway Properties Development,” for the purpose of providing resources for permanent public improvements in the right of way as well as the renovation or new construction of residential or commercial structures all in the West Price Hill business district, including planning, design, acquisition, demolition, and construction of these improvements and structures; **AUTHORIZING** the transfer and return to source of the sum of \$1,900,000 from capital improvement program project account no. 980x162x171640, “West Price Hill Mixed-Use Development,” to the unappropriated surplus of Urban Development Bond Fund 862; **AUTHORIZING** the transfer and appropriation of the sum of \$1,900,000 from the unappropriated surplus of Urban Development Bond Fund 862 to newly established capital improvement program project account no. 980x164x221647, “West Price Hill Glenway Properties Development,” for the purpose of providing resources for permanent public improvements in the right of way as well as the renovation or new construction of residential or commercial structures all in the West Price Hill business district, including planning, design, acquisition, demolition, and construction; and further **DECLARING** expenditures from capital improvement program project account no. 980x164x221647, “West Price Hill Glenway Properties Development,” to be for a public purpose.

WHEREAS, the West Price Hill Glenway Properties Development serves the public purpose of stabilizing and revitalizing the West Price Hill business district, and creating a capital improvement project account and transferring funds into the new account are necessary steps for the project; and

WHEREAS, the renovation of distressed buildings in the West Price Hill Business District is in accordance with the “Compete” strategy to “foster a climate conducive to growth, investment, stability, and opportunity” as described on pages 103-113 of Plan Cincinnati (2012); now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio:

Section 1. That the Finance Director is hereby authorized to establish new capital improvement program project account no. 980x164x221647, “West Price Hill Glenway Properties Development,” for the purpose of providing resources for permanent public improvements in the right of way as well as the renovation or new construction of residential or commercial structures all in the West Price Hill business district, including planning, design, acquisition, demolition, and

construction of these improvements and structures (“West Price Hill Glenway Properties Development project”).

Section 2. That the Finance Director is further authorized to transfer and return to source the sum of \$1,900,000 from capital improvement program project account no. 980x162x171640, “West Price Hill Mixed-Use Development,” to the unappropriated surplus of Urban Development Bond Fund 862.

Section 3. That the Finance Director is further authorized to transfer and appropriate the sum of \$1,900,000 from the unappropriated surplus of Urban Development Bond Fund 862 to newly established capital improvement program project account no. 980x164x221647, “West Price Hill Glenway Properties Development,” for the purpose of providing resources for permanent public improvements in the right of way as well as the renovation or new construction of residential or commercial structures all in the West Price Hill business district, including planning, design, acquisition, demolition, and construction of West Price Hill Glenway Properties Development project.

Section 4. That the West Price Hill Glenway Properties Development project is hereby declared to serve a public purpose by stabilizing and revitalizing the West Price Hill business district.

Section 5. That the proper City officials are hereby authorized to do all things necessary and proper to carry out the provisions of Sections 1 through 3 hereof.

Section 6. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is

the need to allow the developer, Price Hill Will, to begin construction for the prospective tenants as soon as possible.

Passed: _____, 2021

Mayor

Attest: _____

Clerk

August 2, 2021

To: Members of the Budget and Finance Committee 202102542
From: Paula Boggs Muething, City Manager
Subject: **EMERGENCY ORDINANCE – APPROVING AND AUTHORIZING
CRA TAX EXEMPTION AGREEMENT WITH 6121-23 MADISON RD.
OPPORTUNITY FUND, LLC**

Attached is an Emergency Ordinance captioned:

APPROVING AND AUTHORIZING the City Manager to execute a *Community Reinvestment Area Tax Exemption Agreement (LEED or Living Building Challenge)* with 6121-23 Madison Rd. Opportunity Fund, LLC, thereby authorizing a 15-year tax exemption for 100% of the value of improvements made to real property located at 6007 and 6011 Madison Road in the Madisonville neighborhood of Cincinnati, in connection with the remodeling and expansion of an existing building into approximately 7,707 square feet of residential space consisting of 7-8 apartments, and approximately 3,793 square feet of commercial space, which remodeling shall be completed in compliance with Leadership in Energy and Environmental Design Silver, Gold or Platinum standards or Living Building Challenge standards, at a total remodeling cost of approximately \$1,234,650.

BACKGROUND/CURRENT CONDITIONS

6011 Madison Rd. is located within Madisonville’s Neighborhood Business District and within a block of the Madison and Whetsel development. The Property was a previous recipient of a façade improvement grant for new windows. The Property is adjacent to City-owned property at 6007 Madison Rd., which the City is proposing to sell to the Developer in connection to this Project. The City previously leased 6007 Madison Rd. to the Civic Garden Center of Greater Cincinnati (CGC) for use as a community garden. The Developer has agreed to (i) perform work associated with the Garden Relocation at the same cost as a third-party bid for work and approved by CGC, and/or (ii) reimburse CGC for expenses associated with the Garden Relocation in an amount totaling \$15,000, and the City is willing to reduce the Purchase Price in consideration thereof.

DEVELOPER INFORMATION

The Developer, 6121-23 Madison Rd. Opportunity Fund, LLC, recently completed full rehabs of a multi-use project at 6121-23 Madison Rd. and a commercial property at 6306 Madison Rd. The Sponsor/Principal of the development entity is a long-standing commercial real estate banker.

PROJECT DESCRIPTION

The Developer plans to renovate and expand the existing building located at 6011 Madison Rd. into approximately 7,707 square feet of residential space consisting of 7-8 apartments and approximately 3,793 square feet of commercial space. Residential rents are expected to be between \$1,250 for a 1 Bed, 1 Bath with a Study and \$1,450 for a 2 Bed, 2 Bath. 6007 Madison Rd. will be used to establish new ingress/egress and to create 12 surface parking spaces. The total project cost is approximately \$1,950,342 (\$1,234,650 in hard costs). The project is expected to create 25 new full-time equivalent permanent jobs (FTEs) with a total annual payroll of \$1,000,000 and to create 15 full-time temporary construction jobs with a total annual payroll of \$600,000.

PROPOSED INCENTIVE

DCED is recommending a 15-year, net 52% CRA tax exemption.

DCED is also recommending the sale of 6007 Madison Road to the Developer. This proposed incentive is outlined in a separate ordinance.

Pursuant to the Commercial CRA policy established by City Council, this project scored 14 points as indicated below which would merit a 15-year net 52% CRA Tax Abatement:

“But For” Analysis (0-3 points) *	3
LEED (0-6 points)	3
Neighborhood VTICA (1 point for contributions over 1% but less than 15% and 8 points for contributions of 15% or more)	8
TOTAL	14

* “But For” Analysis Explanation: 3 points were awarded for the following reasons:

- The Project will bring a vacant and blighted building back into productive use, including the restoration of 7-8 apartment units.
- The Project will include a significant investment in restoring the façade and historic character of the nearly 100-year-old building.
- The Developer will be assisting with the relocation of the community garden.

SUMMARY	
Forgone Public Benefit if Project Does not Proceed	
CPS PILOT (Forgone New Revenue)	(\$104,812)
VTICA (Forgone New Revenue)	(\$47,642)
Income Tax (Forgone New Revenue)	(\$327,600)
Total Public Benefit Lost	(\$480,054)
Incentive Value	
Annual Net Incentive to Developer	\$11,011
Total Term Incentive to Developer	\$165,158

City's Portion of Property Taxes Forgone	\$44,634
Public Benefit	
CPS PILOT	
Annual CPS Pilot	\$6,987
Total Term CPS PILOT	\$104,812
VTICA	
Annual VTICA	\$3,176
Total Term VTICA	\$47,642
Income Tax (Max)	\$327,600
Total Public Benefit (CPS PILOT/VTICA /Income Tax)	\$480,054
Total Public Benefit ROI*	\$2.91
City's ROI*	\$10.76

PROJECT TEAM & TIMELINE

The project’s legislative team (listed below) is available to answer questions regarding this project.

- Assistant City Manager: Billy Weber (Ext. 3318)
- DCED Deputy Director: Dan Bower (Ext. 1955)
- Project Attorney: Samantha Brandenburg (Ext. 4704)

The anticipated council timeline is as follows:

- August 2, 2021: Budget and Finance
- August 4, 2021: City Council for Final Approval

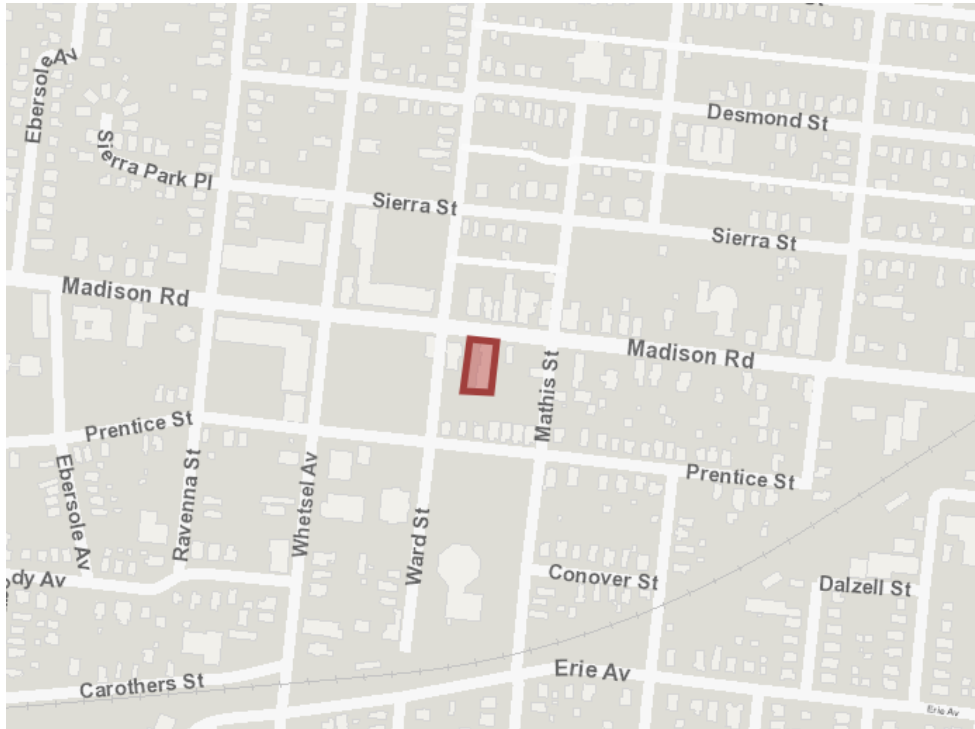
RECOMMENDATION

The Administration recommends approval of this Emergency Ordinance. The emergency clause is needed so that the project can meet its construction commencement deadlines.

Attachment: A. Property location and photographs

Copy: Markiea L. Carter, Director, Department of Community & Economic Development

Attachment A: Location and Photographs



Property Location



6007 and 6011 Madison Rd.

EMERGENCY

City of Cincinnati

DSC

AWB

An Ordinance No. _____ - 2021

APPROVING AND AUTHORIZING the City Manager to execute a *Community Reinvestment Area Tax Exemption Agreement (LEED or Living Building Challenge)* with 6121-23 Madison Rd. Opportunity Fund, LLC, thereby authorizing a 15-year tax exemption for 100% of the value of improvements made to real property located at 6007 and 6011 Madison Road in the Madisonville neighborhood of Cincinnati, in connection with the remodeling and expansion of an existing building into approximately 7,707 square feet of residential space consisting of 7-8 apartments, and approximately 3,793 square feet of commercial space, which remodeling shall be completed in compliance with Leadership in Energy and Environmental Design Silver, Gold or Platinum standards or Living Building Challenge standards, at a total remodeling cost of approximately \$1,234,650.

WHEREAS, to encourage the development of real property and the acquisition of personal property, the Council of the City of Cincinnati by Ordinance No. 274-2017 passed on September 27, 2017, designated the area within the corporate boundaries of the City of Cincinnati as a “Community Reinvestment Area” pursuant to Ohio Revised Code (“ORC”) Sections 3735.65 through 3735.70 (the “Statute”); and

WHEREAS, Ordinance No. 275-2017 passed by this Council on September 27, 2017, as amended by Ordinance No. 339-2018, passed by this Council on October 31, 2018 (as amended, the “Commercial Policy Ordinance”), sets forth certain additional policies, conditions and limitations regarding newly constructed or remodeled commercial and residential structures in the Community Reinvestment Area; and

WHEREAS, to encourage the development of real property in a more environmentally-friendly manner, the Commercial Policy Ordinance incentivizes: (i) construction and remodeling to Leadership in Energy and Environmental Design (“LEED”) standards (as defined by the U.S. Green Building Council); and (ii) construction and remodeling that obtains (a) Living Building Challenge Net Zero certification, (b) Living Building Challenge Full certification, or (c) solely in circumstances where the construction or remodeling complies with the requirements of the “Energy Petal” of the Living Building Challenge, Living Building Challenge Petal certification, in each case as defined by the International Living Future Institute and the Cascadia Green Building Council (collectively, “LBC” standards), all pursuant to the Statute; and

WHEREAS, effective October 23, 2017, the Director of Development of the State of Ohio determined that the area within the corporate boundaries of the City of Cincinnati contains the characteristics set forth in the Statute and confirmed such area as a Community Reinvestment Area under the Statute; and

WHEREAS, 6121-23 Madison Rd. Opportunity Fund, LLC (the “Company”) desires to remodel and expand an existing building into approximately 7,707 square feet of residential space consisting of 7-8 apartments, and approximately 3,793 square feet of commercial space, on real property at 6007 and 6011 Madison Road located within the corporate boundaries of the City of Cincinnati, to LEED or LBC standards (the “Improvements”), provided that the appropriate development incentives are available to support the economic viability of the Improvements; and

WHEREAS, to provide an appropriate development incentive for the Improvements, the City Manager has recommended a *Community Reinvestment Area Tax Exemption Agreement (LEED or Living Building Challenge)*, in substantially the form of Attachment A to this ordinance, to authorize a real property tax exemption for the Improvements in accordance with the Statute; and

WHEREAS, the property is located within the Cincinnati City School District; and

WHEREAS, the Board of Education of the Cincinnati City School District (the “Board of Education”), pursuant to that certain *Tax Incentive Agreement* effective as of April 28, 2020 (as may be amended, the “Board of Education Agreement”), has approved exemptions of up to 100% of Community Reinvestment Area projects, waived advance notice and the right to review such projects, and waived sharing or allocation of municipal income taxes in connection with such projects; and

WHEREAS, pursuant to the Board of Education Agreement, the Company has entered into (or will enter into) an agreement with the Board of Education requiring the Company to pay the Board of Education amounts equal to 33% of the exempt real property taxes; and

WHEREAS, the Company has represented that it has entered into (or will enter into) a voluntary tax incentive contribution agreement with a third-party organization for amounts equal to 15% of the exempt real property taxes, which funds shall be committed by the third-party organization to facilitate permanent improvements and neighborhood services furthering redevelopment in the neighborhood of the Improvements and to support affordable housing on a City-wide basis; and

WHEREAS, the Improvements do not involve relocation of part or all of the Company’s operations from another county or municipal corporation in Ohio or, if there is relocation, notice has been given per ORC Section 3735.673; now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio:

Section 1. That Council approves a *Community Reinvestment Area Tax Exemption Agreement (LEED or Living Building Challenge)* with 6121-23 Madison Rd. Opportunity Fund, LLC (the “Agreement”), thereby authorizing a 15-year tax exemption for 100% of the assessed

value of improvements to be made to real property located at 6007 and 6011 Madison Road in Cincinnati, as calculated by the Hamilton County Auditor, in connection with the remodeling and expansion of an existing building into approximately 7,707 square feet of residential space consisting of 7-8 apartments, and approximately 3,793 square feet of commercial space, to be constructed in compliance with Leadership in Energy and Environmental Design Silver, Gold or Platinum standards (as defined by the U.S. Green Building Council) or Living Building Challenge standards (as described in the Agreement and as determined by the International Living Future Institute and the Cascadia Green Building Council, as applicable) at a total remodeling cost of approximately \$1,234,650.

Section 2. That Council authorizes the City Manager:

- (i) to execute the Agreement on behalf of the City in substantially the form of Attachment A to this ordinance; and
- (ii) to forward on behalf of Council a copy of the Agreement, within fifteen (15) days after execution, to the Director of the Ohio Development Services Agency in accordance with Ohio Revised Code Section 3735.671(F); and
- (iii) to submit on behalf of Council annual reports on the Agreement to the Director of the Ohio Development Services Agency and to the Board of Education of the Cincinnati City School District, in accordance with Ohio Revised Code Section 3735.672; and
- (iv) to take all necessary and proper actions to fulfill the City's obligations under the Agreement.

Section 3. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to allow the remodeling described in this ordinance and the

corresponding revitalization of the City of Cincinnati and the benefits to the City's economic welfare to begin at the earliest possible time.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

Attachment A to Ordinance

Community Reinvestment Area Tax Exemption Agreement
(LEED or Living Building Challenge)

SEE ATTACHED

Community Reinvestment Area Tax Exemption Agreement
(LEED or Living Building Challenge)

This Community Reinvestment Area Tax Exemption Agreement (this "Agreement") is made and entered into as of the Effective Date (as defined on the signature page hereof) by and between the CITY OF CINCINNATI, an Ohio municipal corporation (the "City"), and 6121-23 MADISON RD. OPPORTUNITY FUND, LLC, an Ohio limited liability company (the "Company").

Recitals:

- A. The City, through the adoption of Ordinance No. 274-2017 on September 27, 2017, designated the entire City of Cincinnati as a Community Reinvestment Area to encourage the development of real property and the acquisition of personal property in that area, pursuant to Ohio Revised Code Sections 3735.65 through 3735.70 (the "Statute").
- B. In accordance with the Statute, the Ohio Director of Development has forwarded to the City the Director's determination dated October 23, 2017, stating that the findings contained in Ordinance No. 274-2017 are valid and that the entire City is a Community Reinvestment Area under the Statute. By such determination, the Director of Development of the State of Ohio determined that the area within the corporate boundaries of the City of Cincinnati contains the characteristics set forth in the Statute and confirmed such area as a Community Reinvestment Area under the Statute.
- C. The Council of the City of Cincinnati has also passed Ordinance No. 275-2017 as of September 27, 2017, as amended by Ordinance No. 339-2018 passed on October 31, 2018 (the "Commercial Policy Ordinance"), which sets forth certain additional policies, conditions and limitations regarding newly constructed or remodeled commercial and residential structures in the Community Reinvestment Area.
- D. Pursuant to the Commercial Policy Ordinance, a project that is constructed or remodeled to (1) Leadership in Energy and Environmental Design ("LEED") Silver, Gold or Platinum standards (as defined by the U.S. Green Building Council), or (2) receives a (a) Living Building Challenge Net Zero certification, (b) Living Building Challenge Full certification, or (c) solely in circumstances where the construction or remodeling complies with the requirements of the "Energy Petal" of the Living Building Challenge, Living Building Challenge Petal certification, in each case as defined by the International Living Future Institute and the Cascadia Green Building Council (such qualifying remodeling or construction is referred to, collectively, as "LBC" remodeling or construction), may qualify for a longer term and/or greater abatement.
- E. The Company is the sole owner of certain real property within the City, located at 6007 and 6011 Madison Road, Cincinnati, Ohio 45227 (the "Property"), as further described in Exhibit A (Legal Description of Property) hereto. Notwithstanding the foregoing, the Property shall not include any residential condominiums being developed in connection with the Project (as defined below) (the "Excluded Property"), and the Company acknowledges and agrees that the City's Community Reinvestment Area program entails separate applications by the owner of any residential condominium units included within the Project. For the avoidance of doubt, the Excluded Property shall not be exempt under this Agreement; however, this provision shall not be deemed to prohibit any owners from time to time of any Excluded Property from separately applying for a tax abatement in accordance with applicable law.
- F. The Company has proposed the remodeling of a building located on the Property to LEED Silver standards within the boundaries of the City of Cincinnati, as more fully described in Section 1 herein (the "Project"); provided that the appropriate development incentives are available to support the economic viability of the Project.
- G. The Statute provides that if any part of a project is to be used for commercial or industrial purposes, including projects containing four or more dwelling units, in order to be eligible for tax

exemption the City and the Company must enter into an agreement pursuant to Ohio Revised Code Section 3735.671 prior to commencement of construction or remodeling.

- H. The City, having appropriate authority under the Statute for this type of project, agrees (as provided herein and subject to all conditions herein) to provide the Company with the tax exemption incentives stated herein, available under the Statute, for development of the Project.
- I. The Company has submitted to the City an application for this tax exemption agreement (the "Application"), a copy of which is attached hereto as Exhibit B, has remitted with the Application (i) the City application fee of One Thousand Two Hundred Fifty Dollars (\$1,250) made payable to the City and (ii) in accordance with Ohio Revised Code Section 3735.672(C), the state application fee of Seven Hundred Fifty Dollars (\$750) made payable to the Ohio Development Services Agency ("ODSA"), to be forwarded to the ODSA with an executed copy of this Agreement.
- J. The Director of the City's Department of Community and Economic Development has recommended approval of the Application on the basis that the Company is qualified by financial responsibility and business experience to create and preserve employment opportunities and improve the economic climate of the City.
- K. The Board of Education of the Cincinnati City School District (the "Board of Education"), pursuant to that certain *Tax Incentive Agreement* effective as of April 28, 2020, has approved exemptions of up to one hundred percent (100%) of Community Reinvestment Area projects, waived advance notice and right to review such projects, and waived sharing or allocation of municipal income taxes in connection with such projects.
- L. The Company has entered into (or will enter into) an agreement with the Board of Education requiring the Company to pay the Board of Education amounts equal to thirty-three percent (33%) of the full amount of exempt real property taxes that would have been paid to Hamilton County if this Agreement were not in effect (the "Board of Education Agreement").
- M. The Company represents and warrants to the City that the Company and its major tenants, if any, do not intend to relocate part or all of their operations to the City from another county or municipal corporation in the State of Ohio (the "State").
- N. The Company represents that within the past five (5) years neither the Company, any related member of the Company, nor any entity to which the Company is a successor has discontinued operations at a project site in the State during the term of a property tax exemption agreement (under Ohio Revised Code Section 3735.671, 5709.62, 5709.63 or 5709.632) applicable to that site, and the Company acknowledges that misrepresentation hereunder will result in voiding of this Agreement.
- O. The Company represents and warrants to the City that the Company is not subject to an Enterprise Zone Agreement with the City of Cincinnati for the Property or the Project.
- P. The Company acknowledges that the Madisonville neighborhood is a rising neighborhood in need of resources for development, neighborhood improvements, amenities, and organizations oriented towards neighborhood services. The Company anticipates that future development, improvements, amenities and organizations will contribute to the quality and vitality of the neighborhood, therefore increasing the value of the Property and directly and indirectly contributing to the Project's success. The Project's success, in turn, will benefit the neighborhood. Although this feedback effect will promote the revitalization and redevelopment of the City, it could also impact the affordability of property in the area. Therefore, in support of the Madisonville neighborhood and with the intention of preserving and improving the availability of quality, reliable affordable housing on a City-wide basis, as a material inducement to the City to enter into this Agreement, the Company hereby represents to the City that it will enter into a voluntary tax incentive contribution agreement ("VTICA") with a City-designated third-party non-

profit administrative organization (the "Third-Party Administrator") to contribute to the Third-Party Administrator an amount equal to fifteen percent (15%) of the real property taxes that would have been payable on the abated property but for the City-authorized tax abatement (the "VTICA Contribution"). Half of such VTICA Contribution is to be committed by the Third-Party Administrator to facilitate permanent improvements and neighborhood services furthering urban redevelopment in the Madisonville neighborhood and the other half of such VTICA Contribution is to be committed by the Third-Party Administrator in supporting quality affordable housing on a City-wide basis. The Company hereby represents and warrants that it will pay the VTICA Contribution for the full term of the abatement.

Q. This Agreement has been authorized by Ordinance No. _____-2021, passed by Cincinnati City Council on _____, 2021.

R. In determining to recommend and authorize this Agreement, the Department of Community and Economic Development and City Council, respectively, have acted in material reliance on the Company's representations in the Application and herein regarding the Project including, but not limited to, representations relating to the number of jobs to be created and/or retained by the Company, the Board of Education Agreement, the VTICA Contribution, and the Project's effect in promoting the general welfare of the people of Cincinnati by, for example, encouraging the development of real property located in the Community Reinvestment Area and thereby promoting economic growth and vitality in Cincinnati.

NOW, THEREFORE, pursuant to Ohio Revised Code Section 3735.67(A) and in conformity with the format required under Ohio Revised Code Section 3735.671, in consideration of the mutual covenants contained herein and the benefit to be derived by the parties from the execution hereof, the parties agree as follows:

Section 1. Project. Upon issuance of the necessary zoning and building approvals, the Company agrees to remodel and expand the existing building on the Property into approximately 7,707 square feet of residential space consisting of 7-8 apartments, and approximately 3,793 square feet of commercial space on the Property (the "Improvements") at an estimated aggregate cost of \$1,234,650 to commence after the execution of this Agreement and to be completed no later than December 31, 2022; *provided*, however, that the Director of the Department of Community and Economic Development (the "Housing Officer") may, in his discretion, extend such deadline for a period of up to 12 months by written notice if, in the Director's judgment, the Company is proceeding in good faith towards completion. The remodeling shall be in compliance with applicable building code requirements and zoning regulations, as well as complying with LEED Silver standards. The Company hereby represents that it has registered with the U.S. Green Building Council with intent to certify compliance with LEED Silver standards. In addition to the foregoing, (A) the Project shall comply with the Americans with Disabilities Act, together with any and all regulations or other binding directives promulgated pursuant thereto (collectively, the "ADA"), and (B) if (i) any building(s) within the Project is subject to the accessibility requirements of the ADA (e.g., by constituting a "place of public accommodation" or another category of structure to which the ADA is applicable) and (ii) such building(s) is not already required to meet the Contractual Minimum Accessibility Requirements (as defined below) pursuant to the ADA, applicable building code requirements, or by any other legal requirement, then the Company shall cause such building(s) to comply with the Contractual Minimum Accessibility Requirements in addition to any requirements pursuant to the ADA and the applicable building code or legal requirement. As used herein, "**Contractual Minimum Accessibility Requirements**" means that a building shall, at a minimum, include (1) at least one point of entry (as used in the ADA), accessible from a public right of way, with respect to which all architectural barriers (as used in the ADA) to entry have been eliminated, and (2) if such accessible point of entry is not a building's primary point of entry, conspicuous signage directing persons to such accessible point of entry.

Section 2. Real Property Tax Exemption. Subject to the satisfaction of the conditions set forth in this Agreement, the City approves exemption from real property taxation, pursuant to and to the fullest extent authorized by the Statute, of 100% of the amount by which the Improvements increase the assessed value of the Property as determined by the Hamilton County Auditor, for a period of 15 years,

provided that the Company shall have entered into the Board of Education Agreement. Within 120 days after completion of the Project (unless otherwise extended in writing by the City's Housing Officer), the Company must file the appropriate application for tax exemption with the City's Housing Officer. The Company is solely responsible to take this action. Upon receipt of the application for tax exemption, the City will proceed with the exemption authorized by this Agreement. In accordance with Ohio Revised Code Section 3735.67, the exemption is conditioned on verification by the Housing Officer of (A) the completion of remodeling, (B) the cost of remodeling, (C) the facts asserted in the application for exemption, (D) compliance with LBC and/or LEED standards identified in Section 1, and (E) if a remodeled structure is a structure of historical or architectural significance as designated by the City, state or federal government, that the appropriateness of the remodeling has been certified in writing by the appropriate agency. If the required verification is made, the Housing Officer will forward the exemption application to the Hamilton County Auditor with the necessary certification by the Housing Officer. Subject to the conditions set forth in this Agreement, the exemption commences the first tax year for which the Improvements would first be taxable were the Improvements not exempted from taxation. The dates provided in this paragraph refer to tax years in which the subject property is assessed, as opposed to years in which taxes are billed. No exemption shall commence after tax year 2022 nor extend beyond the earlier of (i) tax year 2036 or (ii) the end of the 15th year of exemption.

Section 3. Use; Maintenance; Inspections. The Company shall use the Property solely for the purposes described in Section 1 hereof and shall properly maintain and repair the Property throughout the period of tax exemption authorized herein. The Company authorizes the Housing Officer, or the Housing Officer's designees, to enter upon the Property as reasonably required to perform property inspections in accordance with Ohio Revised Code Section 3735.68.

Section 4. Compliance with Board of Education Agreement. As a condition of the tax exemption authorized under this Agreement, the Company agrees to enter into and comply with its obligation under the Board of Education Agreement.

Section 5. Duty of Company to Pay Taxes. As required by Ohio Revised Code Section 3735.671(C)(2), the Company shall pay such real property taxes as are not exempted under this Agreement and are charged against the Property and shall file all tax reports and returns as required by law. If the Company fails to pay such taxes or file such returns and reports, exemptions from taxation granted or authorized under this Agreement are rescinded beginning with the year for which such taxes are charged or such reports or returns are required to be filed and continuing thereafter.

Section 6. Company Certifications Regarding Non-Delinquency of Tax Obligations. As required by Ohio Revised Code Section 3735.671(C)(3), the Company certifies that at the time this Agreement is executed, the Company does not owe any delinquent real or tangible personal property taxes to any taxing authority of the State, and does not owe delinquent taxes for which the Company is liable under Ohio Revised Code Chapters 5733, 5735, 5739, 5741, 5743, 5747 or 5753, or if such delinquent taxes are owed, the Company currently is paying the delinquent taxes pursuant to an undertaking enforceable by the State or an agent or instrumentality thereof, has filed a petition in bankruptcy under 101, et seq., or such a petition has been filed against the Company. For the purposes of this certification, delinquent taxes are taxes that remain unpaid on the latest day prescribed for payment without penalty under the chapter of the Ohio Revised Code governing payment of those taxes.

Section 7. Covenant of Satisfaction of Tax and Other Obligations. In accordance with Ohio Revised Code Section 9.66, (A) the Company affirmatively covenants that it does not owe: (i) any delinquent taxes to the State or to a political subdivision of the State; (ii) any moneys to the State or a State agency for the administration or enforcement of any environmental laws of the State; or (iii) any other moneys to the State, a State agency or a political subdivision of the State that are past due, regardless of whether the amounts owed are being contested in a court of law or not; (B) the Company authorizes the City and/or the State to inspect the personal financial statements of the Company, including tax records and other similar information not ordinarily open to public inspection; and (C) the Company authorizes the Ohio Environmental Protection Agency and the Ohio Department of Taxation to release information to the City and or other State departments in connection with the above statements.

As provided by statute, a knowingly false statement under this section may be prosecuted as a first degree misdemeanor under Ohio Revised Code Section 2921.13, may render the Company ineligible for any future economic development assistance from the State or any political subdivision of the State, and will result in the City requiring the Company's repayment of any assistance provided by the City in connection with the Project.

Section 8. City Cooperation. As required by Ohio Revised Code Section 3735.671(C)(4), upon specific request from the Company, the City shall perform such acts as are reasonably necessary or appropriate to effect, claim, reserve and maintain exemptions from taxation granted under this Agreement including, without limitation, joining in the execution of all documentation and providing any necessary certificates required in connection with such exemptions.

Section 9. Continuation of Exemptions. As provided in Ohio Revised Code Section 3735.671(C)(5), if for any reason the City revokes the designation of the City of Cincinnati as a Community Reinvestment Area, entitlements granted under this Agreement shall continue for the number of years specified under this Agreement, unless the Company materially fails to fulfill its obligations under this Agreement and the City terminates or modifies the exemptions from taxation authorized pursuant to this Agreement.

Section 10. City Not Liable. The Company acknowledges that the exemption authorized in this Agreement is subject to approval and implementation by the appropriate state and/or county taxing authorities. The Company acknowledges that the City does not give any guarantee or assurance that the exemption approved in this Agreement will be so approved, and the Company agrees that in no event shall the Company seek to hold the City liable in any way in the event such exemption is not granted or implemented.

Section 11. Small Business Enterprise Program.¹

A. Compliance with Small Business Enterprise Program. The policy of the City is that a fair share of contracts be awarded to Small Business Enterprises (as such term is defined in Cincinnati Municipal Code ("CMC") Section 323-1-S, "SBEs"). Pursuant to CMC Section 323-11, the City's annual goal for SBE participation shall be thirty percent (30%) of the City's total dollars spent for construction (as such term is defined in CMC Section 323-1-C4), supplies (as such term is defined in CMC Section 323-1-S5), services (as such term is defined in CMC Section 323-1-S) and professional services (as such term is defined in CMC Section 323-1-P2). Accordingly, the Company shall use its best efforts and take affirmative steps to achieve the City's goal of voluntarily meeting thirty percent (30%) SBE participation. A list of SBEs may be obtained from the City's Department of Economic Inclusion. The Company may refer interested firms to the City's Department of Economic Inclusion for review and possible certification as an SBE. The Company shall comply with the provisions of CMC Chapter 323, including without limitation taking at least the following affirmative steps:

- (i) Including qualified SBEs on solicitation lists.
- (ii) Assuring that SBEs are solicited whenever they are potential sources.

The Company must advertise, on at least two separate occasions, both in local minority publications and in other local newspapers of general circulation, invitations to SBEs to provide services, to supply materials, or to bid on construction contracts, as applicable.

(iii) When economically feasible, dividing total requirements into small tasks or quantities so as to permit maximum SBE participation.

(iv) If any subcontracts are to be let, the Company shall require the prime contractor (if different from the Company) to take the above affirmative steps.

(v) Prior to the commencement of work under any subcontracts, the Company shall provide to the City a list of such subcontractors, including information as

¹ Note: this section will be revised prior to execution due to programmatic changes being implemented by the Department of Community and Economic Development as a result of recent legislation passed by City Council.

to the dollar amount of the subcontracts and such other information as may be requested by the City. The Company shall update the report monthly.

(vi) The Company shall periodically document its best efforts and affirmative steps to meet the above SBE participation goals by submitting such information as may be requested from time to time by the City.

B. Remedies for Noncompliance with Small Business Enterprise Program. Failure of the Company or its contractors and subcontractors to take the affirmative steps specified above, to provide fair and equal opportunity to SBEs, or to provide technical assistance to SBEs as may be necessary to reach SBE participation as set out in CMC Chapter 323 may be construed by the City as failure of the Company to use its best efforts, and, in addition to other remedies under this Agreement, may be a cause for the City to file suit in Common Pleas Court to enforce specific performance of the terms of this Section. The provisions of CMC Section 323-99 are hereby incorporated by reference into this Agreement.

Section 12. Jobs. The Company represents that, as of the date of the execution of this Agreement, the Company has no existing employment at the Property or in the State.

Section 13. Job Creation and Retention.

A. Jobs to be Created by Company. The Company agrees to use its best efforts to create (i) 25 full-time equivalent permanent jobs and (ii) 15 full-time temporary construction jobs at the Property in connection with the Project. In the case of the construction jobs, the job creation and retention period shall be concurrent with remodeling, and in the case of the other jobs described herein, the job creation period shall begin upon completion of remodeling and shall end three (3) years thereafter.

B. Company's Estimated Payroll Increase. The Company's increase in the number of employees will result in approximately (i) \$1,000,000 of additional annual payroll with respect to the full-time equivalent permanent jobs and (ii) \$600,000 of additional annual payroll prior to the completion of the Project with respect to the full-time temporary construction jobs.

C. Community Reinvestment Area Employment. The Company shall (i) adopt hiring practices to ensure that at least twenty-five percent (25%) of the new employees shall be residents of the City of Cincinnati and (ii) give preference to residents of the City relative to residents of the State who do not reside in the City when hiring new employees under this Agreement.

D. Posting Available Employment Opportunities. To the extent allowable by law, the Company shall use its best efforts to post available employment opportunities within the Company's organization or the organization of any subcontractor working with the Company with the Ohio Means Jobs Center, 1916 Central Parkway, Cincinnati, Ohio 45214-2305, through its Employer Services Unit Manager at 513-746-7200.

Section 14. Equal Employment Opportunity. This Agreement is subject to the City's Equal Employment Opportunity Program contained in CMC Chapter 325. The Equal Employment Opportunity Clause in CMC Section 325-9 is incorporated by reference in this Agreement. The term "Company" is substituted for "Contractor" throughout CMC Section 325-9 in the context of this Agreement.

Section 15. Compliance with Immigration and Nationality Act. In the performance of its obligations under this Agreement, the Company agrees to comply with the provisions of the Immigration and Nationality Act codified at 8 U.S.C. §§ 1324a(a)(1)(A) and (a)(2). Any noncompliance with such provisions shall be solely determined by either the federal agencies authorized to enforce the Immigration and Nationality Act or the U.S. Attorney General, in accordance with Executive Order 12989 of the U.S. President dated February 13, 1996, and as amended by Executive Order 13465 of the U.S. President dated June 6, 2008.

Section 16. Default. As provided in Ohio Revised Code Section 3735.671(C)(6), if the Company materially fails to fulfill its obligations under this Agreement, or if the City determines that the certification as to delinquent taxes required by this Agreement (Section 6 hereof) or the covenant of satisfaction of tax and other obligations (Section 7 hereof) is fraudulent, the City may terminate or modify the exemptions from taxation granted or authorized under this Agreement and may require the repayment by the Company of the amount of taxes that would have been payable had the Improvements not been exempted from taxation pursuant to this Agreement. A modification of exemption may be in the form of reduction in the number of years that eligible property is exempt and/or a reduction in the exemption percentage. The City shall provide written notice to the Company prior to finding the Company in default under this section. The notice shall provide the Company with not less than thirty (30) days to cure the default prior to City termination or modification of the exemptions under this Agreement. The City may extend the cure period as reasonably necessary under the circumstances. In the event of such termination or modification, the City is authorized to so notify the appropriate taxing authorities in order to effect the termination or modification. If repayment of previously exempt taxes is required by the City under this Section, such amount shall be paid as directed by the City within thirty (30) days of written demand. The City may secure repayment of such taxes by a lien on the Property in the amount required to be repaid. Such a lien shall attach, and may be perfected, collected, and enforced, in the same manner as a mortgage lien on real property, and shall otherwise have the same force and effect as a mortgage lien on real property. Amounts due and not paid when due under this Section 16 shall bear interest at the rate specified in Ohio Revised Code Section 1343.03(A) (as in effect on the date of the City's payment demand).

Section 17. Annual Review and Report. As required by Ohio Revised Code Sections 3735.671(C)(7) and 5709.85, the Company shall provide to the City's Tax Incentive Review Council (or to the City Manager if so requested by the City) any information reasonably required by the Council or the City Manager to evaluate the Company's compliance with this Agreement, including returns filed pursuant to Ohio Revised Code Section 5711.02 if requested by the Council or City Manager. The performance of the Company's obligations stated in this Agreement shall be subject to annual review by the City's Tax Incentive Review Council (the "Annual Review and Report"). The Company shall submit information for the Annual Review and Report to the City no later than March 1 of each year.

Section 18. Revocation.

A. Generally. Pursuant to Ohio Revised Code Section 3735.68, the housing officer shall make annual inspections of the properties within the community reinvestment area upon which are located structures or remodeling for which an exemption has been granted under Ohio Revised Code Section 3735.67. If the housing officer finds that the property has not been properly maintained or repaired due to the neglect of the Company, the housing officer may revoke the exemption at any time after the first year of exemption. If the Company has materially failed to fulfill its obligations under this Agreement, or if the owner is determined to have violated division (E) of that section (see Section 18(B) of this Agreement), City Council, subject to the terms of the agreement, may revoke the exemption at any time after the first year of exemption. The housing officer or City Council shall notify the county auditor and the Company that the tax exemption no longer applies. If the housing officer or legislative authority revokes a tax exemption, the housing officer shall send a report of the revocation to the community reinvestment area housing council and to the tax incentive review council established pursuant to section 3735.69 or 5709.85 of the Revised Code, containing a statement of the findings as to the maintenance and repair of the property, failure to fulfill obligations under the written agreement, or violation of division (E) of Ohio Revised Code Section 3735.671, and the reason for revoking the exemption.

B. Prior Statutory Violations. The Company represents and warrants to the City that it is not prohibited by Ohio Revised Code Section 3735.671(E) from entering into this Agreement. As required by Ohio Revised Code Section 3735.671(C)(9), exemptions from taxation granted or authorized under this Agreement shall be revoked if it is determined that the Company, any successor to the Company or any related member (as those terms are defined in division (E) of

Ohio Revised Code Section 3735.671) has violated the prohibition against entering into this Agreement under division (E) of Ohio Revised Code Section 3735.671 or under Ohio Revised Code Sections 5709.62 or 5709.63 prior to the time prescribed by that division or either of those sections.

Section 19. False Statements; Penalties; Material Representations.

A. **Generally.** As required in connection with Ohio Revised Code Section 9.66(C), the Company affirmatively covenants that it has made no false statements to the State or the City in the process of obtaining approval for this Agreement. If any representative of the Company has knowingly made a false statement to the State or the City to obtain approval for this Agreement, or if the Company fails to provide any information expressly required under the Application, the Company shall be required to immediately return all benefits received under this Agreement (by payment of the amount of taxes exempted hereunder, paid as directed by the City within thirty (30) days of written demand) and the Company shall be ineligible for any future economic development assistance from the State, any State agency or any political subdivision of the State pursuant to Ohio Revised Code Section 9.66(C)(1). Amounts due and not paid under this Section 19 shall bear interest at the rate of twelve percent (12%) per year. Any person who provides a false statement to secure economic development assistance (as defined in Ohio Revised Code Section 9.66) may be guilty of falsification, a misdemeanor of the first degree, pursuant to Ohio Revised Code Section 2921.13(F)(1), which is punishable by fine of not more than One Thousand Dollars (\$1,000) and/or a term of imprisonment of not more than six (6) months.

B. **Material Representations – Board of Education Agreement and VTICA.** The Parties acknowledge and agree that a material failure by the Company to comply with its representations concerning the Board of Education Agreement or VTICA Contribution shall constitute an event of default for purposes of Section 16 (Default) and the basis for revocation under Section 18 (Revocation). Subject to the terms of the VTICA, if the VTICA is unenforceable for reasons of infeasibility or otherwise, the Company shall enter into alternative arrangements providing for the economic equivalent of the VTICA Contribution. Such arrangements may include, but are not limited to, providing for the economic equivalent of the VTICA Contribution through formation of a special improvement district. For purposes of this Section 19.B, alternative arrangements must result in services substantially similar to those that would have been supported through the VTICA and at a value that is the economic equivalent of the VTICA Contribution, which value shall not be required to exceed the VTICA Contribution amount that would have been payable by the Company. Any determination of infeasibility or mechanism for providing alternative arrangements is subject to approval by the City at its sole discretion. Nothing in this Section 19.B shall operate to limit the City's enforcement authority under this Agreement including, without limitation, Section 16, Section 18, and Section 19.A.

Section 20. **Conflict of Interest.** The Company covenants that, to the Company's knowledge, no employee of the City has any personal interest, direct or indirect, in any matters pertaining to the Project, and the Company agrees to take appropriate steps to prevent any employee of the City from obtaining any such interest throughout the term of this Agreement.

Section 21. **Annual Fee.** As authorized by Ohio Revised Code Section 3735.671(D), the Company shall pay an annual fee of Five Hundred Dollars (\$500) or one percent (1%) of the annual taxes exempted under this Agreement, whichever is greater, but not to exceed Two Thousand, Five Hundred Dollars (\$2,500) per annum. This fee is due with submission of the information for Annual Review and Report by March 1 of each year.

Section 22. **Discontinued Operations.** As provided in Ohio Revised Code Section 3735.671(E), if, prior to the expiration of the term of this Agreement, the Company discontinues operations at the Project so that the Property is no longer being used for the purposes described in Section 1 hereof, then the Company, its successors, and any related member shall not enter into an

agreement under Ohio Revised Code Sections 3735.671, 5709.62, 5709.63 or 5709.632, and no legislative authority shall enter into such an agreement with the Company, its successors or any related member prior to the expiration of five (5) years after the discontinuation of operations. As used in this Section 22, "successors" and "related member" shall have the meanings set forth in Ohio Revised Code Section 3735.671(E).

Section 23. Notices. Unless otherwise specified herein, each party shall address written notices, demands and communications in connection with this Agreement to the other party as follows (or to such other address as is communicated in accordance with this Section):

To the City:

City of Cincinnati
Attention: Director of the Department of Community and Economic Development
Centennial Plaza Two, Suite 700
805 Central Avenue
Cincinnati, Ohio 45202

To the Company:

6121-23 Madison Rd. Opportunity Fund, LLC
Attention: Bill Carroll, Manager
P.O. Box 43484
Cincinnati, Ohio 45243

If the Company sends a notice to the City alleging that the City is in default under this Agreement, the Company shall simultaneously send a copy of such notice to: City Solicitor, City of Cincinnati, 801 Plum Street, Room 214, Cincinnati, Ohio 45202.

Section 24. Acknowledgment of City Participation. The Company agrees to acknowledge the support of the City on construction signs, project and exhibition signage, and any publicity such as that appearing on the internet, television, cable television, radio, or in the press or any other printed media. In identifying the City as a Project partner, the Company shall use either the phrase "Project Assistance by the City of Cincinnati" or a City of Cincinnati logotype or other form of acknowledgment that has been approved in advance in writing by the City.

Section 25. Entire Agreement. This Agreement and the Exhibits attached hereto constitute the entire agreement between the City and the Company with respect to the subject matter herein, superseding any prior or contemporaneous agreement with respect thereto.

Section 26. Governing Law. This Agreement is entered into and is to be performed in the State. The City and the Company agree that the law of the State of Ohio shall govern the rights, obligations, duties and liabilities of the parties to this Agreement and shall govern the interpretation of this Agreement.

Section 27. Waiver. The City's waiver of any breach by the Company of any provision of this Agreement shall not constitute or operate as a waiver by the City of any other breach of such provision or of any other provisions, nor shall any failure or delay by the City to enforce any provision hereof operate as a waiver of such provision or of any other provision.

Section 28. Severability. This Agreement shall be severable; if any part or parts of this Agreement shall for any reason be held invalid or unenforceable by a court of competent jurisdiction, all remaining parts shall remain binding and in full force and effect.

Section 29. Amendment. This Agreement may be modified or amended only by a written agreement duly executed by the parties hereto or their representatives.

Section 30. Non-Assignment. As required by Ohio Revised Code Section 3735.671(C)(8), this Agreement is not transferable or assignable by the Company without the express written approval of the City Manager of the City. If the Company has entered into a Board of Education Agreement or VTICA in connection with the Property, the City shall not approve the assignment of this Agreement unless the assignee has assumed the Company's remaining obligations under the Board of Education Agreement and VTICA, as applicable. Failure to assign or otherwise perform the Company's obligations under the Board of Education Agreement or VTICA upon transfer of the Property during the term of the tax abatement authorized by this Agreement shall be basis for revocation of the tax exemption under Section 18.

Section 31. Recording. At its election, the City may record this Agreement at the City's expense in the Hamilton County Recorder's Office.

Section 32. Legislative Action Required. As provided in Ohio Revised Code Section 3735.671(C)(10), the Company and the City acknowledge that this Agreement must be approved by formal action of the City Council of the City as a condition for this Agreement to take effect. Notwithstanding anything to the contrary herein, this Agreement shall take effect after the later of the date of such approval or the final date of execution of this Agreement by all parties.

Section 33. Additional Representations and Warranties of Company. The Company represents and warrants that (a) it is duly organized and existing and it has full power and authority to take, and has taken, all action necessary to execute and deliver this Agreement and any other documents required or permitted to be executed or delivered by it in connection with this Agreement, and to fulfill its obligations hereunder; (b) no notices to, or consents, authorizations or approvals of, any person are required (other than any already given or obtained) for its due execution, delivery and performance of this Agreement; and (c) this Agreement has been duly executed and delivered by it and constitutes the legal, valid and binding obligation of the Company.

Section 34. Certification as to Non-Debarment. The Company represents that neither it nor any of its principals is presently debarred by any federal, state, or local government agency. In completing the Project, the Company shall not solicit bids from any contractors or subcontractors who are identified as being debarred by any federal, state, or local government agency. If the Company or any of its principals becomes debarred by any federal, state, or local government agency during the term of this Agreement, the company shall be considered in default under this Agreement.

Section 35. Appeals. Pursuant to Ohio Revised Code Section 3735.70, a person aggrieved under the Statute or this Agreement may appeal to the community reinvestment area housing council, which shall have the authority to overrule any decision of a housing officer. Appeals may be taken from a decision of the council to the court of common pleas of the county where the area is located.

Section 36. Wage Enforcement.

(i) Applicability. Council passed Ordinance No. 22-2016 on February 3, 2016, which ordained Chapter 326 (Wage Enforcement) of the Cincinnati Municipal Code (the "Wage Enforcement Chapter"). The Wage Enforcement Chapter was then amended by Ordinance No. 96-2017, passed May 17, 2017. As amended, the Wage Enforcement Chapter imposes certain requirements upon persons entering into agreements with the City whereby the City provides an incentive or benefit that is projected to exceed \$25,000, as described more particularly in the Wage Enforcement Chapter. Cincinnati Municipal Code Section 326-5 requires that the language below be included in contracts subject to the Wage Enforcement Chapter.

(ii) Required Contractual Language. Capitalized terms used, but not defined, in this clause (ii) have the meanings ascribed thereto in the Wage Enforcement Chapter.

(a) This contract is or may be subject to the Wage Enforcement provisions of the Cincinnati Municipal Code. These provisions require that any Person who has an Agreement with

the city or with a Contractor or Subcontractor of that Person shall report all Complaints or Adverse Determinations of Wage Theft and Payroll Fraud (as each of those terms is defined in Chapter 326 of the Cincinnati Municipal Code) against the Contractor or Subcontractors to the Department of Economic Inclusion within 30 days of notification of the Complaint or Adverse Determination.

(b) If this contract is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this contract is required to include provisions in solicitations and contracts regarding a Development Site that all employers, Contractors or Subcontractors performing or proposing to perform work on a Development Site provide an initial sworn and notarized "Affidavit Regarding Wage Theft and Payroll Fraud" on a form prescribed by the city manager or his or her designee and, within 30 days of an Adverse Determination or Complaint of Wage Theft or Payroll Fraud, shall provide an "Amended Affidavit Regarding Wage Theft and Payroll Fraud" on a form prescribed by the city manager or his or her designee.

(c) If this contract is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this contract is required to authorize, and does hereby specifically authorize, any local, state or federal agency, court, administrative body or other entity investigating a complaint of Wage Theft or Payroll Fraud against the Person (collectively "investigative bodies") to release to the City's Department of Economic Inclusion any and all evidence, findings, complaints and determinations associated with the allegations of Wage Theft or Payroll Fraud upon the City's request and further authorizes such investigative bodies to keep the City advised regarding the status of the investigation and ultimate determination. If the investigative bodies require the Person to provide additional authorization on a prescribed form or in another manner, the Person shall be required to provide such additional authorization within 14 days of a request by the City.

(d) If this Agreement is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this Agreement shall include in its contracts with all Contractors language that requires the Contractors to provide the authorizations set forth in subsection (c) above and that further requires each Contractor to include in its contracts with Subcontractors those same obligations for each Subcontractor and each lower tier subcontractor.

(e) If this Agreement is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this Agreement shall post a conspicuous notice on the Development Site throughout the entire period work is being performed pursuant to the Agreement indicating that the work being performed is subject to Cincinnati Municipal Code Chapter 326, Wage Enforcement, as administered by the City of Cincinnati Department of Economic Inclusion. Such notice shall include contact information for the Department of Economic Inclusion as provided by the department.

(f) Under the Wage Enforcement provisions, the City shall have the authority, under appropriate circumstances, to terminate this contract or to reduce the incentives or subsidies to be provided under this contract and to seek other remedies, including debarment.

Section 37. Legal Requirements. In completing and operating the Project, the Company shall comply with all applicable statutes, ordinances, regulations, and rules of the government of the United States, State of Ohio, County of Hamilton, and City of Cincinnati.

Section 38. Counterparts and Electronic Signatures. This Agreement may be executed by the parties hereto in two or more counterparts and each executed counterpart shall be considered an original but all of which together shall constitute one and the same instrument. This Agreement may be executed and delivered by electronic signature; any original signatures that are initially delivered electronically shall be physically delivered as soon as reasonably possible.

Remainder of this page intentionally left blank. Signature page follows.

Executed by the parties on the dates indicated below, effective as of the later of such dates (the "Effective Date").

CITY OF CINCINNATI,
an Ohio municipal corporation

6121-23 MADISON RD. OPPORTUNITY FUND,
LLC, an Ohio limited liability company

By: _____
Paula Boggs Muething, City Manager

Date: _____, 2021

By: _____

Printed Name: _____

Title: _____

Date: _____, 2021

Authorized by resolution dated _____

Approved as to Form:

Assistant City Solicitor

Certified Date: _____

Fund/Code: _____

Amount: _____

By: _____
Karen Alder, City Finance Director

Exhibit A to CRA Agreement

LEGAL DESCRIPTION OF PROPERTY

Property Address: 6007 Madison Road, Cincinnati, Ohio 45227

Auditor's Parcel No.: 036-0003-0002-90

Situated in Cincinnati, Hamilton County, Ohio, in Section 16, Township 4, Fractional Range 2, of the Miami Purchase, commencing at a point in the south line of Madison Road, sixty-nine and five-tenths feet (69.5') east of the east line of Ward Street, said point being the northeast corner of a lot conveyed by Laura Boyer to Sarah E. Settle recorded in Deed Book 1117, at page 307, Hamilton County, Ohio, Recorder's Office, said lot being now owned by The Queen City Motion Picture Company; thence south along the east line of said The Queen City Motion Picture Company lot and parallel to the east line of Ward Street one hundred forty-eight and five-tenths feet (148.5'); thence east on a line parallel to the south line of Madison Road twenty-nine and five-tenths feet (29.5'); thence north on a line parallel to the said east line of said Ward Street one hundred forty-eight and five-tenths feet (148.5') to the south line of said Madison Road; thence west with the south line of said Madison Road twenty-nine and five-tenths feet (29.5') to the place of beginning.

Property Address: 6011 Madison Road, Cincinnati, Ohio 45227

Auditor's Parcel No.: 036-0003-0003-00

SITUATE IN SECTION 16, TOWN 4, FRACTIONAL RANGE 2, COLUMBIA TOWNSHIP, IN MADISONVILLE, IN THE CITY OF CINCINNATI, COUNTY OF HAMILTON AND STATE OF OHIO, AND BEING A PART OF LOT NO. TWO (2) OF FARM LOT 19 IN THE ORIGINAL TOWN OF MADISON AND BOUNDED AS FOLLOWS:

BEGINNING AT A POINT IN THE SOUTH LINE OF MADISON ROAD, 99 FEET EAST OF THE SOUTHEAST CORNER OF MADISON ROAD AND WARD STREET, AND BEING THE NORTHEAST CORNER OF LOT NO. 1 OF THE SCHOOLHOUSE LOT CONVEYED TO HENRY S. WHETSEL ET. AL., TRUSTEES AND DIRECTORS OF SUB-SCHOOL DISTRICT NO. 5 IN COLUMBIA TOWNSHIP, BY THE STATE OF OHIO, BY DEED RECORDED IN DEED BOOK 216, PAGE 219 OF THE RECORDS OF DEEDS IN THE OFFICE OF THE RECORDER OF SAID COUNTY; THENCE RUNNING EAST ON MADISON ROAD, 50 FEET; THENCE SOUTH 148.5 FEET; THENCE WEST 50 FEET; THENCE NORTH 148.5 FEET TO THE PLACE OF BEGINNING.

Exhibit B to CRA Agreement
APPLICATION FOR TAX EXEMPTION

TO BE ATTACHED

August 2, 2021

To: Members of the Budget and Finance Committee 202102547
From: Paula Boggs Muething, City Manager
Subject: **EMERGENCY ORDINANCE – APPROVING THE SALE OF CITY-OWNED PROPERTY LOCATED AT 6007 MADISON ROAD**

Attached is an Emergency Ordinance captioned:

AUTHORIZING the City Manager to execute a *Property Sale and Development Agreement* with 6121-23 Madison Rd. Opportunity Fund, LLC, for the sale of City-owned real property located at 6007 Madison Road in the Madisonville neighborhood of Cincinnati, to be consolidated with the purchaser’s own property and redeveloped as a mixed-use development; **ESTABLISHING** new capital improvement program project account no. 980x162x221641, “DCED Property Improvements,” for the purpose of providing resources for permanent improvements to vacant buildings and properties controlled or previously controlled by the Department of Community and Economic Development; and further, **DECLARING** expenditures from capital improvement program project account no. 980x162x221641, “DCED Property Improvements,” to be for a public purpose.

BACKGROUND/CURRENT CONDITIONS

The City currently owns 6007 Madison Rd. in Madisonville (the “Property”). The City previously leased the property to the Civic Garden Center of Greater Cincinnati (“CGC”) for use as a community garden.

The City proposes to sell the property to the adjacent property owner, 6121-23 Madison Rd. Opportunity Fund, LLC (the “Developer”), to facilitate their redevelopment of 6011 Madison Rd. The Developer has agreed to (i) perform work associated with the Garden Relocation at the same cost as a third-party bid for work and approved by CGC, and/or (ii) reimburse CGC for expenses associated with the Garden Relocation in an amount totaling \$15,000, and the City is willing to reduce the Purchase Price in consideration thereof.

DEVELOPER INFORMATION

The Developer, 6121-23 Madison Rd. Opportunity Fund, LLC, recently completed full rehabs of a multi-use project at 6121-23 Madison Rd. and a commercial property at 6306 Madison Rd. The Sponsor/Principal of the development entity is a long-standing commercial real estate banker.

PROJECT DESCRIPTION

The Developer plans to renovate and expand the existing building located at 6011 Madison Rd. into approximately 7,707 square feet of residential space consisting of 7-8 apartments and approximately 3,793 square feet of commercial space. Residential rents are expected to be between \$1,250 for a 1 Bed, 1 Bath with a Study and \$1,450 for a 2 Bed, 2 Bath. 6007 Madison Rd. will be used to establish new ingress/egress and to create 12 surface parking spaces. The total project cost is approximately \$1,950,342 (\$1,234,650 in hard costs). The project is expected to create 25 new full-time equivalent permanent jobs (FTEs) with a total annual payroll of \$1,000,000 and to create 15 full-time temporary construction jobs with a total annual payroll of \$600,000.

PROPOSED INCENTIVE

DCED is recommending the sale of City-owned real property located at 6007 Madison Rd. for less than fair market value.

The fair market value of the City-owned property was determined by appraisal to be \$39,500. However, to facilitate the Project and in consideration of the Developer's reimbursement of the Garden Relocation Expenses, the City is agreeable to selling the City Property to Developer for less than fair market value; namely, for \$28,442.

DCED is also recommending a 15-year, net 52% CRA tax exemption. This proposed incentive is outlined in a separate ordinance.

PROJECT TEAM & TIMELINE

The project's legislative team (listed below) is available to answer questions regarding this project.

- Assistant City Manager: Billy Weber (Ext. 3318)
- DCED Deputy Director: Dan Bower (Ext. 1955)
- Project Attorney: Samantha Brandenburg (Ext. 4704)

The anticipated council timeline is as follows:

- August 2, 2021: Budget and Finance
- August 4, 2021: City Council for Final Approval

RECOMMENDATION

The Administration recommends approval of this Emergency Ordinance. The emergency clause is needed so that the project can meet its construction commencement deadlines.

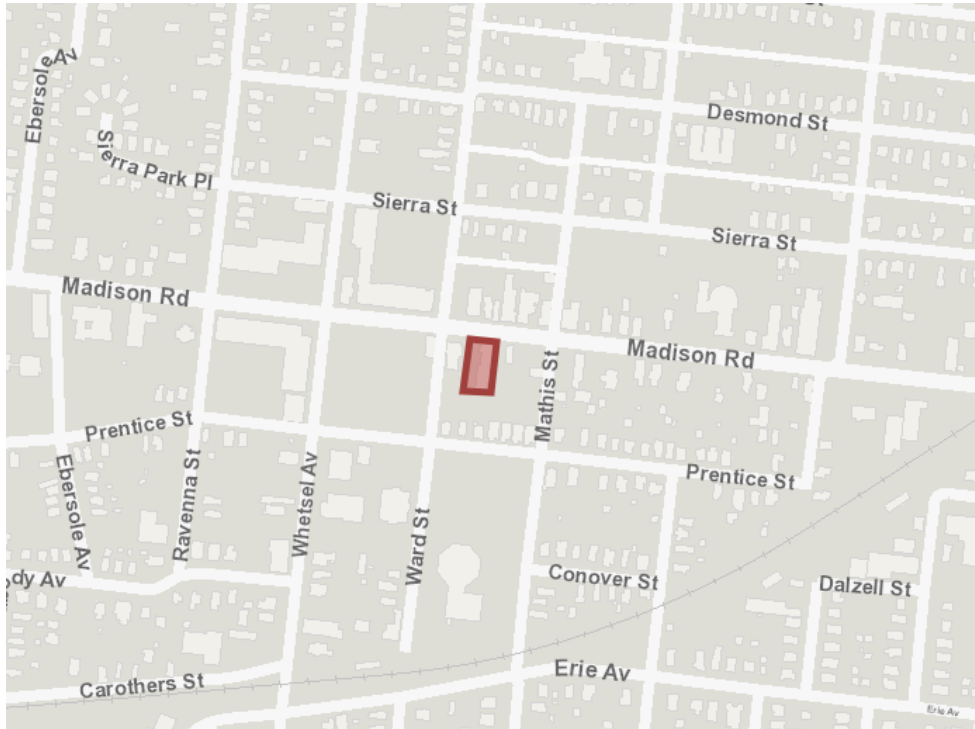
Attachment: A. Property location and photographs

Property Sale and Development Agreement
6121-23 Madison Rd. Opportunity Fund, LLC

Page 3 of 2

Copy: Markiea L. Carter, Director, Department of Community & Economic Development

Attachment A: Location and Photographs



Property Location



6007 and 6011 Madison Rd.

EMERGENCY

City of Cincinnati

DSC

AWB

An Ordinance No. _____

- 2021

AUTHORIZING the City Manager to execute a *Property Sale and Development Agreement* with 6121-23 Madison Rd. Opportunity Fund, LLC, for the sale of City-owned real property located at 6007 Madison Road in the Madisonville neighborhood of Cincinnati, to be consolidated with the purchaser's own property and redeveloped as a mixed-use development; **ESTABLISHING** new capital improvement program project account no. 980x162x221641, "DCED Property Improvements," for the purpose of providing resources for permanent improvements to vacant buildings and properties controlled or previously controlled by the Department of Community and Economic Development; and further, **DECLARING** expenditures from capital improvement program project account no. 980x162x221641, "DCED Property Improvements," to be for a public purpose.

WHEREAS, the City owns certain real property located at 6007 Madison Road in Cincinnati, as more particularly described in the *Property Sale and Development Agreement* attached to this ordinance as Attachment A, which is under the management and control of the City's Department of Community and Economic Development (the "Property"); and

WHEREAS, 6121-23 Madison Rd. Opportunity Fund, LLC ("Developer") owns the adjoining property located at 6011 Madison Road in Cincinnati and desires to purchase the Property from the City, for consolidation with Developer's adjoining property to facilitate the renovation and expansion of an existing building into a mixed-use development consisting of approximately 3,793 square feet of commercial space, approximately 7,707 square feet of residential space comprised of 7-8 apartments, and 12 surface parking spaces, at an estimated project cost of \$1,921,900 (the "Project"); and

WHEREAS, Developer estimates that the Project will create approximately (i) 15 full-time temporary construction jobs during the construction period with an approximate annual payroll of \$600,000; and (ii) 25 full-time equivalent permanent jobs following completion of construction of the Project with an approximate annual payroll of \$1,000,000; and

WHEREAS, the City desires that the Property be put to its highest and best use; and

WHEREAS, the City's Real Estate Services Division has determined, by appraisal, that the fair market value of the Property is approximately \$39,500; however, the City desires to sell the Property to Developer for less than fair market value; namely, for \$28,442, because Developer has agreed to incur expenses totaling \$15,000 to assist the Civic Garden Center of Greater Cincinnati with relocation of a community garden located at the Property; and

WHEREAS, Section 13 of Article VIII of the Ohio Constitution provides that, to create or preserve jobs and employment opportunities and to improve the economic welfare of the people of the State, it is a public interest and proper public purpose for the State or its political

subdivisions to sell, lease, exchange, or otherwise dispose of property within the State of Ohio for industry, commerce, distribution and research; and

WHEREAS, Section 16 of Article VIII of the Ohio Constitution provides that it is in the public interest and a proper public purpose for the City to enhance the availability of adequate housing and to improve the economic and general well-being of the people of the City of Cincinnati by providing or assisting in providing housing; and

WHEREAS, the City has determined that: (i) the Property is not needed for municipal purposes; (ii) the Property poses a financial liability to the City because the City must continue to incur expenses in maintaining it; and (iii) it is in the best interest of the City to eliminate competitive bidding in connection with the City's sale of the Property because Developer owns the adjoining property and consolidation of the Property will put the Property to the highest and best use; and

WHEREAS, City Planning Commission, having the authority to approve the change in the use of City-owned property, approved the City's sale of the Property at its meeting on May 7, 2021; now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio:

Section 1. That the City Manager is hereby authorized to execute a *Property Sale and Development Agreement* with 6121-23 Madison Rd. Opportunity Fund, LLC ("Developer"), in substantially the form attached to this ordinance as Attachment A (the "Agreement"), pursuant to which the City will sell to Developer certain real property located at 6007 Madison Road in Cincinnati (the "Property"), for consolidation with Developer's adjoining property to facilitate the renovation and expansion of an existing building into a mixed-use development consisting of approximately 3,793 square feet of commercial space, approximately 7,707 square feet of residential space comprised of 7-8 apartments, and 12 surface parking spaces (the "Project").

Section 2. That the Property is not needed for municipal purposes.

Section 3. That the fair market value of the Property, as determined by professional appraisal by the City's Real Estate Services Division, is approximately \$39,500; however, the City desires to sell the Property to Developer for less than fair market value; namely, for

\$28,442, because Developer has agreed to incur expenses totaling \$15,000 to assist with relocating a community garden located at the Property.

Section 4. That eliminating competitive bidding in connection with the City's sale of the Property is in the best interest of the City because Developer owns the adjoining property and consolidation and redevelopment of the Property with Developer's parcel will put the Property to the highest and best use.

Section 5. That the City's Finance Director is hereby authorized to establish new capital improvement program project account no. 980x162x221641, "DCED Property Improvements" for the purpose of providing resources for permanent improvements to vacant buildings and properties controlled or previously controlled by the Department of Community and Economic Development.

Section 6. That the proceeds from the sale of the Property shall be deposited into Property Management Fund 209 to pay the fees for services provided by the City's Real Estate Services Division in connection with the sale, and that the City's Finance Director is hereby authorized to deposit amounts in excess thereof into Miscellaneous Permanent Improvement Fund 757.

Section 7. That the City's Finance Director is authorized to transfer and appropriate such excess funds from the unappropriated surplus of Miscellaneous Permanent Improvement Fund 757 to capital improvement program project account no. 980x162x221641, "DCED Property Improvements."

Section 8. That expenditures from capital improvement program project account no. 980x162x221641, "DCED Property Improvements," are hereby declared to be for a public purpose because it will provide local improvements and increase neighborhood vitality.

Section 9. That the City Manager and other City officials are authorized to take all necessary and proper actions to carry out the provisions of this ordinance and the Agreement, including, without limitation, executing any and all ancillary agreements, amendments, plats, deeds, terminations, releases, and other documents.

Section 10. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is to expedite the City’s execution of the Agreement, so that Developer can move forward with the Project without delay, thereby creating jobs, stimulating economic growth in the area and enabling the Property to be put to its highest and best use, all for the economic benefit of the City, at the earliest possible time.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

ATTACHMENT A

Contract No. _____

PROPERTY SALE AND DEVELOPMENT AGREEMENT

between the

CITY OF CINCINNATI

and

6121-23 MADISON RD. OPPORTUNITY FUND, LLC

Project Name: 6007 and 6011 Madison Road

(sale of City-owned real property at 6007 Madison Road for consolidation with real property at 6011 Madison Road, and renovation into a mixed-use development consisting of approximately 3,793 square feet of commercial space, 7-8 residential units, and 12 surface parking spaces)

Dated: _____, 2021

PROPERTY SALE AND DEVELOPMENT AGREEMENT

This Property Sale and Development Agreement (this "**Agreement**") is made and entered into on the Effective Date (as defined on the signature page hereof) by and between the **CITY OF CINCINNATI**, an Ohio municipal corporation, the address of which is 801 Plum Street, Cincinnati, Ohio 45202 (the "**City**"), and **6121-23 MADISON RD. OPPORTUNITY FUND, LLC**, an Ohio limited liability company, the address of which is P.O. Box 43484, Cincinnati, Ohio 45243 ("**Developer**").

Recitals:

A. The City owns certain real property located at 6007 Madison Road, consisting of approximately 0.104 acres of vacant land in the Madisonville neighborhood of Cincinnati, as more particularly described on Exhibit A (Legal Description) hereto (the "**City Property**"), which is under the management and control of the City's Department of Community and Economic Development ("**DCED**").

B. Developer owns the abutting property at 6011 Madison Road (the "**Developer's Property**"; and together with the City Property, the "**Property**").

C. Developer desires to purchase the City Property for consolidation with the Developer's Property to facilitate the renovation and expansion of the existing building on the Developer's Property into a mixed-use development consisting of approximately 3,793 square feet of commercial space, approximately 7,707 square feet of residential space comprised of 7-8 apartments, and 12 surface parking spaces, all as more particularly described on Exhibit B (Statement of Work and Budget) hereto, at an estimated project cost (excluding the Purchase Price, as defined below) of approximately \$1,921,900, (the "**Project**").

D. The City previously leased the City Property to the Civic Garden Center of Greater Cincinnati ("**CGC**") for use as a community garden, and the City and Developer now desire to assist CGC with relocating the garden (the "**Garden Relocation**"). Prior to Closing (as defined below), Developer has agreed to (i) perform work associated with the Garden Relocation at the same cost as a third-party bid for work and approved by CGC, and/or (ii) reimburse CGC for expenses associated with the Garden Relocation in an amount totaling \$15,000 (the "**Garden Relocation Expenses**"), and the City is willing to reduce the Purchase Price (as defined below) in consideration thereof.

E. Developer has committed to commence on-site construction at the Property no later than 3 months after the Closing (the "**Outside Construction Commencement Date**"), and to complete construction at the Property no later than 18 months following the actual commencement of on-site construction (the "**Outside Construction Completion Date**").

F. Developer estimates that the Project will create approximately (i) 15 full-time temporary construction jobs during the construction period with an approximate annual payroll of \$600,000, and (ii) 25 full-time equivalent permanent jobs following completion of construction of the Project with an approximate annual payroll of \$1,000,000.

G. The City's Real Estate Services Division has determined, by appraisal, that the fair market value of the City Property is approximately \$39,500; however, to facilitate the Project and in consideration of Developer's reimbursement of the Garden Relocation Expenses, the City is agreeable to (i) selling the City Property to Developer for less than fair market value; namely, for \$28,442 (the "**Purchase Price**"); and (ii) cooperating to facilitate a real property tax abatement for Developer's improvements to the Property pursuant to a *LEED Community Reinvestment Area Tax Exemption Agreement* (the "**CRA Agreement**"), subject to passage by City Council of a separate ordinance authorizing such abatement.

H. Section 13 of Article VIII of the Ohio Constitution provides that, to create or preserve jobs and employment opportunities and to improve the economic welfare of the people of the State, it is a public interest and proper public purpose for the State or its political subdivisions to sell, lease, exchange,

or otherwise dispose of property within the State of Ohio for industry, commerce, distribution, and research.

I. Section 16 of Article VIII of the Ohio Constitution provides that it is in the public interest and a proper public purpose for the City to enhance the availability of adequate housing and to improve the economic and general well-being of the people of the City by providing or assisting in providing housing.

J. The City has determined that (i) the City Property is not needed for a municipal purpose, (ii) the City Property poses a financial liability to the City because the City must continue to incur expenses in maintaining it, and (iii) it is in the best interest of the City to eliminate competitive bidding in connection with the City's sale of the City Property because Developer owns the adjoining property, and consolidation of the Property will put the City Property to the highest and best use.

K. The City, upon recommendation of DCED, believes that it is in the best interests of the City and the health, safety, and welfare of its residents, and in accordance with the public purposes and provisions of applicable federal, state, and local laws and requirements, to enter into this Agreement.

L. City Planning Commission, having the authority to approve the change in the use of City-owned property, approved the sale of the City Property to Developer at its meeting on May 7, 2021.

M. Execution of this Agreement was authorized by Ordinance No. _____-2021, passed by City Council on _____, 2021.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Purchase Price.** Subject to the terms and conditions set forth herein, the City hereby agrees to sell the City Property to Developer, and Developer hereby agrees to purchase the City Property from the City, for the Purchase Price. Developer acknowledges that it is familiar with the condition of the City Property and, at Closing (as defined below), the City shall convey the City Property to Developer in "as is" condition. The City makes no representations or warranties to Developer with respect to the condition of the City Property and, from and after the Closing, the City shall have no liability of any kind to Developer for any defects, adverse environmental condition, or any other matters affecting the City Property.

2. **Closing; Conditions to Closing.**

(A) **Conditions.** The Closing shall not occur unless and until the following conditions have been satisfied or waived, including any and all other conditions as may be identified in the City's Coordinated Report (the "Conditions"); *provided, however,* that if the City, in its sole and absolute discretion, determines that one or more of the Conditions would be more appropriately handled at Closing or post-Closing, the City may, if appropriate, include such Conditions in the City's Deed (as defined below) to Developer or handle such Conditions post-Closing. Developer shall perform all work and investigations and shall obtain and prepare all necessary documents pertaining to the satisfaction of the Conditions, all at no cost to the City.

- (i) **Title & Survey.** Developer shall have approved the title to the City Property as set forth in a commitment of title insurance obtained by Developer and, if obtained by Developer, an ALTA property survey of the City Property;
- (ii) **Geotechnical & Environmental Condition.** Developer shall be satisfied that the geotechnical and environmental condition of the City Property is acceptable for development of the Project;

- (iii) Developer Inspections. Developer shall have determined from any inspections and investigations made pursuant to this Section 2, including marketing studies, traffic studies, feasibility studies, and any other studies and investigations related to the Property or the Project that Developer may elect to conduct or have conducted, that the Property and the conditions and circumstances surrounding the Property are suitable for development, construction, and use of the Project in an economically feasible manner;
- (iv) Financing. The City's receipt of a satisfactory loan commitment or letter from Developer's lender evidencing that Developer has secured or will be able to secure all financing necessary to complete the Project;
- (v) Conceptual Drawings. Developer shall have submitted to the City conceptual drawings, followed by preliminary plans and specifications for the Project;
- (vi) Construction Contract. The City's receipt of final construction bids and a final budget for the Project and an executed copy of Developer's construction contract with Developer's general contractor for construction of the Project;
- (vii) Building Permit & Zoning Approvals. Developer shall have provided evidence that Developer has obtained a building permit issued by the City's Department of Buildings and Inspections (the "B&I") for the construction of the Project, including any and all zoning approvals that may be required;
- (viii) Construction Schedule. Developer shall have provided the proposed construction schedule for the Project;
- (ix) As-Built Appraisal. Developer shall have provided an "as-built" appraisal of the Project (if required by Developer's lender);
- (x) Satisfaction of Conditions in Coordinated Report. Developer shall have satisfied the conditions of the sale set forth in the City's Coordinated Report associated with the sale of the City Property, some of which are summarized in Section 11 below;
- (xi) Garden Relocation. The Garden Relocation shall have been completed, and Developer shall have incurred the Garden Relocation Expenses in the amount of \$15,000 and provided documentation satisfactory to the City, in the City's sole and absolute discretion; and
- (xii) Other Information. Developer shall have provided such other information and documents pertaining to Developer or the Project as the City may reasonably require.

All of the investigations and documents referred to in this paragraph (A) shall be performed and obtained, as the case may be, at no cost to the City.

(B) Developer's Right of Entry. Prior to Closing, Developer may enter the City Property during reasonable business hours to conduct tests and inspections related to the Project, *provided that* Developer must provide DCED at least 24 hours' notice prior to entering the City Property. Developer shall promptly repair any damage to the City Property resulting from its inspections and Developer shall hold the City harmless from any loss or expense arising out of Developer's activities on the City Property. Entry shall be at the sole risk of Developer. DCED shall cooperate with Developer in Developer's inspections, studies, and in obtaining all required approvals (it being acknowledged by Developer that the City makes no representations or assurances regarding the granting of any required approvals).

(C) Copies of Due Diligence Materials to Be Provided to City. Without limitation of Developer's other obligations, prior to Closing, and as such due diligence materials are obtained by Developer, Developer, at no cost to the City, shall provide DCED with copies of the inspection, engineering, and environmental reports, title reports, surveys, and other materials prepared by third party professionals obtained by Developer prior to Closing that pertain to the Project or the City Property, or are otherwise related to anything authorized pursuant to the terms and conditions of this Agreement.

(D) Right to Terminate. If prior to Closing, either party determines, after exercising reasonable good faith efforts, that any of the Conditions are not or cannot be satisfied within a reasonable period of time, such party shall have the right to terminate this Agreement by giving written notice thereof to the other party, whereupon this Agreement and all rights and obligations of the parties hereunder shall terminate. If all of the Conditions have not been satisfied to the satisfaction of both parties or waived in writing and for that reason the Closing has not occurred as of the date that is 3 months following the Effective Date, the City, in its sole and absolute discretion, may terminate this Agreement and all rights and obligations of the parties hereunder by giving written notice thereof to Developer.

(E) Closing Date. The closing ("**Closing**") shall take place 90 days after the Effective Date, or on such earlier or later date as the parties may agree upon.

(F) Closing Costs and Closing Documents. At the Closing, (i) Developer shall pay the Purchase Price in full, and (ii) the City shall convey all of its right, title, and interest in and to the City Property to Developer by Quitclaim Deed substantially in the form of Exhibit C (Form of Quitclaim Deed) hereto (the "**City's Deed**"). Developer shall pay all Hamilton County, Ohio, recording fees and any and all other customary closing costs associated with the Closing. There shall be no proration of real estate taxes and assessments at Closing, and from and after the Closing, Developer shall pay all real estate taxes and assessments thereafter becoming due. The provisions of this Agreement shall survive the City's execution and delivery of the City's Deed and shall not be deemed to have been merged therein. At Closing, the parties shall execute a closing statement and any and all other customary closing documents that are necessary for the Closing (except that the City shall not be required to execute a title affidavit or the like). Developer shall not transfer title to the City Property prior to the completion of construction without the City's prior written consent. Pursuant to Section 301-20, Cincinnati Municipal Code, at Closing, Developer shall pay to the City any and all unpaid related and unrelated fines, penalties, judgments, water or other utility charges, and any and all other outstanding amounts owed to the City by Developer or any of its affiliated entities. The provisions of this Agreement shall survive the City's execution and delivery of the City's Deed and shall not be deemed to have been merged therein.

(G) Maintenance of City Property Between Closing and Prior to Construction. Between the Closing and Construction Commencement (as defined below), Developer, at no expense to the City, shall maintain the City Property in presentable condition, including keeping the site reasonably free of debris and other unsightly materials.

3. Commencement and Completion of Project; Re-Conveyance of City Property to City for Failure to Timely Commence or Complete Project.

(A) Construction Commencement & Completion Dates. Developer shall commence on-site construction of the Project no later than the Outside Construction Commencement Date, and shall complete construction (as evidenced by a certificate of occupancy for the building) no later than the Outside Construction Completion Date.

(B) Construction Commencement; First Repurchase Option. No later than the Outside Construction Commencement Date, Developer shall (i) have applied for and received the required building permits from B&I for construction of the Project, and (ii) commenced on-site construction of the Project ("**Construction Commencement**"). As memorialized in the City's Deed, if Construction Commencement has not occurred on or before the Outside Construction Commencement Date, the City shall have the option to repurchase the City Property for the Purchase Price by limited warranty deed,

free and clear of all liens and encumbrances except those, if any, that were in existence as of the date and time of the Closing, exercisable by giving written notice thereof to Developer at any time after the Outside Construction Commencement Date, but prior to the date of Construction Commencement.

(C) Construction Completion; Second Repurchase Option. No later than the Outside Construction Completion Date, Developer shall complete the Project (as evidenced by a certificate of occupancy for the building) ("**Construction Completion**"). As memorialized in the City's Deed, if Construction Completion has not occurred on or before the Outside Construction Completion Date, the City shall have the option to repurchase the City Property for the Purchase Price, as defined in Section 1, above, by limited warranty deed, free and clear of all liens and encumbrances except those, if any, that were in existence as of the date and time of the Closing, exercisable by giving written notice thereof to Developer at any time after the Outside Construction Completion Date, but prior to the date of Construction Completion.

(D) Plans and Specifications. Developer shall design and construct the improvements in accordance with City-approved plans and specifications that are consistent with Exhibit B, including, without limitation, Developer's proposed site plan for driveway locations, parking, and other ancillary improvements. Once the City's DCED Director has approved Developer's plans, Developer shall not make any material changes thereto without the Director's prior written consent.

(E) Contractors and Subcontractors. Developer shall not solicit bids from any contractors or subcontractors who are identified as being debarred by the federal or state government or who are identified as being debarred on the City's Vendor's Performance list.

(F) Applicable Laws. Developer shall obtain, pay for, and maintain all necessary building permits and other permits, licenses, and other governmental approvals and shall comply with all applicable federal, state, and local laws, codes, ordinances, and other governmental requirements applicable to the construction of the Project, including, without limitation, those set forth on Exhibit D (Additional Requirements) hereto. The City makes no representations or other assurances to Developer that Developer will be able to obtain whatever variances, permits, or other approvals from B&I, the City's Department of Planning, Department of Transportation and Engineering ("**DOT**"), other City departments, City Planning Commission, or City Council that may be required in connection with the Project.

(G) Inspection of Work. During construction, the City, its employees and agents shall have the right at all reasonable times to inspect the progress of construction to determine whether Developer is complying with its obligations under this Agreement. If the City determines that the Project is not substantially in accordance with the City-approved plans and specifications or other requirements of this Agreement, is not in compliance with all applicable laws, or is not performed in a good and workmanlike manner, the City shall have the right, in its reasonable judgment and after giving Developer reasonable prior written notice thereof, to stop such work and order its replacement at Developer's expense.

(H) Mechanics' Liens. Developer shall not permit any mechanics' liens or other liens to be filed against the Property during construction. If a mechanic's lien shall at any time be filed, Developer shall, within 30 days after notice of the filing thereof, cause the same to be discharged of record.

(I) Reporting During Construction. Upon the City's request throughout construction, Developer shall provide the City with reports describing the status of the Project, including, without limitation, information about whether the Project is on budget and on schedule and containing such additional pertinent information thereto as the City may from time to time reasonably request. Developer shall submit a final report to the City upon completion of the Project.

(J) Recognition of City Support. Developer shall acknowledge the support of the City with respect to the Project in all printed materials such as informational releases, pamphlets and brochures, construction signs, Project and identification signage, and any publicity such as that appearing on the

Internet, television, cable television, radio, or in the press or any other printed media. In identifying the City as a participant, Developer shall use either the phrase "Project made possible by the City of Cincinnati" or a City of Cincinnati logotype or other form of acknowledgement that has been approved in advance in writing by the City. Developer's obligations under this section shall commence on the Effective Date and shall terminate on the date on which the Project has been completed.

4. Insurance; Indemnity.

(A) Insurance during Construction. Until such time as all construction work associated with the Project has been completed, Developer shall maintain, or cause to be maintained, the following insurance: (i) Commercial General Liability insurance of at least \$1,000,000 per occurrence, combined single limit/\$2,000,000 aggregate, naming the City as an additional insured, (ii) builder's risk insurance in the amount of 100% of the value of the improvements constructed, (iii) worker's compensation insurance in such amount as required by law, (iv) all insurance as may be required by Developer's construction lenders, and (v) such other insurance as may be reasonably required by the City's Division of Risk Management Developer's insurance policies shall (a) be written in standard form by companies of recognized responsibility and credit reasonably acceptable to the City, that are authorized to do business in Ohio, and that have an A.M. Best rating of A VII or better, and (b) provide that they may not be canceled or modified without at least 30 days prior written notice to the City.

(B) Waiver of Subrogation. Developer hereby waives all claims and rights of recovery, and on behalf of Developer's insurers, rights of subrogation, against the City, its employees, agents, contractors, and subcontractors with respect to any and all damage to or loss of property that is covered or that would ordinarily be covered by the insurance required under this Agreement to be maintained by Developer, even if such loss or damage arises from the negligence of the City, its employees, agents, contractors, or subcontractors; it being the agreement of the parties that Developer shall at all times protect against such loss or damage by maintaining adequate insurance. Developer shall cause its property insurance policies to include a waiver of subrogation provision consistent with the foregoing waiver.

(C) Indemnity. Notwithstanding anything in this Agreement to the contrary, as a material inducement to the City to enter into this Agreement, Developer shall defend, indemnify, and hold the City, its officers, council members, employees, and agents (collectively, the "Indemnified Parties") harmless from and against any and all actions, suits, claims, losses, costs (including, without limitation, attorneys' fees), demands, judgments, liability, and damages suffered or incurred by or asserted against the Indemnified Parties as a result of or arising from the acts of Developer, its agents, employees, contractors, subcontractors, licensees, invitees, or anyone else acting at the request of Developer in connection with the Project. Developer's obligations under this paragraph shall survive termination of this Agreement with respect to Claims suffered, incurred, asserted, or arising prior to the date of termination. As used herein, "Claims" means, collectively, any and all actions, suits, claims, losses, costs (including, without limitation, attorneys' fees), demands, judgments, liability, and damages.

5. Casualty; Eminent Domain. If the Project or the Property is damaged or destroyed by fire or other casualty during construction, or if any portion of the Property is taken by exercise of eminent domain (federal, state, or local), Developer shall repair and restore the affected property, as expeditiously as possible, and to the extent practicable, to substantially the same condition in which the Property was in immediately prior to such occurrence. To the extent the City's participation is required, the City and Developer shall jointly participate in filing claims and taking such other actions pertaining to the payment of proceeds resulting from such occurrence. If the proceeds are insufficient to fully repair and restore the affected property, the City shall not be required to make up the deficiency. Developer shall handle all construction in accordance with the applicable requirements set forth herein, including without limitation obtaining the City's approval of the plans and specifications if they deviate from the original City-approved plans. Developer shall not be relieved of any obligations, financial or otherwise, under this Agreement during any period in which the Project or the Property is being repaired or restored.

6. Default; Remedies.

(A) **Default.** The occurrence of any of the following shall be an “event of default” under this Agreement:

(i) the dissolution of Developer, the filing of any bankruptcy or insolvency proceedings by or against Developer, the making by Developer of an assignment for the benefit of creditors, the appointment of a receiver (temporary or permanent) for Developer, the attachment of, levy upon, or seizure by legal process of any property of Developer, or the insolvency of Developer;

(ii) any representation, warranty, or certification of Developer made in connection with this Agreement or any other related agreements or documents shall prove to have been false or materially misleading when made; or

(iii) a failure of Developer to perform or observe any obligation, duty, or responsibility under this Agreement or any other agreement to which Developer and the City are parties (including, without limitation, the CRA Agreement), and failure by Developer to correct such default within 30 days after Developer's receipt of written notice thereof from the City (the “Cure Period”); *provided, however*, that if the nature of the default is such that it cannot reasonably be cured during the Cure Period, Developer shall not be in default under this Agreement so long as such entity commences to cure the default within such Cure Period and thereafter diligently completes such cure within 90 days after Developer's receipt of the City's initial notice of default. Notwithstanding the foregoing, if Developer's failure to perform or observe any obligation, duty, or responsibility under this Agreement creates a dangerous condition or otherwise constitutes an emergency as determined by the City in good faith, an event of default shall be deemed to have occurred if Developer fails to take reasonable corrective action immediately upon discovering such dangerous condition or emergency.

(B) **Remedies.** Upon the occurrence of an event of default under this Agreement which is not cured or corrected within any applicable Cure Period, the City shall be entitled to (i) terminate this Agreement by giving Developer written notice thereof, (ii) take such actions in the way of “self-help” as the City determines to be reasonably necessary or appropriate to cure or lessen the impact of such event of default, all at the expense of Developer, and (iii) exercise any and all other rights and remedies under this Agreement or available at law or in equity, including, without limitation, pursuing an action for specific performance. Developer shall be liable for all costs and damages, including, without limitation, attorneys' fees, suffered or incurred by the City as a result of a default or event of default of Developer under this Agreement or the City's termination of this Agreement as a result of any such default. The failure of the City to insist upon the strict performance of any covenant or duty, or to pursue any remedy, under this Agreement or any other agreement to which Developer and the City are parties relating to the City Property shall not constitute a waiver of the breach of such covenant or of such remedy.

7. **Notices.** All notices given by the parties hereunder shall be deemed given if personally delivered, or delivered by UPS, Federal Express or other recognized courier service, or mailed by U.S. registered or certified mail, postage prepaid, return receipt requested, addressed to the parties at their addresses below or at such other addresses as either party may designate by notice to the other party given in the manner prescribed herein. Notices shall be deemed given on the date of receipt.

To the City:

City of Cincinnati
Attention: Director of the Department of
Community and Economic Development
Centennial Plaza Two, Suite 700
805 Central Avenue,
Cincinnati, Ohio 45202

To Developer:

6121-23 Madison Rd. Opportunity Fund, LLC
Attention: Bill Carroll, Manager
P.O. Box 43484
Cincinnati, Ohio 45243

If Developer sends a notice to the City alleging that the City is in default under this Agreement, Developer shall simultaneously send a copy of such notice by U.S. certified mail to: City Solicitor, 801 Plum Street, Suite 214, Cincinnati, Ohio 45202.

8. Representations, Warranties, and Covenants. Developer makes the following representations, warranties, and covenants to induce the City to enter into this Agreement:

(i) Developer is an Ohio limited liability company, duly organized and validly existing under the laws of the State of Ohio, is authorized to transact business in the State of Ohio, has properly filed all certificates and reports required to be filed by it under the laws of the State of Ohio, and is not in violation of any laws relevant to the transactions contemplated by this Agreement.

(ii) Developer has full power and authority to execute and deliver this Agreement and to carry out the transactions provided for herein. This Agreement has by proper action been duly authorized, executed, and delivered by such entity and all actions necessary have been taken to constitute this Agreement, when executed and delivered, valid and binding obligations of such entity.

(iii) Developer's execution, delivery, and performance of this Agreement and the transactions contemplated hereby will not violate any applicable laws, or any writ or decree of any court or governmental instrumentality, or Developer's organizational documents, or any mortgage, contract, agreement or other undertaking to which Developer is a party or which purports to be binding upon Developer or upon any of its assets, nor is Developer in violation or default of any of the foregoing.

(iv) There are no actions, suits, proceedings, or governmental investigations pending, or to the knowledge of Developer, threatened against or affecting Developer, or its parents, subsidiaries, or affiliates, at law or in equity or before or by any governmental authority that, if determined adversely, would impair the financial condition of such entity or its ability to perform its obligations with respect to the matters contemplated herein.

(v) Developer shall give prompt notice in writing to the City of the occurrence or existence of any litigation, labor dispute, or governmental proceedings or investigation affecting Developer that could reasonably be expected to interfere substantially with its normal operations or materially and adversely affect its financial condition or its completion of the Project.

(vi) The statements made in the documentation provided by Developer to the City that are descriptive of Developer or the Project have been reviewed by Developer and do not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make such statements, in light of the circumstances under which they were made, not misleading.

(vii) With reference to Section 301-20 of the Cincinnati Municipal Code, neither Developer nor its affiliates owe any outstanding fines, penalties, judgments, water or other utility charges, or other amounts to the City.

9. Reporting Requirements.

(A) Submission of Records and Reports; Records Retention. Developer shall collect, maintain, and furnish to the City upon the City's request such accounting, financial, business, administrative, operational, and other reports, records, statements, and information as may be requested by the City pertaining to Developer, the Project, or this Agreement, including, without limitation, reviewed financial statements, bank statements, income tax returns, information pertinent to the determination of finances of the Project, and such reports and information as may be required for compliance with programs and projects funded by the City, Hamilton County, the State of Ohio, or any federal agency (collectively, "**Records and Reports**"). All Records and Reports compiled by Developer and furnished to the City shall be in such form as the City may from time to time require. Developer shall retain all Records and Reports for a period of 3 years after the completion of the Project.

(B) City's Right to Inspect and Audit. During construction and for a period of 3 years after the completion of the Project, Developer shall permit the City and its designees and auditors to have reasonable access to and to inspect and audit Developer's Records and Reports. In the event any such inspection or audit discloses a material discrepancy with information previously provided by Developer to the City, Developer shall reimburse the City for its out-of-pocket costs associated with such inspection or audit.

10. General Provisions.

(A) Entire Agreement. This Agreement (including the exhibits hereto) and the other agreements referred to herein contain the entire agreement between the parties with respect to the subject matter hereof and supersede any and all prior discussions, negotiations, representations, or agreements, written or oral, between them respecting the subject matter hereof. In the event that any of the provisions of this Agreement purporting to describe specific provisions of other agreements are in conflict with the specific provisions of such other agreements, the provisions of such other agreements shall control.

(B) Amendments and Waivers. This Agreement may be amended, waived, or otherwise modified only by a written agreement signed by both parties.

(C) Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the City of Cincinnati and the State of Ohio. All actions regarding this Agreement shall be brought in the Hamilton County Court of Common Pleas, and Developer agrees that venue in such court is proper. Developer hereby waives trial by jury with respect to any and all disputes arising under this Agreement.

(D) Binding Effect. This Agreement shall be binding upon and shall inure to the benefit of and be enforceable by and against the parties and their respective successors and permitted assigns. Developer shall not assign its rights or obligations under this Agreement without the prior written consent of the City, which may be withheld in the City's sole discretion, and any attempt to do so without the City's consent shall, at the City's option, render this Agreement null and void. The City hereby consents to a collateral assignment of Developer's rights under this Agreement to Developer's construction lender for the Project.

(E) Captions. The captions of the various sections and paragraphs of this Agreement are not part of the context hereof and are only guides to assist in locating such sections and paragraphs and shall be ignored in construing this Agreement.

(F) Severability. If any part of this Agreement is held by a court of law to be void, illegal, or unenforceable, such part shall be deemed severed from this Agreement, and the balance of this Agreement shall remain in full force and effect.

(G) No Recording. This Agreement shall not be recorded in the Hamilton County Recorder's Office.

(H) Time. Time is of the essence with respect to the performance by Developer of its obligations under this Agreement.

(I) No Third Party Beneficiaries. The parties hereby agree that no third party beneficiary rights are intended to be created by this Agreement.

(J) No Brokers. Developer represents to the City that it has not dealt with a real estate broker, salesperson, or other person who might claim entitlement to a fee or other compensation from the other party as a result of the parties' execution of this Agreement.

(K) Official Capacity. All representations, warranties, covenants, agreements, and obligations of the City under this Agreement shall be effective to the extent authorized and permitted by applicable law. None of those representations, warranties, covenants, agreements, or obligations shall be deemed to be a representation, warranty, covenant, agreement, or obligation of any present or future officer, agent, employee, or attorney of the City in other than his or her official capacity.

(L) Conflict of Interest. No officer, employee, or agent of the City who exercises any functions or responsibilities in connection with the planning or carrying out of the Project shall have any personal financial interest, direct or indirect, in Developer or in the Project, and Developer shall take appropriate steps to assure compliance.

(M) Administrative Actions. To the extent permitted by applicable laws, and unless otherwise expressly provided in this Agreement, all actions taken or to be taken by the City under this Agreement may be taken by administrative action and shall not require legislative action of the City beyond the legislative action authorizing the execution of this Agreement.

(N) Counterparts and Electronic Signatures. This Agreement may be executed by the parties hereto in two or more counterparts and each executed counterpart shall be considered an original but all of which together shall constitute one and the same instrument. This Agreement may be executed and delivered by electronic signature; any original signatures that are initially delivered electronically shall be physically delivered as soon as reasonably possible.

11. Coordinated Report Conditions.

(A) GCWW. There is an active 3/4" copper water service branch to the City Property. All conditions of water service to the Property, including the location of attachment to the public water system and abandonment of any existing water service branches that presently serve the premises, will be determined upon submission of Developer's final plans and application for service to the Greater Cincinnati Water Works ("**GCWW**"). If Developer determines that the existing water system does not meet the project's fire and/or domestic water demands, then Developer may need to upgrade the water mains in the area of the Project to meet Developer's future water demands, which work will be performed at the expense of Developer and not at the expense of GCWW.

(B) MSD. Prior to applying for permits from B&I, the Metropolitan Sewer District of Greater Cincinnati ("**MSD**") may require that Developer submit a Request for Availability for Sewer Service ("**RASS**"). The RASS will outline any additional MSD project requirements, including, without limitation, need for MSD tap permits, easements and/or an Ohio EPA Permit to Install, utilization of licensed and bonded sewer tappers with MSD, sewer inspection scheduling, Project on-site separation of flow requirements, MSD detention requirements, MSD excavation/fill permitting and bonding, need for a grease interception system, and a reminder for the Project to coordinate with Stormwater Management Utility and GCWW for their specific additional detailed stormwater, detention, and flood plain requirements.

(C) DOT. Developer acknowledges that (i) future development of the Property must be reviewed and approved by DOT if such development impacts the right-of-way, (ii) DOT will need to approve any vehicular access to the site, and (iii) 10 feet of right-of-way should be retained from the face of the curb to the City Property line as the existing City Property line extends into the sidewalk area.

12. Exhibits. The following exhibits are attached hereto and made a part hereof:

- Exhibit A - *Legal Description*
- Exhibit B - *Scope of Work and Budget*
- Exhibit C - *Form of Quitclaim Deed*
- Exhibit D - *Additional Requirements*

SIGNATURES ON FOLLOWING PAGE

Executed by the parties on the dates indicated below their respective signatures, effective as of the later of such dates (the "Effective Date").

CITY OF CINCINNATI,
an Ohio municipal corporation

6121-23 MADISON RD. OPPORTUNITY FUND, LLC,
an Ohio limited liability company

By: _____
Paula Boggs Muething, City Manager

Date: _____, 2021

By: _____

Printed Name: _____

Title: _____

Date: _____, 2021

Authorized by resolution dated _____

Approved as to Form:

Assistant City Solicitor

Certified Date: _____

Fund/Code: _____

Amount: _____

By: _____
Karen Alder, City Finance Director

Exhibit A
to Property Sale and Development Agreement

Legal Description

Property Address: 6007 Madison Road, Cincinnati, Ohio 45227
Auditor's Parcel No.: 036-0003-0002-90

Situated in Cincinnati, Hamilton County, Ohio, in Section 16, Township 4, Fractional Range 2, of the Miami Purchase, commencing at a point in the south line of Madison Road, sixty-nine and five tenths feet (69.5') east of the east line of Ward Street, said point being the northeast corner of a lot conveyed by Laura Boyer to Sarah E. Settle recorded in Deed Book 1117, at page 307, Hamilton County, Ohio, Recorder's Office, said lot being now owned by The Queen City Motion Picture Company; thence south along the east line of said The Queen City Motion Picture Company lot and parallel to the east line of Ward Street one hundred forty-eight and five-tenths feet (148.5'); thence east on a line parallel to the south line of Madison Road twenty-nine and five-tenths feet (29.5'); thence north on a line parallel to the said east line of said Ward Street one hundred forty-eight and five-tenths feet (148.5') to the south line of said Madison Road; thence west with the south line of said Madison Road twenty-nine and five-tenths feet (29.5') to the place of beginning.

Exhibit B
to Property Sale and Development Agreement

Statement of Work and Budget

I. STATEMENT OF WORK

Restore the façade to its original architectural details. Renovate the existing apartments (approximately 4,210 sq. ft.), expand the apartment dwellings upstairs (approximately 3,497 sq. ft.), and construct a residential rooftop garden (approximately 1,047 square feet). Renovate the first-floor retail/office space. Add new stairways. Construct off-street parking.

II. STATEMENT OF BUDGET

(a) Uses:

6011 Madison Acquisition	\$460,000.00
6007 Madison Acquisition	\$28,442.00
Construction / Hard Costs	\$1,234,650.00
<u>Soft Costs</u>	<u>\$227,250.00</u>
Total	\$1,950,342.00

(b) Sources:

Equity	\$390,022.00
<u>Financing</u>	<u>\$1,560,320.00</u>
Total	\$1,950,342.00

Exhibit C
to Property Sale and Development Agreement
Form of Quitclaim Deed

SEE ATTACHED

----- space above for recorder -----

QUITCLAIM DEED

The **CITY OF CINCINNATI**, an Ohio municipal corporation (the "**City**"), having an address of 801 Plum Street, for valuable consideration paid, hereby grants and conveys to **6121-23 MADISON RD. OPPORTUNITY FUND, LLC**, an Ohio limited liability company, the address of which is _____ ("**Grantee**"), all of the City's right, title, and interest in and to the real property described on Exhibit A (*Legal Description*) hereto (the "**Property**").

Property Address: 6007 Madison Road, Cincinnati, Ohio 45227

Auditor's Parcel No.: 036-0003-0002-90

Re-conveyance to City upon Failure to Timely Commence or Complete Construction: The City and Grantee are parties to a *Property Sale and Development Agreement* dated [____], 2021 (the "**Agreement**"), pursuant to which Grantee is required to redevelop the Property. If Grantee does not commence construction at the Property on or before the construction commencement date specified in the Agreement, or if Grantee does not complete construction at the Property on or before the construction completion date specified in the Agreement, Grantee shall re-convey the Property to the City as described in the Agreement. At such time as the City no longer has the right to reacquire the Property under the Agreement, the City, at Grantee's request, shall execute and deliver to Grantee a release of such rights for recording in the Hamilton County, Ohio Records. Until such time as the Property has been reconveyed to the City or the City has released or waived its rights to reacquire the Property thereunder, Grantee shall not sell or otherwise transfer title to the Property or any portion thereof without the prior written consent of the City.

This conveyance was authorized by Ordinance No. [____]-2021, passed by Cincinnati City Council on [____], 2021.

Prior instrument reference: Deed Book 4072, Page 41, Hamilton County, Ohio Records.

[Signature and Notary Page Follows]

Executed on _____, 2021.

CITY OF CINCINNATI

By: _____
Paula Boggs Muething, City Manager

STATE OF OHIO)
) SS:
COUNTY OF HAMILTON)

The foregoing instrument was acknowledged before me this ___ day of _____, 2021 by _____, _____ of the CITY OF CINCINNATI, an Ohio municipal corporation, on behalf of the municipal corporation. The notarial act certified hereby is an acknowledgment. No oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

Notary Public
My commission expires: _____

Approved as to Form:

Assistant City Solicitor

This instrument prepared by:

City of Cincinnati Law Department
801 Plum Street, Suite 214
Cincinnati, Ohio 45202

Exhibits. The following exhibit is attached hereto and made a part hereof:
Exhibit A - Legal Description

Exhibit A
to Quitclaim Deed

Legal Description

Property Address: 6007 Madison Road, Cincinnati, Ohio 45227
Auditor's Parcel No.: 036-0003-0002-90

Situated in Cincinnati, Hamilton County, Ohio, in Section 16, Township 4, Fractional Range 2, of the Miami Purchase, commencing at a point in the south line of Madison Road, sixty-nine and five tenths feet (69.5') east of the east line of Ward Street, said point being the northeast corner of a lot conveyed by Laura Boyer to Sarah E. Settle recorded in Deed Book 1117, at page 307, Hamilton County, Ohio, Recorder's Office, said lot being now owned by The Queen City Motion Picture Company; thence south along the east line of said The Queen City Motion Picture Company lot and parallel to the east line of Ward Street one hundred forty-eight and five-tenths feet (148.5'); thence east on a line parallel to the south line of Madison Road twenty-nine and five-tenths feet (29.5'); thence north on a line parallel to the said east line of said Ward Street one hundred forty-eight and five-tenths feet (148.5') to the south line of said Madison Road; thence west with the south line of said Madison Road twenty-nine and five-tenths feet (29.5') to the place of beginning.

Exhibit D
to Property Sale and Development Agreement

Additional Requirements

Developer and Developer's general contractor shall comply with all applicable statutes, ordinances, regulations, and rules of the government of the United States, State of Ohio, County of Hamilton, and City of Cincinnati (collectively, "Government Requirements"), including the Government Requirements listed below, to the extent that they are applicable. Developer hereby acknowledges and agrees that (a) the below listing of Government Requirements is not intended to be an exhaustive list of Government Requirements applicable to the Project, Developer, or Developer's contractors, subcontractors or employees, either on the City's part or with respect to any other governmental entity, and (b) neither the City nor its Law Department is providing legal counsel to or creating an attorney-client relationship with Developer by attaching this Exhibit to the Agreement.

This Exhibit serves two functions:

(i) Serving as a Source of Information with Respect to Government Requirements. This Exhibit identifies certain Government Requirements that may be applicable to the Project, Developer, or its contractors and subcontractors. Because this Agreement requires that Developer comply with all applicable laws, regulations, and other Government Requirements (and in certain circumstances to cause others to do so), this Exhibit flags certain Government Requirements that Developers, contractors and subcontractors regularly face in constructing projects or doing business with the City. To the extent a Developer is legally required to comply with a Government Requirement, failure to comply with such a Government Requirement is a violation of the Agreement.

(ii) Affirmatively Imposing Contractual Obligations. If certain conditions for applicability are met, this Exhibit also affirmatively imposes contractual obligations on Developer, even where such obligations are not imposed on Developer by Government Requirements. As described below, the affirmative obligations imposed hereby are typically a result of policies adopted by City Council which, per Council's directive, are to be furthered by the inclusion of certain specified language in some or all City contracts. The City administration (including the City's Department of Community and Economic Development) is responsible for implementing the policy directives promulgated by Council (which typically takes place via the adoption of motions or resolutions by Council), including, in certain circumstances, by adding specific contractual provisions in City contracts such as this Agreement.

(A) Construction Workforce.

(i) Applicability. Consistent with the limitations contained within the City Resolutions identified in clause (ii) below, this Section (A) shall not apply to contracts with the City other than construction contracts, or to construction contracts to which the City is not a party. For the avoidance of doubt, this Agreement is a construction contract solely to the extent that it directly obligates Developer to assume the role of a general contractor on a construction project for public improvements such as police stations or other government buildings, public parks, or public roadways.

The Construction Workforce Goals are not applicable to future work (such as repairs or modifications) on any portion of the Project. The Construction Workforce Goals are not applicable to the purchase of specialty fixtures and trade fixtures.

(ii) Requirement. In furtherance of the policy enumerated in City Resolutions No. 32-1983 and 21-1998 concerning the inclusion of minorities and women in City construction work, if Developer is performing construction work for the City under a construction contract to which the City is a party, Developer shall use Best Efforts to achieve a standard of no less than 11.8% Minority Persons (as defined below) and 6.9% females (of whom at least one-half shall be Minority Persons) in each craft trade in Developer and its general contractor's aggregate workforce in Hamilton County, to be achieved at least

halfway through the construction contract (or in the case of a construction contract of six months or more, within 60 days of beginning the construction contract) (collectively, the "Construction Workforce Goals").

As used herein, the following terms shall have the following meanings:

(a) "**Best Efforts**" means substantially complying with all of the following as to any of its employees performing such construction, and requiring that all of its construction subcontractors substantially comply with all of the following: (1) solicitation of Minority Persons as potential employees through advertisements in local minority publications; and (2) contacting government agencies, private agencies, and/or trade unions for the job referral of qualified Minority Persons.

(b) "**Minority Person**" means any person who is Black, Asian or Pacific Islander, Hispanic, American Indian or Alaskan Native.

(c) "**Black**" means a person having origin in the black racial group of Africa.

(d) "**Asian or Pacific Islander**" means a person having origin in the original people of the Far East or the Pacific Islands, which includes, among others, China, India, Japan, Korea, the Philippine Islands, Malaysia, Hawaii and Samoa.

(e) "**Hispanic**" means a person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish cultural origin.

(f) "**American Indian**" or "**Alaskan Native**" means a person having origin in any of the original people of North America and who maintains cultural identification through tribal affiliation.

(B) Trade Unions; Subcontracts; Competitive Bidding.

(i) Meeting and Confering with Trade Unions.

(a) Applicability. Per City of Cincinnati, Ordinance No. 130-2002, this requirement is limited to transactions in which Developer receives City funds or other assistance (including, but not limited to, the City's construction of public improvements to specifically benefit the Project, or the City's sale of real property to Developer at below fair market value).

(b) Requirement. This Agreement may be subject to the requirements of City of Cincinnati, Ordinance No. 130-2002, as amended or superseded, providing that, if Developer receives City funds or other assistance, Developer and its general contractor, prior to the commencement of construction of the Project and prior to any expenditure of City funds, and with the aim of reaching comprehensive and efficient project agreements covering all work done by Developer or its general contractor, shall meet and confer with: the trade unions representing all of the crafts working on the Project, and minority, female, and locally-owned contractors and suppliers potentially involved with the construction of the Project. At this meeting, Developer and/or its general contractor shall make available copies of the scope of work and if prevailing wage rates apply, the rates pertaining to all proposed work on the Project. Not later than ten (10) days following Developer and/or its general contractor's meet and confer activity, Developer shall provide to the City, in writing, a summary of Developer and/or its general contractor's meet and confer activity.

(ii) Contracts and Subcontracts; Competitive Bidding.

(a) Applicability. This clause (ii) is applicable to "construction contracts" under Cincinnati Municipal Code Chapter 321. Municipal Code Chapter 321 defines "construction" as "any construction, reconstruction, improvement, enlargement, alteration, repair, painting, decorating, wrecking or demolition, of any public improvement the total overall project cost of which is fairly estimated by Federal or Ohio statutes to be more than four thousand dollars and performed by other than full-time

employees who have completed their probationary periods in the classified service of a public authority,” and “contract” as “all written agreements of the City of Cincinnati, its boards or commissions, prepared and signed by the city purchasing agent or a board or commission for the procurement or disposal of supplies, service or construction.”

(b) Requirement. If CMC Chapter 321 applies to the Project, Developer is required to ensure that all contracts and subcontracts for the Project are awarded pursuant to a competitive bidding process that is approved by the City in writing. All bids shall be subject to review by the City. All contracts and subcontracts shall be expressly required by written agreement to comply with the provisions of this Agreement and the applicable City and State of Ohio laws, ordinances and regulations with respect to such matters as allocation of subcontracts among trade crafts, Small Business Enterprise Program, Equal Employment Opportunity, and Construction Workforce Goals.

(iii) Competitive Bidding for Certain City-Funded Development Agreements.

(a) Applicability. Pursuant to Ordinance No. 273-2002, the provision in clause (b) below applies solely where the Project receives in \$250,000 or more in direct City funding, and where such funding comprises at least 25% of the Project’s budget. For the purposes of this clause (iii), “direct City funding” means a direct subsidy of City funds in the form of cash, including grants and forgivable loans, but not including public improvements, land acquisitions and sales, job creation tax credits, or tax abatements or exemptions.

(b) Requirement. This Agreement requires that Developer issue an invitation to bid on the construction components of the development by trade craft through public notification and that the bids be read aloud in a public forum. For purposes of this provision, the following terms shall be defined as set forth below:

(1) “Bid” means an offer in response to an invitation for bids to provide construction work.

(2) “Invitation to Bid” means the solicitation for quoted prices on construction specifications and setting a time, date and place for the submission of and public reading of bids. The place for the public reading of bids shall be chosen at the discretion of Developer; however, the place chosen must be accessible to the public on the date and time of the public reading and must have sufficient room capacity to accommodate the number of respondents to the invitation to bid.

(3) “Trade Craft” means (a) general construction work, (b) electrical equipment, (c) plumbing and gas fitting, (d) steam and hot water heating and air conditioning and ventilating apparatus, and steam power plant, (e) elevator work, and (f) fire protection.

(4) “Public Notification” means (a) advertisement of an invitation to bid with ACI (Allied Construction Industries) and the Dodge Report, and (b) dissemination of the advertisement (either by mail or electronically) to the South Central Ohio Minority Business Council, Greater Cincinnati Northern Kentucky African-American Chamber of Commerce, and the Hispanic Chamber of Commerce. The advertisement shall include a description of the “scope of work” and any other information reasonably necessary for the preparation of a bid, and it shall be published and disseminated no less than fourteen days prior to the deadline for submission of bids stated in the invitation to bid.

(5) “Read Aloud in a Public Forum” means all bids shall be read aloud at the time, date and place specified in the invitation for bids, and the bids shall be available for public inspection at the reading.

(C) City Building Code. All construction work must be performed in compliance with City building code requirements.

(D) Lead Paint Regulations. All work must be performed in compliance with Chapter 3742 of the Ohio Revised Code, Chapter 3701-32 of the Ohio Administrative Code, and must comply with OSHA's Lead in Construction Regulations and the OEPA's hazardous waste rules. All lead hazard abatement work must be supervised by an Ohio Licensed Lead Abatement Contractor/Supervisor.

(E) Displacement. If the Project involves the displacement of tenants, Developer shall comply with all Government Requirements in connection with such displacement. If the City shall become obligated to pay any relocation costs or benefits or other sums in connection with the displacement of tenants, under Cincinnati Municipal Code Chapter 740 or otherwise, Developer shall reimburse the City for any and all such amounts paid by the City in connection with such displacement within twenty (20) days after the City's written demand.

(F) Small Business Enterprise Program.¹

(i) Applicability. The applicability of Municipal Code Chapter 323 (Small Business Enterprise Program) is limited to construction contracts in excess of \$5,000. Municipal Code Chapter 323 defines "contract" as "a contract in excess of \$5,000.00, except types of contracts listed by the City purchasing agent as exempt and approved by the City Manager, for (a) construction, (b) supplies, (c) services, or (d) professional services." It defines "construction" as "any construction, reconstruction, improvement, enlargement, alteration, repair, painting, decorating, wrecking or demolition, of any public improvement the total overall project cost of which is fairly estimated by Federal or Ohio statutes to be more than \$4,000 and performed by other than full-time employees who have completed their probationary periods in the classified service of a public authority." To the extent Municipal Code Chapter 323 does not apply to this Agreement, Developer is not subject to the various reporting requirements described in this Section (F).

(ii) Requirement. The City has an aspirational goal that 30% of its total dollars spent for construction and 15% of its total dollars spent for supplies/services and professional services be spent with Small Business Enterprises ("SBE"s), which include SBEs owned by minorities and women. Accordingly, subject to clause (i) above, Developer and its general contractor shall use its best efforts and take affirmative steps to assure that SBEs are utilized as sources of supplies, equipment, construction, and services, with the goal of meeting 30% SBE participation for construction contracts and 15% participation for supplies/services and professional services contracts. An SBE means a consultant, supplier, contractor or subcontractor who is certified as an SBE by the City in accordance with Cincinnati Municipal Code ("CMC") Chapter 323. (A list of SBEs may be obtained from the Department of Economic Inclusion or from the City's web page, <http://cincinnati.diversitycompliance.com>.) Developer and its general contractor may refer interested firms to the Department of Economic Inclusion for review and possible certification as an SBE, and applications may also be obtained from such web page. If the SBE program is applicable to this Agreement, as described in clause (i) above, Developer agrees to take (or cause its general contractor to take) at least the following affirmative steps:

(1) Including qualified SBEs on solicitation lists.

(2) Assuring that SBEs are solicited whenever they are potential sources. Contractor must advertise, on at least two separate occasions, both in local minority publications and in other local newspapers of general circulation, invitations to SBEs to provide services, to supply materials or to bid on construction contracts for the Project. Contractor is encouraged to use the internet and similar types of advertising to reach a broader audience, but these additional types of advertising cannot be used as substitutes for the above.

(3) When economically feasible, dividing total requirements into small tasks or quantities so as to permit maximum SBE participation.

¹ Note: DCED is currently evaluating revisions to this SBE section due to recent legislative changes adopted by Council. If DCED implements these policy changes prior to the execution of this Agreement, this section will be revised.

(4) When needs permit, establishing delivery schedules that will encourage participation by SBEs.

(iii) Subject to clause (i) above, if any subcontracts are to be let, Developer shall require the prime contractor to take the above affirmative steps.

(iv) Subject to clause (i) above, Developer shall provide to the City, prior to commencement of the Project, a report listing all of the contractors and subcontractors for the Project, including information as to the owners, dollar amount of the contract or subcontract, and other information that may be deemed necessary by the City Manager. Developer or its general contractor shall update the report monthly by the 15th. Developer or its general contractor shall enter all reports required in this subsection via the City's web page referred to in clause (i) above or any successor site or system the City uses for this purpose. Upon execution of this Agreement, Developer and its general contractor shall contact the Department of Economic Inclusion to obtain instructions, the proper internet link, login information, and password to access the site and set up the necessary reports.

(v) Subject to clause (i) above, Developer and its general contractor shall periodically document its best efforts and affirmative steps to meet the above SBE participation goals by notarized affidavits executed in a form acceptable to the City, submitted upon the written request of the City. The City shall have the right to review records and documentation relevant to the affidavits. If affidavits are found to contain false statements, the City may prosecute the affiant pursuant to Section 2921.12, Ohio Revised Code.

(vi) Subject to clause (i) above, failure of Developer or its general contractor to take the affirmative steps specified above, to provide fair and equal opportunity to SBEs, or to provide technical assistance to SBEs as may be necessary to reach the minimum percentage goals for SBE participation as set forth in Cincinnati Municipal Code Chapter 323, may be construed by the City as failure of Developer to use best efforts, and, in addition to other remedies under this Agreement, may be a cause for the City to file suit in Common Pleas Court to enforce specific performance of the terms of this section.

(G) Equal Employment Opportunity.

(i) Applicability. Chapter 325 of the Cincinnati Municipal Code (Equal Employment Opportunity) applies (a) where the City expends more than \$5,000 under a non-construction contract, or (b) where the City spends or receives over \$5,000 to (1) employ another party to construct public improvements, (2) purchase services, or (3) lease any real or personal property to or from another party. Chapter 325 of the Municipal Code does not apply where the contract is (a) for the purchase of real or personal property to or from another party, (b) for the provision by the City of services to another party, (c) between the City and another governmental agency, or (d) for commodities such as utilities.

(ii) Requirement. If this Agreement is subject to the provisions of Chapter 325 of the Cincinnati Municipal Code (the City of Cincinnati's Equal Employment Opportunity Program), the provisions thereof are hereby incorporated by reference into this Agreement.

(H) Prevailing Wage. Developer shall comply, and shall cause all contractors working on the Project to comply, with all any prevailing wage requirements that may be applicable to the Project. In the event that the City is directed by the State of Ohio to make payments to construction workers based on violations of such requirements, Developer shall make such payments or reimburse the City for such payments within twenty (20) days of demand therefor. A copy of the City's prevailing wage determination may be attached to this Exhibit as Addendum I to Additional Requirements Exhibit (City's Prevailing Wage Determination) hereto.

(I) Compliance with the Immigration and Nationality Act. In the performance of its construction obligations under this Agreement, Developer shall comply with the following provisions of the federal Immigration and Nationality Act: 8 U.S.C.A. 1324a(a)(1)(A) and 8 U.S.C.A. 1324a(a)(2).

Compliance or noncompliance with those provisions shall be solely determined by final determinations resulting from the actions by the federal agencies authorized to enforce the Immigration and Nationality Act, or by determinations of the U.S.

(J) Prompt Payment. The provisions of Chapter 319 of the Cincinnati Municipal Code, which provides for a "Prompt Payment System", may apply to this Agreement. Municipal Code Chapter 319 also (i) provides certain requirements for invoices from contractors with respect to the Prompt Payment System, and (ii) obligates contractors to pay subcontractors for satisfactory work in a timely fashion as provided therein.

(K) Conflict of Interest. Pursuant to Ohio Revised Code 102.03, no officer, employee, or agent of the City who exercises any functions or responsibilities in connection with the planning or carrying out of the Project may have any personal financial interest, direct or indirect, in Developer or in the Project, and Developer shall take appropriate steps to assure compliance.

(L) Ohio Means Jobs. If this Agreement constitutes a construction contract (pursuant to the guidance with respect to the definition of that term provided in Section (A) above), then, pursuant to Ordinance No. 238-2010: To the extent allowable by law, Developer and its general contractor shall use its best efforts to post available employment opportunities with Developer, the general contractor's organization, or the organization of any subcontractor working with Developer or its general contractor with the OhioMeansJobs Center, 1916 Central Parkway, Cincinnati, Ohio 45214-2305, through its Employer Services Unit Manager at 513-946-7200.

(M) Wage Enforcement.

(i) Applicability. Council passed Ordinance No. 22-2016 on February 3, 2016, which ordained Chapter 326 (Wage Enforcement) of the Cincinnati Municipal Code (the "Wage Enforcement Chapter"). The Wage Enforcement Chapter was then amended by Ordinance No. 96-2017, passed May 17, 2017. As amended, the Wage Enforcement Chapter imposes certain requirements upon persons entering into agreements with the City whereby the City provides an incentive or benefit that is projected to exceed \$25,000, as described more particularly in the Wage Enforcement Chapter. Cincinnati Municipal Code Section 326-5 requires that the language below be included in contracts subject to the Wage Enforcement Chapter.

(ii) Required Contractual Language. Capitalized terms used, but not defined, in this clause (ii) have the meanings ascribed thereto in the Wage Enforcement Chapter.

(a) This contract is or may be subject to the Wage Enforcement provisions of the Cincinnati Municipal Code. These provisions require that any Person who has an Agreement with the city or with a Contractor or Subcontractor of that Person shall report all Complaints or Adverse Determinations of Wage Theft and Payroll Fraud (as each of those terms is defined in Chapter 326 of the Cincinnati Municipal Code) against the Contractor or Subcontractors to the Department of Economic Inclusion within 30 days of notification of the Complaint or Adverse Determination.

(b) If this contract is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this contract is required to include provisions in solicitations and contracts regarding a Development Site that all employers, Contractors or Subcontractors performing or proposing to perform work on a Development Site provide an initial sworn and notarized "Affidavit Regarding Wage Theft and Payroll Fraud" on a form prescribed by the city manager or his or her designee and, within 30 days of an Adverse Determination or Complaint of Wage Theft or Payroll Fraud, shall provide an "Amended Affidavit Regarding Wage Theft and Payroll Fraud" on a form prescribed by the city manager or his or her designee.

(c) If this contract is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this contract is required to authorize, and

does hereby specifically authorize, any local, state or federal agency, court, administrative body or other entity investigating a complaint of Wage Theft or Payroll Fraud against the Person (collectively "investigative bodies") to release to the City's Department of Economic Inclusion any and all evidence, findings, complaints and determinations associated with the allegations of Wage Theft or Payroll Fraud upon the City's request and further authorizes such investigative bodies to keep the City advised regarding the status of the investigation and ultimate determination. If the investigative bodies require the Person to provide additional authorization on a prescribed form or in another manner, the Person shall be required to provide such additional authorization within 14 days of a request by the City.

(d) If this Agreement is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this Agreement shall include in its contracts with all Contractors language that requires the Contractors to provide the authorizations set forth in subsection (c) above and that further requires each Contractor to include in its contracts with Subcontractors those same obligations for each Subcontractor and each lower tier subcontractor.

(e) If this Agreement is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this Agreement shall post a conspicuous notice on the Development Site throughout the entire period work is being performed pursuant to the Agreement indicating that the work being performed is subject to Cincinnati Municipal Code Chapter 326, Wage Enforcement, as administered by the City of Cincinnati Department of Economic Inclusion. Such notice shall include contact information for the Department of Economic Inclusion as provided by the department.

(f) Under the Wage Enforcement provisions, the city shall have the authority, under appropriate circumstances, to terminate this contract or to reduce the incentives or subsidies to be provided under this contract and to seek other remedies, including debarment.

(N) Americans with Disabilities Act; Accessibility.

(i) Applicability. Cincinnati City Council adopted Motion No. 201600188 on February 3, 2016 (the "Accessibility Motion"). This motion directs City administration, including DCED, to include language specifically requiring compliance with the Americans With Disabilities Act, together with any and all regulations or other binding directives promulgated pursuant thereto (collectively, the "ADA"), and imposing certain minimum accessibility standards on City-subsidized projects regardless of whether there are arguably exceptions or reductions in accessibility standards available under the ADA or State law.

(ii) Requirement. In furtherance of the policy objectives set forth in the Accessibility Motion, (A) the Project shall comply with the ADA, and (B) if (i) any building(s) within the Project is subject to the accessibility requirements of the ADA (e.g., by constituting a "place of public accommodation" or another category of structure to which the ADA is applicable) and (ii) such building(s) is not already required to meet the Contractual Minimum Accessibility Requirements (as defined below) pursuant to the ADA, applicable building code requirements, or by any other legal requirement, then Developer shall cause such building(s) to comply with the Contractual Minimum Accessibility Requirements in addition to any requirements pursuant to the ADA and the applicable building code or legal requirement. As used herein, "Contractual Minimum Accessibility Requirements" means that a building shall, at a minimum, include (1) at least one point of entry (as used in the ADA), accessible from a public right of way, with respect to which all architectural barriers (as used in the ADA) to entry have been eliminated, and (2) if such accessible point of entry is not a building's primary point of entry, conspicuous signage directing persons to such accessible point of entry.

(O) Electric Vehicle Charging Stations in Garages.

(i) Applicability. Cincinnati City Council passed Ordinance No. 89-2017 on May 10, 2017. This ordinance requires all agreements in which the City provides any amount of "qualifying incentives" for projects involving the construction of a parking garage to include a provision requiring the

inclusion of certain features in the garage relating to electric vehicles. The ordinance defines "qualifying incentives" as the provision of incentives or support for the construction of a parking garage in the form of (a) the provision of any City monies or monies controlled by the City including, without limitation, the provision of funds in the form of loans or grants; (b) the provision of service payments in lieu of taxes in connection with tax increment financing, including rebates of service payments in lieu of taxes; and (c) the provision of the proceeds of bonds issued by the City or with respect to which the City has provided any source of collateral security or repayment, including, but not limited to, the pledge of assessment revenues or service payments in lieu of taxes. For the avoidance of doubt, "qualifying incentives" does not include (1) tax abatements such as Community Reinvestment Area abatements pursuant to Ohio Revised Code 3735.67, et seq., or Job Creation Tax Credits pursuant to Ohio Revised Code 718.15; (2) the conveyance of City-owned real property for less than fair market value; and (3) any other type of City support in which the City provides non-monetary assistance to a project, regardless of value.

(ii) Requirement. If the applicability criteria of Ordinance No. 89-2017 are met, then the following requirements shall apply to any parking garage included within the Project: (a) at least one percent of parking spaces, rounding up to the nearest integer, shall be fitted with Level 2 minimum 7.2 kilowatt per hour electric car charging stations; provided that if one percent of parking spaces is less than two parking spaces, the minimum number of parking spaces subject to this clause shall be two parking spaces; and (b) the parking garage's electrical raceway to the electrical supply panel serving the garage shall be capable of providing a minimum of 7.2 kilowatts of electrical capacity to at least five percent of the parking spaces of the garage, rounding up to the nearest integer, and the electrical room supplying the garage must have the physical space for an electrical supply panel sufficient to provide 7.2 kilowatts of electrical capacity to at least five percent of the parking spaces of the garage, rounding up to the nearest integer.

(P) Certification as to Non-Debarment. Developer represents that neither it nor any of its principals is presently debarred by any federal, state, or local government agency. In completing the Project, Developer shall not solicit bids from any contractors or subcontractors who are identified as being debarred by any federal, state, or local government agency. If Developer or any of its principals becomes debarred by any federal, state, or local government agency during the term of this Agreement, Developer shall be considered in default under this Agreement.

Contract No. _____

PROPERTY SALE AND DEVELOPMENT AGREEMENT

between the

CITY OF CINCINNATI

and

6121-23 MADISON RD. OPPORTUNITY FUND, LLC

Project Name: 6007 and 6011 Madison Road

(sale of City-owned real property at 6007 Madison Road for consolidation with real property at 6011 Madison Road, and renovation into a mixed-use development consisting of approximately 3,793 square feet of commercial space, 7-8 residential units, and 12 surface parking spaces)

Dated: _____, 2021

PROPERTY SALE AND DEVELOPMENT AGREEMENT

This Property Sale and Development Agreement (this “**Agreement**”) is made and entered into on the Effective Date (as defined on the signature page hereof) by and between the **CITY OF CINCINNATI**, an Ohio municipal corporation, the address of which is 801 Plum Street, Cincinnati, Ohio 45202 (the “**City**”), and **6121-23 MADISON RD. OPPORTUNITY FUND, LLC**, an Ohio limited liability company, the address of which is P.O. Box 43484, Cincinnati, Ohio 45243 (“**Developer**”).

Recitals:

A. The City owns certain real property located at 6007 Madison Road, consisting of approximately 0.104 acres of vacant land in the Madisonville neighborhood of Cincinnati, as more particularly described on Exhibit A (Legal Description) hereto (the “**City Property**”), which is under the management and control of the City’s Department of Community and Economic Development (“**DCED**”).

B. Developer owns the abutting property at 6011 Madison Road (the “**Developer’s Property**”; and together with the City Property, the “**Property**”).

C. Developer desires to purchase the City Property for consolidation with the Developer’s Property to facilitate the renovation and expansion of the existing building on the Developer’s Property into a mixed-use development consisting of approximately 3,793 square feet of commercial space, approximately 7,707 square feet of residential space comprised of 7-8 apartments, and 12 surface parking spaces, all as more particularly described on Exhibit B (Statement of Work and Budget) hereto, at an estimated project cost (excluding the Purchase Price, as defined below) of approximately \$1,921,900, (the “**Project**”).

D. The City previously leased the City Property to the Civic Garden Center of Greater Cincinnati (“**CGC**”) for use as a community garden, and the City and Developer now desire to assist CGC with relocating the garden (the “**Garden Relocation**”). Prior to Closing (as defined below), Developer has agreed to (i) perform work associated with the Garden Relocation at the same cost as a third-party bid for work and approved by CGC, and/or (ii) reimburse CGC for expenses associated with the Garden Relocation in an amount totaling \$15,000 (the “**Garden Relocation Expenses**”), and the City is willing to reduce the Purchase Price (as defined below) in consideration thereof.

E. Developer has committed to commence on-site construction at the Property no later than 3 months after the Closing (the “**Outside Construction Commencement Date**”), and to complete construction at the Property no later than 18 months following the actual commencement of on-site construction (the “**Outside Construction Completion Date**”).

F. Developer estimates that the Project will create approximately (i) 15 full-time temporary construction jobs during the construction period with an approximate annual payroll of \$600,000, and (ii) 25 full-time equivalent permanent jobs following completion of construction of the Project with an approximate annual payroll of \$1,000,000.

G. The City’s Real Estate Services Division has determined, by appraisal, that the fair market value of the City Property is approximately \$39,500; however, to facilitate the Project and in consideration of Developer’s reimbursement of the Garden Relocation Expenses, the City is agreeable to (i) selling the City Property to Developer for less than fair market value; namely, for \$28,442 (the “**Purchase Price**”); and (ii) cooperating to facilitate a real property tax abatement for Developer’s improvements to the Property pursuant to a *LEED Community Reinvestment Area Tax Exemption Agreement* (the “**CRA Agreement**”), subject to passage by City Council of a separate ordinance authorizing such abatement.

H. Section 13 of Article VIII of the Ohio Constitution provides that, to create or preserve jobs and employment opportunities and to improve the economic welfare of the people of the State, it is a public interest and proper public purpose for the State or its political subdivisions to sell, lease, exchange,

or otherwise dispose of property within the State of Ohio for industry, commerce, distribution, and research.

I. Section 16 of Article VIII of the Ohio Constitution provides that it is in the public interest and a proper public purpose for the City to enhance the availability of adequate housing and to improve the economic and general well-being of the people of the City by providing or assisting in providing housing.

J. The City has determined that (i) the City Property is not needed for a municipal purpose, (ii) the City Property poses a financial liability to the City because the City must continue to incur expenses in maintaining it, and (iii) it is in the best interest of the City to eliminate competitive bidding in connection with the City's sale of the City Property because Developer owns the adjoining property, and consolidation of the Property will put the City Property to the highest and best use.

K. The City, upon recommendation of DCED, believes that it is in the best interests of the City and the health, safety, and welfare of its residents, and in accordance with the public purposes and provisions of applicable federal, state, and local laws and requirements, to enter into this Agreement.

L. City Planning Commission, having the authority to approve the change in the use of City-owned property, approved the sale of the City Property to Developer at its meeting on May 7, 2021.

M. Execution of this Agreement was authorized by Ordinance No. _____-2021, passed by City Council on _____, 2021.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Purchase Price. Subject to the terms and conditions set forth herein, the City hereby agrees to sell the City Property to Developer, and Developer hereby agrees to purchase the City Property from the City, for the Purchase Price. Developer acknowledges that it is familiar with the condition of the City Property and, at Closing (as defined below), the City shall convey the City Property to Developer in "as is" condition. The City makes no representations or warranties to Developer with respect to the condition of the City Property and, from and after the Closing, the City shall have no liability of any kind to Developer for any defects, adverse environmental condition, or any other matters affecting the City Property.

2. Closing; Conditions to Closing.

(A) Conditions. The Closing shall not occur unless and until the following conditions have been satisfied or waived, including any and all other conditions as may be identified in the City's Coordinated Report (the "**Conditions**"); *provided, however,* that if the City, in its sole and absolute discretion, determines that one or more of the Conditions would be more appropriately handled at Closing or post-Closing, the City may, if appropriate, include such Conditions in the City's Deed (as defined below) to Developer or handle such Conditions post-Closing. Developer shall perform all work and investigations and shall obtain and prepare all necessary documents pertaining to the satisfaction of the Conditions, all at no cost to the City.

(i) Title & Survey. Developer shall have approved the title to the City Property as set forth in a commitment of title insurance obtained by Developer and, if obtained by Developer, an ALTA property survey of the City Property;

(ii) Geotechnical & Environmental Condition. Developer shall be satisfied that the geotechnical and environmental condition of the City Property is acceptable for development of the Project;

- (iii) Developer Inspections. Developer shall have determined from any inspections and investigations made pursuant to this Section 2, including marketing studies, traffic studies, feasibility studies, and any other studies and investigations related to the Property or the Project that Developer may elect to conduct or have conducted, that the Property and the conditions and circumstances surrounding the Property are suitable for development, construction, and use of the Project in an economically feasible manner;
- (iv) Financing. The City's receipt of a satisfactory loan commitment or letter from Developer's lender evidencing that Developer has secured or will be able to secure all financing necessary to complete the Project;
- (v) Conceptual Drawings. Developer shall have submitted to the City conceptual drawings, followed by preliminary plans and specifications for the Project;
- (vi) Construction Contract. The City's receipt of final construction bids and a final budget for the Project and an executed copy of Developer's construction contract with Developer's general contractor for construction of the Project;
- (vii) Building Permit & Zoning Approvals. Developer shall have provided evidence that Developer has obtained a building permit issued by the City's Department of Buildings and Inspections (the "B&I") for the construction of the Project, including any and all zoning approvals that may be required;
- (viii) Construction Schedule. Developer shall have provided the proposed construction schedule for the Project;
- (ix) As-Built Appraisal. Developer shall have provided an "as-built" appraisal of the Project (if required by Developer's lender);
- (x) Satisfaction of Conditions in Coordinated Report. Developer shall have satisfied the conditions of the sale set forth in the City's Coordinated Report associated with the sale of the City Property, some of which are summarized in Section 11 below;
- (xi) Garden Relocation. The Garden Relocation shall have been completed, and Developer shall have incurred the Garden Relocation Expenses in the amount of \$15,000 and provided documentation satisfactory to the City, in the City's sole and absolute discretion; and
- (xii) Other Information. Developer shall have provided such other information and documents pertaining to Developer or the Project as the City may reasonably require.

All of the investigations and documents referred to in this paragraph (A) shall be performed and obtained, as the case may be, at no cost to the City.

(B) Developer's Right of Entry. Prior to Closing, Developer may enter the City Property during reasonable business hours to conduct tests and inspections related to the Project, *provided that* Developer must provide DCED at least 24 hours' notice prior to entering the City Property. Developer shall promptly repair any damage to the City Property resulting from its inspections and Developer shall hold the City harmless from any loss or expense arising out of Developer's activities on the City Property. Entry shall be at the sole risk of Developer. DCED shall cooperate with Developer in Developer's inspections, studies, and in obtaining all required approvals (it being acknowledged by Developer that the City makes no representations or assurances regarding the granting of any required approvals).

(C) Copies of Due Diligence Materials to Be Provided to City. Without limitation of Developer's other obligations, prior to Closing, and as such due diligence materials are obtained by Developer, Developer, at no cost to the City, shall provide DCED with copies of the inspection, engineering, and environmental reports, title reports, surveys, and other materials prepared by third party professionals obtained by Developer prior to Closing that pertain to the Project or the City Property, or are otherwise related to anything authorized pursuant to the terms and conditions of this Agreement.

(D) Right to Terminate. If prior to Closing, either party determines, after exercising reasonable good faith efforts, that any of the Conditions are not or cannot be satisfied within a reasonable period of time, such party shall have the right to terminate this Agreement by giving written notice thereof to the other party, whereupon this Agreement and all rights and obligations of the parties hereunder shall terminate. If all of the Conditions have not been satisfied to the satisfaction of both parties or waived in writing and for that reason the Closing has not occurred as of the date that is 3 months following the Effective Date, the City, in its sole and absolute discretion, may terminate this Agreement and all rights and obligations of the parties hereunder by giving written notice thereof to Developer.

(E) Closing Date. The closing ("**Closing**") shall take place 90 days after the Effective Date, or on such earlier or later date as the parties may agree upon.

(F) Closing Costs and Closing Documents. At the Closing, (i) Developer shall pay the Purchase Price in full, and (ii) the City shall convey all of its right, title, and interest in and to the City Property to Developer by Quitclaim Deed substantially in the form of Exhibit C (Form of Quitclaim Deed) hereto (the "**City's Deed**"). Developer shall pay all Hamilton County, Ohio, recording fees and any and all other customary closing costs associated with the Closing. There shall be no proration of real estate taxes and assessments at Closing, and from and after the Closing, Developer shall pay all real estate taxes and assessments thereafter becoming due. The provisions of this Agreement shall survive the City's execution and delivery of the City's Deed and shall not be deemed to have been merged therein. At Closing, the parties shall execute a closing statement and any and all other customary closing documents that are necessary for the Closing (except that the City shall not be required to execute a title affidavit or the like). Developer shall not transfer title to the City Property prior to the completion of construction without the City's prior written consent. Pursuant to Section 301-20, Cincinnati Municipal Code, at Closing, Developer shall pay to the City any and all unpaid related and unrelated fines, penalties, judgments, water or other utility charges, and any and all other outstanding amounts owed to the City by Developer or any of its affiliated entities. The provisions of this Agreement shall survive the City's execution and delivery of the City's Deed and shall not be deemed to have been merged therein.

(G) Maintenance of City Property Between Closing and Prior to Construction. Between the Closing and Construction Commencement (as defined below), Developer, at no expense to the City, shall maintain the City Property in presentable condition, including keeping the site reasonably free of debris and other unsightly materials.

3. Commencement and Completion of Project; Re-Conveyance of City Property to City for Failure to Timely Commence or Complete Project.

(A) Construction Commencement & Completion Dates. Developer shall commence on-site construction of the Project no later than the Outside Construction Commencement Date, and shall complete construction (as evidenced by a certificate of occupancy for the building) no later than the Outside Construction Completion Date.

(B) Construction Commencement: First Repurchase Option. No later than the Outside Construction Commencement Date, Developer shall (i) have applied for and received the required building permits from B&I for construction of the Project, and (ii) commenced on-site construction of the Project ("**Construction Commencement**"). As memorialized in the City's Deed, if Construction Commencement has not occurred on or before the Outside Construction Commencement Date, the City shall have the option to repurchase the City Property for the Purchase Price by limited warranty deed,

free and clear of all liens and encumbrances except those, if any, that were in existence as of the date and time of the Closing, exercisable by giving written notice thereof to Developer at any time after the Outside Construction Commencement Date, but prior to the date of Construction Commencement.

(C) Construction Completion; Second Repurchase Option. No later than the Outside Construction Completion Date, Developer shall complete the Project (as evidenced by a certificate of occupancy for the building) ("**Construction Completion**"). As memorialized in the City's Deed, if Construction Completion has not occurred on or before the Outside Construction Completion Date, the City shall have the option to repurchase the City Property for the Purchase Price, as defined in Section 1, above, by limited warranty deed, free and clear of all liens and encumbrances except those, if any, that were in existence as of the date and time of the Closing, exercisable by giving written notice thereof to Developer at any time after the Outside Construction Completion Date, but prior to the date of Construction Completion.

(D) Plans and Specifications. Developer shall design and construct the improvements in accordance with City-approved plans and specifications that are consistent with Exhibit B, including, without limitation, Developer's proposed site plan for driveway locations, parking, and other ancillary improvements. Once the City's DCED Director has approved Developer's plans, Developer shall not make any material changes thereto without the Director's prior written consent.

(E) Contractors and Subcontractors. Developer shall not solicit bids from any contractors or subcontractors who are identified as being debarred by the federal or state government or who are identified as being debarred on the City's Vendor's Performance list.

(F) Applicable Laws. Developer shall obtain, pay for, and maintain all necessary building permits and other permits, licenses, and other governmental approvals and shall comply with all applicable federal, state, and local laws, codes, ordinances, and other governmental requirements applicable to the construction of the Project, including, without limitation, those set forth on Exhibit D (Additional Requirements) hereto. The City makes no representations or other assurances to Developer that Developer will be able to obtain whatever variances, permits, or other approvals from B&I, the City's Department of Planning, Department of Transportation and Engineering ("**DOT**"), other City departments, City Planning Commission, or City Council that may be required in connection with the Project.

(G) Inspection of Work. During construction, the City, its employees and agents shall have the right at all reasonable times to inspect the progress of construction to determine whether Developer is complying with its obligations under this Agreement. If the City determines that the Project is not substantially in accordance with the City-approved plans and specifications or other requirements of this Agreement, is not in compliance with all applicable laws, or is not performed in a good and workmanlike manner, the City shall have the right, in its reasonable judgment and after giving Developer reasonable prior written notice thereof, to stop such work and order its replacement at Developer's expense.

(H) Mechanics' Liens. Developer shall not permit any mechanics' liens or other liens to be filed against the Property during construction. If a mechanic's lien shall at any time be filed, Developer shall, within 30 days after notice of the filing thereof, cause the same to be discharged of record.

(I) Reporting During Construction. Upon the City's request throughout construction, Developer shall provide the City with reports describing the status of the Project, including, without limitation, information about whether the Project is on budget and on schedule and containing such additional pertinent information thereto as the City may from time to time reasonably request. Developer shall submit a final report to the City upon completion of the Project.

(J) Recognition of City Support. Developer shall acknowledge the support of the City with respect to the Project in all printed materials such as informational releases, pamphlets and brochures, construction signs, Project and identification signage, and any publicity such as that appearing on the

Internet, television, cable television, radio, or in the press or any other printed media. In identifying the City as a participant, Developer shall use either the phrase "Project made possible by the City of Cincinnati" or a City of Cincinnati logotype or other form of acknowledgement that has been approved in advance in writing by the City. Developer's obligations under this section shall commence on the Effective Date and shall terminate on the date on which the Project has been completed.

4. Insurance; Indemnity.

(A) Insurance during Construction. Until such time as all construction work associated with the Project has been completed, Developer shall maintain, or cause to be maintained, the following insurance: (i) Commercial General Liability insurance of at least \$1,000,000 per occurrence, combined single limit/\$2,000,000 aggregate, naming the City as an additional insured, (ii) builder's risk insurance in the amount of 100% of the value of the improvements constructed, (iii) worker's compensation insurance in such amount as required by law, (iv) all insurance as may be required by Developer's construction lenders, and (v) such other insurance as may be reasonably required by the City's Division of Risk Management Developer's insurance policies shall (a) be written in standard form by companies of recognized responsibility and credit reasonably acceptable to the City, that are authorized to do business in Ohio, and that have an A.M. Best rating of A VII or better, and (b) provide that they may not be canceled or modified without at least 30 days prior written notice to the City.

(B) Waiver of Subrogation. Developer hereby waives all claims and rights of recovery, and on behalf of Developer's insurers, rights of subrogation, against the City, its employees, agents, contractors, and subcontractors with respect to any and all damage to or loss of property that is covered or that would ordinarily be covered by the insurance required under this Agreement to be maintained by Developer, even if such loss or damage arises from the negligence of the City, its employees, agents, contractors, or subcontractors; it being the agreement of the parties that Developer shall at all times protect against such loss or damage by maintaining adequate insurance. Developer shall cause its property insurance policies to include a waiver of subrogation provision consistent with the foregoing waiver.

(C) Indemnity. Notwithstanding anything in this Agreement to the contrary, as a material inducement to the City to enter into this Agreement, Developer shall defend, indemnify, and hold the City, its officers, council members, employees, and agents (collectively, the "Indemnified Parties") harmless from and against any and all actions, suits, claims, losses, costs (including, without limitation, attorneys' fees), demands, judgments, liability, and damages suffered or incurred by or asserted against the Indemnified Parties as a result of or arising from the acts of Developer, its agents, employees, contractors, subcontractors, licensees, invitees, or anyone else acting at the request of Developer in connection with the Project. Developer's obligations under this paragraph shall survive termination of this Agreement with respect to Claims suffered, incurred, asserted, or arising prior to the date of termination. As used herein, "**Claims**" means, collectively, any and all actions, suits, claims, losses, costs (including, without limitation, attorneys' fees), demands, judgments, liability, and damages.

5. Casualty; Eminent Domain. If the Project or the Property is damaged or destroyed by fire or other casualty during construction, or if any portion of the Property is taken by exercise of eminent domain (federal, state, or local), Developer shall repair and restore the affected property, as expeditiously as possible, and to the extent practicable, to substantially the same condition in which the Property was in immediately prior to such occurrence. To the extent the City's participation is required, the City and Developer shall jointly participate in filing claims and taking such other actions pertaining to the payment of proceeds resulting from such occurrence. If the proceeds are insufficient to fully repair and restore the affected property, the City shall not be required to make up the deficiency. Developer shall handle all construction in accordance with the applicable requirements set forth herein, including without limitation obtaining the City's approval of the plans and specifications if they deviate from the original City-approved plans. Developer shall not be relieved of any obligations, financial or otherwise, under this Agreement during any period in which the Project or the Property is being repaired or restored.

6. Default; Remedies.

(A) **Default.** The occurrence of any of the following shall be an “**event of default**” under this Agreement:

(i) the dissolution of Developer, the filing of any bankruptcy or insolvency proceedings by or against Developer, the making by Developer of an assignment for the benefit of creditors, the appointment of a receiver (temporary or permanent) for Developer, the attachment of, levy upon, or seizure by legal process of any property of Developer, or the insolvency of Developer;

(ii) any representation, warranty, or certification of Developer made in connection with this Agreement or any other related agreements or documents shall prove to have been false or materially misleading when made; or

(iii) a failure of Developer to perform or observe any obligation, duty, or responsibility under this Agreement or any other agreement to which Developer and the City are parties (including, without limitation, the CRA Agreement), and failure by Developer to correct such default within 30 days after Developer’s receipt of written notice thereof from the City (the “**Cure Period**”); *provided, however*, that if the nature of the default is such that it cannot reasonably be cured during the Cure Period, Developer shall not be in default under this Agreement so long as such entity commences to cure the default within such Cure Period and thereafter diligently completes such cure within 90 days after Developer’s receipt of the City’s initial notice of default. Notwithstanding the foregoing, if Developer’s failure to perform or observe any obligation, duty, or responsibility under this Agreement creates a dangerous condition or otherwise constitutes an emergency as determined by the City in good faith, an event of default shall be deemed to have occurred if Developer fails to take reasonable corrective action immediately upon discovering such dangerous condition or emergency.

(B) **Remedies.** Upon the occurrence of an event of default under this Agreement which is not cured or corrected within any applicable Cure Period, the City shall be entitled to (i) terminate this Agreement by giving Developer written notice thereof, (ii) take such actions in the way of “self-help” as the City determines to be reasonably necessary or appropriate to cure or lessen the impact of such event of default, all at the expense of Developer, and (iii) exercise any and all other rights and remedies under this Agreement or available at law or in equity, including, without limitation, pursuing an action for specific performance. Developer shall be liable for all costs and damages, including, without limitation, attorneys’ fees, suffered or incurred by the City as a result of a default or event of default of Developer under this Agreement or the City’s termination of this Agreement as a result of any such default. The failure of the City to insist upon the strict performance of any covenant or duty, or to pursue any remedy, under this Agreement or any other agreement to which Developer and the City are parties relating to the City Property shall not constitute a waiver of the breach of such covenant or of such remedy.

7. Notices. All notices given by the parties hereunder shall be deemed given if personally delivered, or delivered by UPS, Federal Express or other recognized courier service, or mailed by U.S. registered or certified mail, postage prepaid, return receipt requested, addressed to the parties at their addresses below or at such other addresses as either party may designate by notice to the other party given in the manner prescribed herein. Notices shall be deemed given on the date of receipt.

To the City:

City of Cincinnati
Attention: Director of the Department of
Community and Economic Development
Centennial Plaza Two, Suite 700
805 Central Avenue,
Cincinnati, Ohio 45202

To Developer:

6121-23 Madison Rd. Opportunity Fund, LLC
Attention: Bill Carroll, Manager
P.O. Box 43484
Cincinnati, Ohio 45243

If Developer sends a notice to the City alleging that the City is in default under this Agreement, Developer shall simultaneously send a copy of such notice by U.S. certified mail to: City Solicitor, 801 Plum Street, Suite 214, Cincinnati, Ohio 45202.

8. Representations, Warranties, and Covenants. Developer makes the following representations, warranties, and covenants to induce the City to enter into this Agreement:

(i) Developer is an Ohio limited liability company, duly organized and validly existing under the laws of the State of Ohio, is authorized to transact business in the State of Ohio, has properly filed all certificates and reports required to be filed by it under the laws of the State of Ohio, and is not in violation of any laws relevant to the transactions contemplated by this Agreement.

(ii) Developer has full power and authority to execute and deliver this Agreement and to carry out the transactions provided for herein. This Agreement has by proper action been duly authorized, executed, and delivered by such entity and all actions necessary have been taken to constitute this Agreement, when executed and delivered, valid and binding obligations of such entity.

(iii) Developer's execution, delivery, and performance of this Agreement and the transactions contemplated hereby will not violate any applicable laws, or any writ or decree of any court or governmental instrumentality, or Developer's organizational documents, or any mortgage, contract, agreement or other undertaking to which Developer is a party or which purports to be binding upon Developer or upon any of its assets, nor is Developer in violation or default of any of the foregoing.

(iv) There are no actions, suits, proceedings, or governmental investigations pending, or to the knowledge of Developer, threatened against or affecting Developer, or its parents, subsidiaries, or affiliates, at law or in equity or before or by any governmental authority that, if determined adversely, would impair the financial condition of such entity or its ability to perform its obligations with respect to the matters contemplated herein.

(v) Developer shall give prompt notice in writing to the City of the occurrence or existence of any litigation, labor dispute, or governmental proceedings or investigation affecting Developer that could reasonably be expected to interfere substantially with its normal operations or materially and adversely affect its financial condition or its completion of the Project.

(vi) The statements made in the documentation provided by Developer to the City that are descriptive of Developer or the Project have been reviewed by Developer and do not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make such statements, in light of the circumstances under which they were made, not misleading.

(vii) With reference to Section 301-20 of the Cincinnati Municipal Code, neither Developer nor its affiliates owe any outstanding fines, penalties, judgments, water or other utility charges, or other amounts to the City.

9. Reporting Requirements.

(A) Submission of Records and Reports; Records Retention. Developer shall collect, maintain, and furnish to the City upon the City's request such accounting, financial, business, administrative, operational, and other reports, records, statements, and information as may be requested by the City pertaining to Developer, the Project, or this Agreement, including, without limitation, reviewed financial statements, bank statements, income tax returns, information pertinent to the determination of finances of the Project, and such reports and information as may be required for compliance with programs and projects funded by the City, Hamilton County, the State of Ohio, or any federal agency (collectively, "**Records and Reports**"). All Records and Reports compiled by Developer and furnished to the City shall be in such form as the City may from time to time require. Developer shall retain all Records and Reports for a period of 3 years after the completion of the Project.

(B) City's Right to Inspect and Audit. During construction and for a period of 3 years after the completion of the Project, Developer shall permit the City and its designees and auditors to have reasonable access to and to inspect and audit Developer's Records and Reports. In the event any such inspection or audit discloses a material discrepancy with information previously provided by Developer to the City, Developer shall reimburse the City for its out-of-pocket costs associated with such inspection or audit.

10. General Provisions.

(A) Entire Agreement. This Agreement (including the exhibits hereto) and the other agreements referred to herein contain the entire agreement between the parties with respect to the subject matter hereof and supersede any and all prior discussions, negotiations, representations, or agreements, written or oral, between them respecting the subject matter hereof. In the event that any of the provisions of this Agreement purporting to describe specific provisions of other agreements are in conflict with the specific provisions of such other agreements, the provisions of such other agreements shall control.

(B) Amendments and Waivers. This Agreement may be amended, waived, or otherwise modified only by a written agreement signed by both parties.

(C) Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the City of Cincinnati and the State of Ohio. All actions regarding this Agreement shall be brought in the Hamilton County Court of Common Pleas, and Developer agrees that venue in such court is proper. Developer hereby waives trial by jury with respect to any and all disputes arising under this Agreement.

(D) Binding Effect. This Agreement shall be binding upon and shall inure to the benefit of and be enforceable by and against the parties and their respective successors and permitted assigns. Developer shall not assign its rights or obligations under this Agreement without the prior written consent of the City, which may be withheld in the City's sole discretion, and any attempt to do so without the City's consent shall, at the City's option, render this Agreement null and void. The City hereby consents to a collateral assignment of Developer's rights under this Agreement to Developer's construction lender for the Project.

(E) Captions. The captions of the various sections and paragraphs of this Agreement are not part of the context hereof and are only guides to assist in locating such sections and paragraphs and shall be ignored in construing this Agreement.

(F) Severability. If any part of this Agreement is held by a court of law to be void, illegal, or unenforceable, such part shall be deemed severed from this Agreement, and the balance of this Agreement shall remain in full force and effect.

(G) No Recording. This Agreement shall not be recorded in the Hamilton County Recorder's Office.

(H) Time. Time is of the essence with respect to the performance by Developer of its obligations under this Agreement.

(I) No Third Party Beneficiaries. The parties hereby agree that no third party beneficiary rights are intended to be created by this Agreement.

(J) No Brokers. Developer represents to the City that it has not dealt with a real estate broker, salesperson, or other person who might claim entitlement to a fee or other compensation from the other party as a result of the parties' execution of this Agreement.

(K) Official Capacity. All representations, warranties, covenants, agreements, and obligations of the City under this Agreement shall be effective to the extent authorized and permitted by applicable law. None of those representations, warranties, covenants, agreements, or obligations shall be deemed to be a representation, warranty, covenant, agreement, or obligation of any present or future officer, agent, employee, or attorney of the City in other than his or her official capacity.

(L) Conflict of Interest. No officer, employee, or agent of the City who exercises any functions or responsibilities in connection with the planning or carrying out of the Project shall have any personal financial interest, direct or indirect, in Developer or in the Project, and Developer shall take appropriate steps to assure compliance.

(M) Administrative Actions. To the extent permitted by applicable laws, and unless otherwise expressly provided in this Agreement, all actions taken or to be taken by the City under this Agreement may be taken by administrative action and shall not require legislative action of the City beyond the legislative action authorizing the execution of this Agreement.

(N) Counterparts and Electronic Signatures. This Agreement may be executed by the parties hereto in two or more counterparts and each executed counterpart shall be considered an original but all of which together shall constitute one and the same instrument. This Agreement may be executed and delivered by electronic signature; any original signatures that are initially delivered electronically shall be physically delivered as soon as reasonably possible.

11. Coordinated Report Conditions.

(A) GCWW. There is an active 3/4" copper water service branch to the City Property. All conditions of water service to the Property, including the location of attachment to the public water system and abandonment of any existing water service branches that presently serve the premises, will be determined upon submission of Developer's final plans and application for service to the Greater Cincinnati Water Works ("**GCWW**"). If Developer determines that the existing water system does not meet the project's fire and/or domestic water demands, then Developer may need to upgrade the water mains in the area of the Project to meet Developer's future water demands, which work will be performed at the expense of Developer and not at the expense of GCWW.

(B) MSD. Prior to applying for permits from B&I, the Metropolitan Sewer District of Greater Cincinnati ("**MSD**") may require that Developer submit a Request for Availability for Sewer Service ("**RASS**"). The RASS will outline any additional MSD project requirements, including, without limitation, need for MSD tap permits, easements and/or an Ohio EPA Permit to Install, utilization of licensed and bonded sewer tappers with MSD, sewer inspection scheduling, Project on-site separation of flow requirements, MSD detention requirements, MSD excavation/fill permitting and bonding, need for a grease interception system, and a reminder for the Project to coordinate with Stormwater Management Utility and GCWW for their specific additional detailed stormwater, detention, and flood plain requirements.

(C) DOT. Developer acknowledges that (i) future development of the Property must be reviewed and approved by DOTE if such development impacts the right-of-way, (ii) DOTE will need to approve any vehicular access to the site, and (iii) 10 feet of right-of-way should be retained from the face of the curb to the City Property line as the existing City Property line extends into the sidewalk area.

12. Exhibits. The following exhibits are attached hereto and made a part hereof:

Exhibit A - *Legal Description*

Exhibit B - *Scope of Work and Budget*

Exhibit C - *Form of Quitclaim Deed*

Exhibit D - *Additional Requirements*

SIGNATURES ON FOLLOWING PAGE

Executed by the parties on the dates indicated below their respective signatures, effective as of the later of such dates (the "Effective Date").

CITY OF CINCINNATI,
an Ohio municipal corporation

6121-23 MADISON RD. OPPORTUNITY FUND, LLC,
an Ohio limited liability company

By: _____
Paula Boggs Muething, City Manager

Date: _____, 2021

By: _____

Printed Name: _____

Title: _____

Date: _____, 2021

Authorized by resolution dated _____

Approved as to Form:

Assistant City Solicitor

Certified Date: _____

Fund/Code: _____

Amount: _____

By: _____
Karen Alder, City Finance Director

Exhibit A
to Property Sale and Development Agreement

Legal Description

Property Address: 6007 Madison Road, Cincinnati, Ohio 45227
Auditor's Parcel No.: 036-0003-0002-90

Situated in Cincinnati, Hamilton County, Ohio, in Section 16, Township 4, Fractional Range 2, of the Miami Purchase, commencing at a point in the south line of Madison Road, sixty-nine and five tenths feet (69.5') east of the east line of Ward Street, said point being the northeast corner of a lot conveyed by Laura Boyer to Sarah E. Settle recorded in Deed Book 1117, at page 307, Hamilton County, Ohio, Recorder's Office, said lot being now owned by The Queen City Motion Picture Company; thence south along the east line of said The Queen City Motion Picture Company lot and parallel to the east line of Ward Street one hundred forty-eight and five-tenths feet (148.5'); thence east on a line parallel to the south line of Madison Road twenty-nine and five-tenths feet (29.5'); thence north on a line parallel to the said east line of said Ward Street one hundred forty-eight and five-tenths feet (148.5') to the south line of said Madison Road; thence west with the south line of said Madison Road twenty-nine and five-tenths feet (29.5') to the place of beginning.

Exhibit B
to Property Sale and Development Agreement

Statement of Work and Budget

I. STATEMENT OF WORK

Restore the façade to its original architectural details. Renovate the existing apartments (approximately 4,210 sq. ft.), expand the apartment dwellings upstairs (approximately 3,497 sq. ft.), and construct a residential rooftop garden (approximately 1,047 square feet). Renovate the first-floor retail/office space. Add new stairways. Construct off-street parking.

II. STATEMENT OF BUDGET

(a) Uses:

6011 Madison Acquisition	\$460,000.00
6007 Madison Acquisition	\$28,442.00
Construction / Hard Costs	\$1,234,650.00
Soft Costs	\$227,250.00
Total	\$1,950,342.00

(b) Sources:

Equity	\$390,022.00
Financing	\$1,560,320.00
Total	\$1,950,342.00

Exhibit C
to Property Sale and Development Agreement
Form of Quitclaim Deed

SEE ATTACHED

----- space above for recorder -----

QUITCLAIM DEED

The **CITY OF CINCINNATI**, an Ohio municipal corporation (the “**City**”), having an address of 801 Plum Street, for valuable consideration paid, hereby grants and conveys to **6121-23 MADISON RD. OPPORTUNITY FUND, LLC**, an Ohio limited liability company, the address of which is _____ (“**Grantee**”), all of the City’s right, title, and interest in and to the real property described on Exhibit A (*Legal Description*) hereto (the “**Property**”).

Property Address: 6007 Madison Road, Cincinnati, Ohio 45227

Auditor’s Parcel No.: 036-0003-0002-90

Re-conveyance to City upon Failure to Timely Commence or Complete Construction: The City and Grantee are parties to a *Property Sale and Development Agreement* dated [____], 2021 (the “**Agreement**”), pursuant to which Grantee is required to redevelop the Property. If Grantee does not commence construction at the Property on or before the construction commencement date specified in the Agreement, or if Grantee does not complete construction at the Property on or before the construction completion date specified in the Agreement, Grantee shall re-convey the Property to the City as described in the Agreement. At such time as the City no longer has the right to reacquire the Property under the Agreement, the City, at Grantee’s request, shall execute and deliver to Grantee a release of such rights for recording in the Hamilton County, Ohio Records. Until such time as the Property has been reconveyed to the City or the City has released or waived its rights to reacquire the Property thereunder, Grantee shall not sell or otherwise transfer title to the Property or any portion thereof without the prior written consent of the City.

This conveyance was authorized by Ordinance No. [____]-2021, passed by Cincinnati City Council on [____], 2021.

Prior instrument reference: Deed Book 4072, Page 41, Hamilton County, Ohio Records.

[Signature and Notary Page Follows]

Executed on _____, 2021.

CITY OF CINCINNATI

By: _____
Paula Boggs Muething, City Manager

STATE OF OHIO)
) SS:
COUNTY OF HAMILTON)

The foregoing instrument was acknowledged before me this ____ day of _____, 2021 by _____, _____ of the CITY OF CINCINNATI, an Ohio municipal corporation, on behalf of the municipal corporation. The notarial act certified hereby is an acknowledgment. No oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

Notary Public
My commission expires: _____

Approved as to Form:

Assistant City Solicitor

This instrument prepared by:

City of Cincinnati Law Department
801 Plum Street, Suite 214
Cincinnati, Ohio 45202

Exhibits. The following exhibit is attached hereto and made a part hereof:
Exhibit A - *Legal Description*

Exhibit A
to Quitclaim Deed

Legal Description

Property Address: 6007 Madison Road, Cincinnati, Ohio 45227
Auditor's Parcel No.: 036-0003-0002-90

Situated in Cincinnati, Hamilton County, Ohio, in Section 16, Township 4, Fractional Range 2, of the Miami Purchase, commencing at a point in the south line of Madison Road, sixty-nine and five tenths feet (69.5') east of the east line of Ward Street, said point being the northeast corner of a lot conveyed by Laura Boyer to Sarah E. Settle recorded in Deed Book 1117, at page 307, Hamilton County, Ohio, Recorder's Office, said lot being now owned by The Queen City Motion Picture Company; thence south along the east line of said The Queen City Motion Picture Company lot and parallel to the east line of Ward Street one hundred forty-eight and five-tenths feet (148.5'); thence east on a line parallel to the south line of Madison Road twenty-nine and five-tenths feet (29.5'); thence north on a line parallel to the said east line of said Ward Street one hundred forty-eight and five-tenths feet (148.5') to the south line of said Madison Road; thence west with the south line of said Madison Road twenty-nine and five-tenths feet (29.5') to the place of beginning.

Exhibit D
to Property Sale and Development Agreement

Additional Requirements

Developer and Developer's general contractor shall comply with all applicable statutes, ordinances, regulations, and rules of the government of the United States, State of Ohio, County of Hamilton, and City of Cincinnati (collectively, "Government Requirements"), including the Government Requirements listed below, to the extent that they are applicable. Developer hereby acknowledges and agrees that (a) the below listing of Government Requirements is not intended to be an exhaustive list of Government Requirements applicable to the Project, Developer, or Developer's contractors, subcontractors or employees, either on the City's part or with respect to any other governmental entity, and (b) neither the City nor its Law Department is providing legal counsel to or creating an attorney-client relationship with Developer by attaching this Exhibit to the Agreement.

This Exhibit serves two functions:

(i) Serving as a Source of Information with Respect to Government Requirements. This Exhibit identifies certain Government Requirements that may be applicable to the Project, Developer, or its contractors and subcontractors. Because this Agreement requires that Developer comply with all applicable laws, regulations, and other Government Requirements (and in certain circumstances to cause others to do so), this Exhibit flags certain Government Requirements that Developers, contractors and subcontractors regularly face in constructing projects or doing business with the City. To the extent a Developer is legally required to comply with a Government Requirement, failure to comply with such a Government Requirement is a violation of the Agreement.

(ii) Affirmatively Imposing Contractual Obligations. If certain conditions for applicability are met, this Exhibit also affirmatively imposes contractual obligations on Developer, even where such obligations are not imposed on Developer by Government Requirements. As described below, the affirmative obligations imposed hereby are typically a result of policies adopted by City Council which, per Council's directive, are to be furthered by the inclusion of certain specified language in some or all City contracts. The City administration (including the City's Department of Community and Economic Development) is responsible for implementing the policy directives promulgated by Council (which typically takes place via the adoption of motions or resolutions by Council), including, in certain circumstances, by adding specific contractual provisions in City contracts such as this Agreement.

(A) Construction Workforce.

(i) Applicability. Consistent with the limitations contained within the City Resolutions identified in clause (ii) below, this Section (A) shall not apply to contracts with the City other than construction contracts, or to construction contracts to which the City is not a party. For the avoidance of doubt, this Agreement is a construction contract solely to the extent that it directly obligates Developer to assume the role of a general contractor on a construction project for public improvements such as police stations or other government buildings, public parks, or public roadways.

The Construction Workforce Goals are not applicable to future work (such as repairs or modifications) on any portion of the Project. The Construction Workforce Goals are not applicable to the purchase of specialty fixtures and trade fixtures.

(ii) Requirement. In furtherance of the policy enumerated in City Resolutions No. 32-1983 and 21-1998 concerning the inclusion of minorities and women in City construction work, if Developer is performing construction work for the City under a construction contract to which the City is a party, Developer shall use Best Efforts to achieve a standard of no less than 11.8% Minority Persons (as defined below) and 6.9% females (of whom at least one-half shall be Minority Persons) in each craft trade in Developer and its general contractor's aggregate workforce in Hamilton County, to be achieved at least

halfway through the construction contract (or in the case of a construction contract of six months or more, within 60 days of beginning the construction contract) (collectively, the "Construction Workforce Goals").

As used herein, the following terms shall have the following meanings:

(a) "**Best Efforts**" means substantially complying with all of the following as to any of its employees performing such construction, and requiring that all of its construction subcontractors substantially comply with all of the following: (1) solicitation of Minority Persons as potential employees through advertisements in local minority publications; and (2) contacting government agencies, private agencies, and/or trade unions for the job referral of qualified Minority Persons.

(b) "**Minority Person**" means any person who is Black, Asian or Pacific Islander, Hispanic, American Indian or Alaskan Native.

(c) "**Black**" means a person having origin in the black racial group of Africa.

(d) "**Asian or Pacific Islander**" means a person having origin in the original people of the Far East or the Pacific Islands, which includes, among others, China, India, Japan, Korea, the Philippine Islands, Malaysia, Hawaii and Samoa.

(e) "**Hispanic**" means a person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish cultural origin.

(f) "**American Indian**" or "**Alaskan Native**" means a person having origin in any of the original people of North America and who maintains cultural identification through tribal affiliation.

(B) Trade Unions; Subcontracts; Competitive Bidding.

(i) Meeting and Confering with Trade Unions.

(a) Applicability. Per City of Cincinnati, Ordinance No. 130-2002, this requirement is limited to transactions in which Developer receives City funds or other assistance (including, but not limited to, the City's construction of public improvements to specifically benefit the Project, or the City's sale of real property to Developer at below fair market value).

(b) Requirement. This Agreement may be subject to the requirements of City of Cincinnati, Ordinance No. 130-2002, as amended or superseded, providing that, if Developer receives City funds or other assistance, Developer and its general contractor, prior to the commencement of construction of the Project and prior to any expenditure of City funds, and with the aim of reaching comprehensive and efficient project agreements covering all work done by Developer or its general contractor, shall meet and confer with: the trade unions representing all of the crafts working on the Project, and minority, female, and locally-owned contractors and suppliers potentially involved with the construction of the Project. At this meeting, Developer and/or its general contractor shall make available copies of the scope of work and if prevailing wage rates apply, the rates pertaining to all proposed work on the Project. Not later than ten (10) days following Developer and/or its general contractor's meet and confer activity, Developer shall provide to the City, in writing, a summary of Developer and/or its general contractor's meet and confer activity.

(ii) Contracts and Subcontracts; Competitive Bidding.

(a) Applicability. This clause (ii) is applicable to "construction contracts" under Cincinnati Municipal Code Chapter 321. Municipal Code Chapter 321 defines "construction" as "any construction, reconstruction, improvement, enlargement, alteration, repair, painting, decorating, wrecking or demolition, of any public improvement the total overall project cost of which is fairly estimated by Federal or Ohio statutes to be more than four thousand dollars and performed by other than full-time

employees who have completed their probationary periods in the classified service of a public authority,” and “contract” as “all written agreements of the City of Cincinnati, its boards or commissions, prepared and signed by the city purchasing agent or a board or commission for the procurement or disposal of supplies, service or construction.”

(b) Requirement. If CMC Chapter 321 applies to the Project, Developer is required to ensure that all contracts and subcontracts for the Project are awarded pursuant to a competitive bidding process that is approved by the City in writing. All bids shall be subject to review by the City. All contracts and subcontracts shall be expressly required by written agreement to comply with the provisions of this Agreement and the applicable City and State of Ohio laws, ordinances and regulations with respect to such matters as allocation of subcontracts among trade crafts, Small Business Enterprise Program, Equal Employment Opportunity, and Construction Workforce Goals.

(iii) Competitive Bidding for Certain City-Funded Development Agreements.

(a) Applicability. Pursuant to Ordinance No. 273-2002, the provision in clause (b) below applies solely where the Project receives in \$250,000 or more in direct City funding, and where such funding comprises at least 25% of the Project’s budget. For the purposes of this clause (iii), “direct City funding” means a direct subsidy of City funds in the form of cash, including grants and forgivable loans, but not including public improvements, land acquisitions and sales, job creation tax credits, or tax abatements or exemptions.

(b) Requirement. This Agreement requires that Developer issue an invitation to bid on the construction components of the development by trade craft through public notification and that the bids be read aloud in a public forum. For purposes of this provision, the following terms shall be defined as set forth below:

(1) “Bid” means an offer in response to an invitation for bids to provide construction work.

(2) “Invitation to Bid” means the solicitation for quoted prices on construction specifications and setting a time, date and place for the submission of and public reading of bids. The place for the public reading of bids shall be chosen at the discretion of Developer; however, the place chosen must be accessible to the public on the date and time of the public reading and must have sufficient room capacity to accommodate the number of respondents to the invitation to bid.

(3) “Trade Craft” means (a) general construction work, (b) electrical equipment, (c) plumbing and gas fitting, (d) steam and hot water heating and air conditioning and ventilating apparatus, and steam power plant, (e) elevator work, and (f) fire protection.

(4) “Public Notification” means (a) advertisement of an invitation to bid with ACI (Allied Construction Industries) and the Dodge Report, and (b) dissemination of the advertisement (either by mail or electronically) to the South Central Ohio Minority Business Council, Greater Cincinnati Northern Kentucky African-American Chamber of Commerce, and the Hispanic Chamber of Commerce. The advertisement shall include a description of the “scope of work” and any other information reasonably necessary for the preparation of a bid, and it shall be published and disseminated no less than fourteen days prior to the deadline for submission of bids stated in the invitation to bid.

(5) “Read Aloud in a Public Forum” means all bids shall be read aloud at the time, date and place specified in the invitation for bids, and the bids shall be available for public inspection at the reading.

(C) City Building Code. All construction work must be performed in compliance with City building code requirements.

(D) Lead Paint Regulations. All work must be performed in compliance with Chapter 3742 of the Ohio Revised Code, Chapter 3701-32 of the Ohio Administrative Code, and must comply with OSHA's Lead in Construction Regulations and the OEPA's hazardous waste rules. All lead hazard abatement work must be supervised by an Ohio Licensed Lead Abatement Contractor/Supervisor.

(E) Displacement. If the Project involves the displacement of tenants, Developer shall comply with all Government Requirements in connection with such displacement. If the City shall become obligated to pay any relocation costs or benefits or other sums in connection with the displacement of tenants, under Cincinnati Municipal Code Chapter 740 or otherwise, Developer shall reimburse the City for any and all such amounts paid by the City in connection with such displacement within twenty (20) days after the City's written demand.

(F) Small Business Enterprise Program.¹

(i) Applicability. The applicability of Municipal Code Chapter 323 (Small Business Enterprise Program) is limited to construction contracts in excess of \$5,000. Municipal Code Chapter 323 defines "contract" as "a contract in excess of \$5,000.00, except types of contracts listed by the City purchasing agent as exempt and approved by the City Manager, for (a) construction, (b) supplies, (c) services, or (d) professional services." It defines "construction" as "any construction, reconstruction, improvement, enlargement, alteration, repair, painting, decorating, wrecking or demolition, of any public improvement the total overall project cost of which is fairly estimated by Federal or Ohio statutes to be more than \$4,000 and performed by other than full-time employees who have completed their probationary periods in the classified service of a public authority." To the extent Municipal Code Chapter 323 does not apply to this Agreement, Developer is not subject to the various reporting requirements described in this Section (F).

(ii) Requirement. The City has an aspirational goal that 30% of its total dollars spent for construction and 15% of its total dollars spent for supplies/services and professional services be spent with Small Business Enterprises ("SBE"s), which include SBEs owned by minorities and women. Accordingly, subject to clause (i) above, Developer and its general contractor shall use its best efforts and take affirmative steps to assure that SBEs are utilized as sources of supplies, equipment, construction, and services, with the goal of meeting 30% SBE participation for construction contracts and 15% participation for supplies/services and professional services contracts. An SBE means a consultant, supplier, contractor or subcontractor who is certified as an SBE by the City in accordance with Cincinnati Municipal Code ("CMC") Chapter 323. (A list of SBEs may be obtained from the Department of Economic Inclusion or from the City's web page, <http://cincinnati.diversitycompliance.com>.) Developer and its general contractor may refer interested firms to the Department of Economic Inclusion for review and possible certification as an SBE, and applications may also be obtained from such web page. If the SBE program is applicable to this Agreement, as described in clause (i) above, Developer agrees to take (or cause its general contractor to take) at least the following affirmative steps:

(1) Including qualified SBEs on solicitation lists.

(2) Assuring that SBEs are solicited whenever they are potential sources. Contractor must advertise, on at least two separate occasions, both in local minority publications and in other local newspapers of general circulation, invitations to SBEs to provide services, to supply materials or to bid on construction contracts for the Project. Contractor is encouraged to use the internet and similar types of advertising to reach a broader audience, but these additional types of advertising cannot be used as substitutes for the above.

(3) When economically feasible, dividing total requirements into small tasks or quantities so as to permit maximum SBE participation.

¹ Note: DCED is currently evaluating revisions to this SBE section due to recent legislative changes adopted by Council. If DCED implements these policy changes prior to the execution of this Agreement, this section will be revised.

(4) When needs permit, establishing delivery schedules that will encourage participation by SBEs.

(iii) Subject to clause (i) above, if any subcontracts are to be let, Developer shall require the prime contractor to take the above affirmative steps.

(iv) Subject to clause (i) above, Developer shall provide to the City, prior to commencement of the Project, a report listing all of the contractors and subcontractors for the Project, including information as to the owners, dollar amount of the contract or subcontract, and other information that may be deemed necessary by the City Manager. Developer or its general contractor shall update the report monthly by the 15th. Developer or its general contractor shall enter all reports required in this subsection via the City's web page referred to in clause (i) above or any successor site or system the City uses for this purpose. Upon execution of this Agreement, Developer and its general contractor shall contact the Department of Economic Inclusion to obtain instructions, the proper internet link, login information, and password to access the site and set up the necessary reports.

(v) Subject to clause (i) above, Developer and its general contractor shall periodically document its best efforts and affirmative steps to meet the above SBE participation goals by notarized affidavits executed in a form acceptable to the City, submitted upon the written request of the City. The City shall have the right to review records and documentation relevant to the affidavits. If affidavits are found to contain false statements, the City may prosecute the affiant pursuant to Section 2921.12, Ohio Revised Code.

(vi) Subject to clause (i) above, failure of Developer or its general contractor to take the affirmative steps specified above, to provide fair and equal opportunity to SBEs, or to provide technical assistance to SBEs as may be necessary to reach the minimum percentage goals for SBE participation as set forth in Cincinnati Municipal Code Chapter 323, may be construed by the City as failure of Developer to use best efforts, and, in addition to other remedies under this Agreement, may be a cause for the City to file suit in Common Pleas Court to enforce specific performance of the terms of this section.

(G) Equal Employment Opportunity.

(i) Applicability. Chapter 325 of the Cincinnati Municipal Code (Equal Employment Opportunity) applies (a) where the City expends more than \$5,000 under a non-construction contract, or (b) where the City spends or receives over \$5,000 to (1) employ another party to construct public improvements, (2) purchase services, or (3) lease any real or personal property to or from another party. Chapter 325 of the Municipal Code does not apply where the contract is (a) for the purchase of real or personal property to or from another party, (b) for the provision by the City of services to another party, (c) between the City and another governmental agency, or (d) for commodities such as utilities.

(ii) Requirement. If this Agreement is subject to the provisions of Chapter 325 of the Cincinnati Municipal Code (the City of Cincinnati's Equal Employment Opportunity Program), the provisions thereof are hereby incorporated by reference into this Agreement.

(H) Prevailing Wage. Developer shall comply, and shall cause all contractors working on the Project to comply, with all any prevailing wage requirements that may be applicable to the Project. In the event that the City is directed by the State of Ohio to make payments to construction workers based on violations of such requirements, Developer shall make such payments or reimburse the City for such payments within twenty (20) days of demand therefor. A copy of the City's prevailing wage determination may be attached to this Exhibit as Addendum I to Additional Requirements Exhibit (City's Prevailing Wage Determination) hereto.

(I) Compliance with the Immigration and Nationality Act. In the performance of its construction obligations under this Agreement, Developer shall comply with the following provisions of the federal Immigration and Nationality Act: 8 U.S.C.A. 1324a(a)(1)(A) and 8 U.S.C.A. 1324a(a)(2).

Compliance or noncompliance with those provisions shall be solely determined by final determinations resulting from the actions by the federal agencies authorized to enforce the Immigration and Nationality Act, or by determinations of the U.S.

(J) Prompt Payment. The provisions of Chapter 319 of the Cincinnati Municipal Code, which provides for a "Prompt Payment System", may apply to this Agreement. Municipal Code Chapter 319 also (i) provides certain requirements for invoices from contractors with respect to the Prompt Payment System, and (ii) obligates contractors to pay subcontractors for satisfactory work in a timely fashion as provided therein.

(K) Conflict of Interest. Pursuant to Ohio Revised Code 102.03, no officer, employee, or agent of the City who exercises any functions or responsibilities in connection with the planning or carrying out of the Project may have any personal financial interest, direct or indirect, in Developer or in the Project, and Developer shall take appropriate steps to assure compliance.

(L) Ohio Means Jobs. If this Agreement constitutes a construction contract (pursuant to the guidance with respect to the definition of that term provided in Section (A) above), then, pursuant to Ordinance No. 238-2010: To the extent allowable by law, Developer and its general contractor shall use its best efforts to post available employment opportunities with Developer, the general contractor's organization, or the organization of any subcontractor working with Developer or its general contractor with the OhioMeansJobs Center, 1916 Central Parkway, Cincinnati, Ohio 45214-2305, through its Employer Services Unit Manager at 513-946-7200.

(M) Wage Enforcement.

(i) Applicability. Council passed Ordinance No. 22-2016 on February 3, 2016, which ordained Chapter 326 (Wage Enforcement) of the Cincinnati Municipal Code (the "Wage Enforcement Chapter"). The Wage Enforcement Chapter was then amended by Ordinance No. 96-2017, passed May 17, 2017. As amended, the Wage Enforcement Chapter imposes certain requirements upon persons entering into agreements with the City whereby the City provides an incentive or benefit that is projected to exceed \$25,000, as described more particularly in the Wage Enforcement Chapter. Cincinnati Municipal Code Section 326-5 requires that the language below be included in contracts subject to the Wage Enforcement Chapter.

(ii) Required Contractual Language. Capitalized terms used, but not defined, in this clause (ii) have the meanings ascribed thereto in the Wage Enforcement Chapter.

(a) This contract is or may be subject to the Wage Enforcement provisions of the Cincinnati Municipal Code. These provisions require that any Person who has an Agreement with the city or with a Contractor or Subcontractor of that Person shall report all Complaints or Adverse Determinations of Wage Theft and Payroll Fraud (as each of those terms is defined in Chapter 326 of the Cincinnati Municipal Code) against the Contractor or Subcontractors to the Department of Economic Inclusion within 30 days of notification of the Complaint or Adverse Determination.

(b) If this contract is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this contract is required to include provisions in solicitations and contracts regarding a Development Site that all employers, Contractors or Subcontractors performing or proposing to perform work on a Development Site provide an initial sworn and notarized "Affidavit Regarding Wage Theft and Payroll Fraud" on a form prescribed by the city manager or his or her designee and, within 30 days of an Adverse Determination or Complaint of Wage Theft or Payroll Fraud, shall provide an "Amended Affidavit Regarding Wage Theft and Payroll Fraud" on a form prescribed by the city manager or his or her designee.

(c) If this contract is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this contract is required to authorize, and

does hereby specifically authorize, any local, state or federal agency, court, administrative body or other entity investigating a complaint of Wage Theft or Payroll Fraud against the Person (collectively “investigative bodies”) to release to the City’s Department of Economic Inclusion any and all evidence, findings, complaints and determinations associated with the allegations of Wage Theft or Payroll Fraud upon the City’s request and further authorizes such investigative bodies to keep the City advised regarding the status of the investigation and ultimate determination. If the investigative bodies require the Person to provide additional authorization on a prescribed form or in another manner, the Person shall be required to provide such additional authorization within 14 days of a request by the City.

(d) If this Agreement is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this Agreement shall include in its contracts with all Contractors language that requires the Contractors to provide the authorizations set forth in subsection (c) above and that further requires each Contractor to include in its contracts with Subcontractors those same obligations for each Subcontractor and each lower tier subcontractor.

(e) If this Agreement is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this Agreement shall post a conspicuous notice on the Development Site throughout the entire period work is being performed pursuant to the Agreement indicating that the work being performed is subject to Cincinnati Municipal Code Chapter 326, Wage Enforcement, as administered by the City of Cincinnati Department of Economic Inclusion. Such notice shall include contact information for the Department of Economic Inclusion as provided by the department.

(f) Under the Wage Enforcement provisions, the city shall have the authority, under appropriate circumstances, to terminate this contract or to reduce the incentives or subsidies to be provided under this contract and to seek other remedies, including debarment.

(N) Americans with Disabilities Act; Accessibility.

(i) Applicability. Cincinnati City Council adopted Motion No. 201600188 on February 3, 2016 (the “Accessibility Motion”). This motion directs City administration, including DCED, to include language specifically requiring compliance with the Americans With Disabilities Act, together with any and all regulations or other binding directives promulgated pursuant thereto (collectively, the “ADA”), and imposing certain minimum accessibility standards on City-subsidized projects regardless of whether there are arguably exceptions or reductions in accessibility standards available under the ADA or State law.

(ii) Requirement. In furtherance of the policy objectives set forth in the Accessibility Motion, (A) the Project shall comply with the ADA, and (B) if (i) any building(s) within the Project is subject to the accessibility requirements of the ADA (e.g., by constituting a “place of public accommodation” or another category of structure to which the ADA is applicable) and (ii) such building(s) is not already required to meet the Contractual Minimum Accessibility Requirements (as defined below) pursuant to the ADA, applicable building code requirements, or by any other legal requirement, then Developer shall cause such building(s) to comply with the Contractual Minimum Accessibility Requirements in addition to any requirements pursuant to the ADA and the applicable building code or legal requirement. As used herein, “Contractual Minimum Accessibility Requirements” means that a building shall, at a minimum, include (1) at least one point of entry (as used in the ADA), accessible from a public right of way, with respect to which all architectural barriers (as used in the ADA) to entry have been eliminated, and (2) if such accessible point of entry is not a building’s primary point of entry, conspicuous signage directing persons to such accessible point of entry.

(O) Electric Vehicle Charging Stations in Garages.

(i) Applicability. Cincinnati City Council passed Ordinance No. 89-2017 on May 10, 2017. This ordinance requires all agreements in which the City provides any amount of “qualifying incentives” for projects involving the construction of a parking garage to include a provision requiring the

inclusion of certain features in the garage relating to electric vehicles. The ordinance defines “qualifying incentives” as the provision of incentives or support for the construction of a parking garage in the form of (a) the provision of any City monies or monies controlled by the City including, without limitation, the provision of funds in the form of loans or grants; (b) the provision of service payments in lieu of taxes in connection with tax increment financing, including rebates of service payments in lieu of taxes; and (c) the provision of the proceeds of bonds issued by the City or with respect to which the City has provided any source of collateral security or repayment, including, but not limited to, the pledge of assessment revenues or service payments in lieu of taxes. For the avoidance of doubt, “qualifying incentives” does not include (1) tax abatements such as Community Reinvestment Area abatements pursuant to Ohio Revised Code 3735.67, et seq., or Job Creation Tax Credits pursuant to Ohio Revised Code 718.15; (2) the conveyance of City-owned real property for less than fair market value; and (3) any other type of City support in which the City provides non-monetary assistance to a project, regardless of value.

(ii) Requirement. If the applicability criteria of Ordinance No. 89-2017 are met, then the following requirements shall apply to any parking garage included within the Project: (a) at least one percent of parking spaces, rounding up to the nearest integer, shall be fitted with Level 2 minimum 7.2 kilowatt per hour electric car charging stations; provided that if one percent of parking spaces is less than two parking spaces, the minimum number of parking spaces subject to this clause shall be two parking spaces; and (b) the parking garage’s electrical raceway to the electrical supply panel serving the garage shall be capable of providing a minimum of 7.2 kilowatts of electrical capacity to at least five percent of the parking spaces of the garage, rounding up to the nearest integer, and the electrical room supplying the garage must have the physical space for an electrical supply panel sufficient to provide 7.2 kilowatts of electrical capacity to at least five percent of the parking spaces of the garage, rounding up to the nearest integer.

(P) Certification as to Non-Debarment. Developer represents that neither it nor any of its principals is presently debarred by any federal, state, or local government agency. In completing the Project, Developer shall not solicit bids from any contractors or subcontractors who are identified as being debarred by any federal, state, or local government agency. If Developer or any of its principals becomes debarred by any federal, state, or local government agency during the term of this Agreement, Developer shall be considered in default under this Agreement.

August 2, 2021

To: Members of the Budget and Finance Committee 202102553
From: Paula Boggs Muething, City Manager
Subject: **EMERGENCY ORDINANCE – APPROVING AND AUTHORIZING GRANT OF ENCROACHMENT EASEMENTS WITH FORT WASH HILLS, LLC**

Attached is an Emergency Ordinance captioned:

AUTHORIZING the City Manager to execute a *Grant of Encroachment Easements* in favor of Fort Wash Hills, LLC, pursuant to which the City of Cincinnati will grant easements over and across property known as Hammond Street in the Central Business District to allow access and temporary construction rights.

BACKGROUND/CURRENT CONDITIONS

The City owns certain real property generally located north of Third Street and east of Main Street in the Central Business District, which is under the management of the City's Department of Transportation and Engineering ("DOTE"). The City is also party to Development Agreement with Fort Wash Hills LLC (Rolling Hills Hospitality) dated April 22, 2019, and amended June 11, 2021, pursuant to which Developer is required to design and construct a 100-room hotel on real property located at 308-316 Main Street, Cincinnati, Ohio 45202. The Developer has requested the City to grant pedestrian and vehicular ingress and egress access rights across Hammond Street to benefit the project.

DEVELOPER INFORMATION

Fort Wash Hills, LLC is an affiliate of Rolling Hills Hospitality, which owns a portfolio of hotels throughout the Greater Cincinnati area including the recently completed Holiday Inn & Suites at 7th and Broadway in the Central Business District.

PROJECT DESCRIPTION

Fort Wash Hills, LLC is proposing a redevelopment of the property located at 308-316 Main Street into an approximately 61,500 square foot, 100-room hotel, at an estimated aggregate development cost of \$16,830,000. The project will support the creation of 15 full-time equivalent permanent jobs and 100 full-time temporary construction jobs.

PROPOSED INCENTIVE

The City's Real Estate Services Division has determined that the approximate fair market value of the easements is \$62,325, however, the Department of Community &

Grant of Encroachment Easements

Fort Wash Hills, LLC

Page 2 of 2

Economic Development recommends granting the easements to the developer for \$10,000. The City will receive economic and noneconomic benefits from the project equal to or exceeding the fair market value of the easements in that the redevelopment project will create numerous full-time equivalent permanent jobs and full-time temporary construction jobs, stimulate economic growth in the Central Business District of Cincinnati, and creatively redevelop three historic structures into a new hotel.

PROJECT TEAM & TIMELINE

The project team (listed below) will make themselves available at the request of the councilmember(s).

- Assistant City Manager: John Juech
- DCED Director: Markiea Carter
- Project Attorney: Samantha Brandenburg (Ext. 4704)

The anticipated council timeline, which includes two Budget and Finance meetings if necessary is as follows:

- August 2, 2021: Budget and Finance
- August 4, 2021: City Council for Final Approval

RECOMMENDATION

The Administration recommends approval of this Emergency Ordinance. The emergency clause is needed so that the project can meet its construction commencement deadlines.

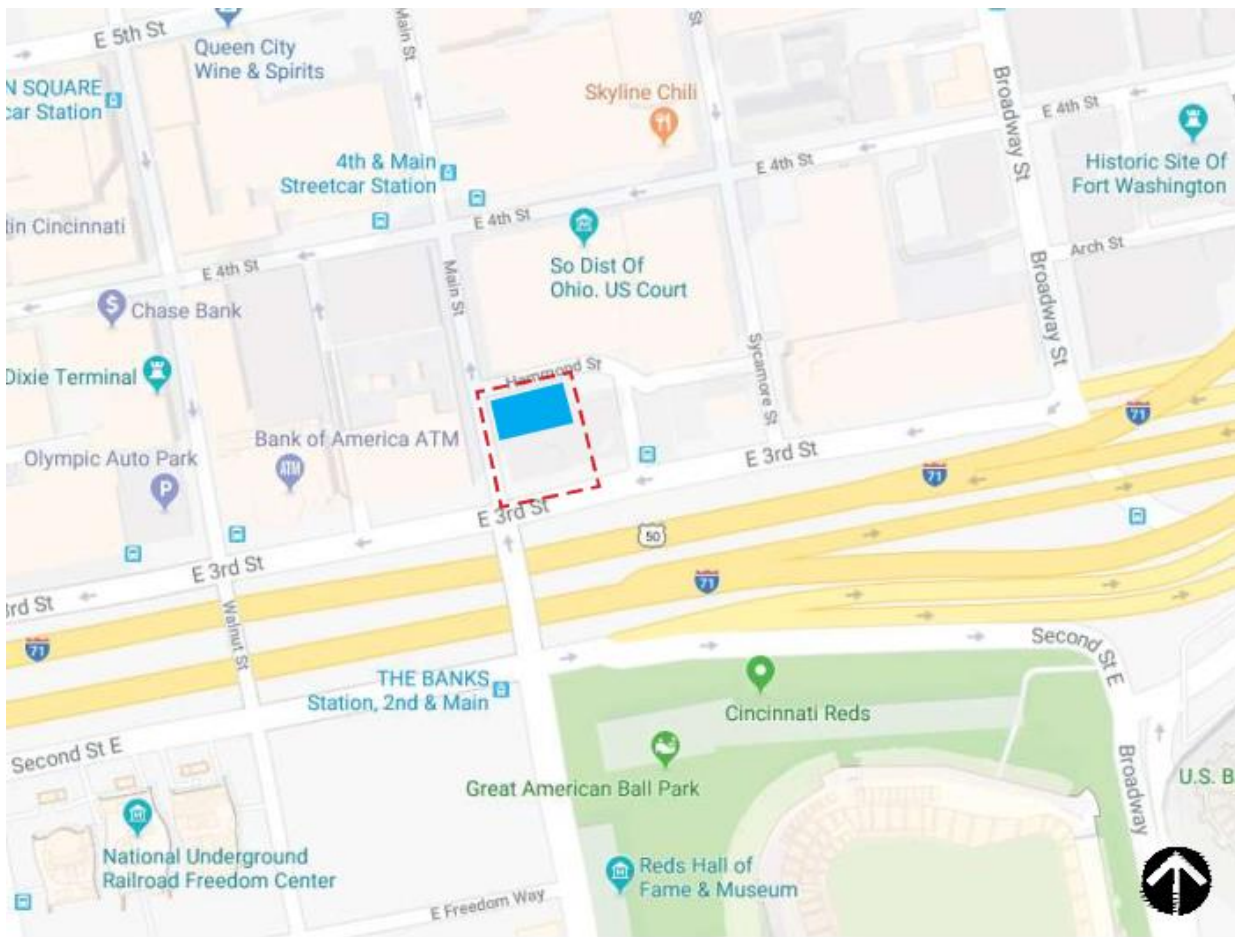
Attachment: A. Property location and photographs

Copy: Markiea L. Carter, Director, Department of Community & Economic Development

Attachment A: Location and Photographs



308-316 Main Street



EMERGENCY
City of Cincinnati

CHM

AWB

An Ordinance No. _____

- 2021

AUTHORIZING the City Manager to execute a *Grant of Encroachment Easements* in favor of Fort Wash Hills, LLC, pursuant to which the City of Cincinnati will grant easements over and across property known as Hammond Street in the Central Business District to allow access and temporary construction rights.

WHEREAS, Fort Wash Hills, LLC, an Ohio limited liability company (“Grantee”), owns certain real property located at 312 Main Street in the Central Business District; and

WHEREAS, the City of Cincinnati owns property adjoining Grantee’s property identified as Hamilton County, Ohio Auditor’s Parcel Identification No. 083-0003-0009-00 (the “Property”), which Property is known as Hammond Street and is under the management of the City’s Department of Transportation and Engineering (“DOTe”); and

WHEREAS, Grantee has undertaken a project involving the redevelopment of its property into an approximately 61,500-square foot, 100-room hotel at an estimated aggregate development cost of \$16,830,000 (the “Project”) and has requested easements from the City, as more particularly depicted and described in the *Grant of Easements* attached to this ordinance as Attachment A and incorporated herein by reference, to permit access and temporary construction easements over and across portions of the Property; and

WHEREAS, the City Manager, in consultation with DOTe, has determined (i) that granting the easements to Grantee is not adverse to the City’s retained interest in the Property and (ii) that granting the easements will not have an adverse effect on the usability or accessibility of any existing transportation facilities located on the Property; and

WHEREAS, pursuant to Cincinnati Municipal Code Sec. 331-5, the City Council may authorize the encumbrance of City-owned property without competitive bidding in those cases in which it determines that it is in the best interest of the City; and

WHEREAS, the City’s Real Estate Services Division has determined by an appraisal that the fair market value of the easements is approximately \$62,325; however, the City is agreeable to grant the easements to Grantee for \$10,000, finding that the City will receive economic and noneconomic benefits from the Project equal to or exceeding the fair market value of the easements in that the City anticipates the Project will create up to 15 full-time equivalent permanent jobs and up to 100 full-time temporary construction jobs, stimulate economic growth in the Central Business District, and involves adaptive reuse of three contributing structures in the City’s Third and Main Street Local Historic District; and

WHEREAS, the City Planning Commission, having the authority to approve the change in the use of City-owned property, approved the easements at its meeting on April 2, 2021; now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio:

Section 1. That the City Manager is hereby authorized to execute a *Grant of Easements* in favor of Fort Wash Hills, LLC, an Ohio limited liability company (“Grantee”), owner of the property located at 312 Main Street in the Central Business District, in substantially the form attached to this ordinance as Attachment A and incorporated herein by reference, pursuant to which the City of Cincinnati will grant to Grantee easements to permit access and temporary construction easements over and across property identified as Hamilton County, Ohio Auditor’s Parcel Identification No. 083-0003-0009-00 (the “Property”).

Section 2. That granting the easements to Grantee (i) is not adverse to the City’s retained interest in the Property and (ii) will not have an adverse effect on the usability or accessibility of any existing transportation facilities located on the Property.

Section 3. That it is in the best interest of the City to grant the easements without competitive bidding because, as a practical matter, no one other than Grantee, an adjoining property owner, would have any use for the easements.

Section 4. That the fair market value of the easements, as determined by appraisal by the City’s Real Estate Services Division, is approximately \$62,325; however, the City is agreeable to grant the easements to Grantee for \$10,000, finding that Grantee has undertaken a project involving the redevelopment of its property into an approximately 61,500-square foot, 100-room hotel at an estimated aggregate development cost of \$16,830,000 (the “Project”), and the City will receive economic and noneconomic benefits from the Project equal to or exceeding the fair market value of the easements in that the Project, namely: (i) the City anticipates the Project to

create up to 15 full-time equivalent permanent jobs and up to 100 full-time temporary construction jobs; (ii) the City anticipates that the Project will stimulate economic growth in the Central Business District; and (iii) the Project involves the adaptive reuse of three contributing structures within the City's Third and Main Street Local Historic District, preserving structures that reflect elements of the City's history, architecture, and culture.

Section 5. That the proceeds from the *Grant of Easements* shall be deposited into Property Management Fund 209 to pay the fees for services provided by the City's Real Estate Services Division in connection with the easements, and that the City's Finance Director is hereby authorized to deposit amounts in excess thereof, if any, into Miscellaneous Permanent Improvement Fund 757.

Section 6. That the City's Finance Director is authorized to transfer and appropriate such excess funds from Miscellaneous Permanent Improvement Fund 757 into Capital Improvement Program Project Account No. 980x233xYY2306, "Street Improvements," in which "YY" represents the last two digits of the fiscal year in which the closing occurs and the proceeds are received, referencing the latter fiscal year if the events occur in different fiscal years.

Section 7. That the City Manager and other City officials are authorized to take all necessary and proper actions to carry out the provisions of this ordinance and to fulfill the terms of the *Grant of Easements*, including, without limitation, executing any and all ancillary agreements, plats, and other real estate documents.

Section 8. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to enable the City to convey the easements as soon as possible

so that Grantee can promptly move forward with the Project, thereby creating a significant economic benefit and enhancement to the City at the earliest possible time.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

ATTACHMENT A

----- space above for county recorder -----

Property: Hammond Street

GRANT OF EASEMENTS
(Access & Temporary Construction Easements)

This Grant of Easements is made as of the Effective Date (as defined on the signature page hereof) by the **CITY OF CINCINNATI**, an Ohio municipal corporation, 801 Plum Street, Cincinnati, OH 45202 (the "**City**"), in favor of **FORT WASH HILLS, LLC**, an Ohio limited liability company, with a tax mailing address of 310 Culvert Street, Suite 500, Cincinnati, OH 45202 (the "**Grantee**").

Recitals:

A. The City owns certain real property generally located north of Third Street and east of Main Street in the Central Business District, as more particularly described on Exhibit A (Legal Description – Burdened Property) hereto (the "**Burdened Property**"), which property is under the management of the City's Department of Transportation and Engineering ("**DOT**").

B. By virtue of a deed recorded in OR 13969, Page 2181, Hamilton County, Ohio Records, Grantee owns certain real property located at 312 Main Street, adjacent to the Burdened Property, as more particularly described on Exhibit B (Legal Description – Benefitted Property) hereto (the "**Benefitted Property**").

C. Grantee has undertaken a redevelopment project involving the redevelopment of the Benefitted Property into an approximately 61,500 square foot, 100-room hotel, with an estimated aggregate development cost of \$16,830,000 (the "**Project**"). Grantee anticipates that the Project will create approximately 15 full-time equivalent permanent jobs, and 100 full-time temporary construction jobs during the construction period, and has requested the City to grant pedestrian and vehicular ingress and egress access rights across the Burdened Property to benefit the Project.

D. In connection with the Project, Grantee desires to use temporarily the Burdened Property for construction and construction staging purposes and has requested the City to grant a temporary construction easement over the Burdened Property.

E. The City Manager, in consultation with DOTE, has determined that (i) granting the easements will not have an adverse effect on the City's retained interest in the Burdened Property, and (ii) granting the easements will not have an adverse effect on the usability or accessibility of any existing transportation-related facilities located on the Burdened Property.

F. The City's Real Estate Services Division has determined that the approximate fair market value of the easements is \$62,325, however, the City is agreeable to grant the easements to Grantee for

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\$10,000, finding that the City will receive economic and noneconomic benefits from the Project equal to or exceeding the fair market value of the easements in that Grantee's redevelopment project will create numerous full-time equivalent permanent jobs and full-time temporary construction jobs, stimulate economic growth in the Central Business District of Cincinnati, and creatively redevelop three historic structures into a new hotel.

G. The City Planning Commission, having the authority to approve the change in use of City-owned property, approved the easements at its meeting on April 2, 2021.

H. Execution of this instrument was authorized by Ordinance No. []-[], passed by Cincinnati City Council on [], 2021.

NOW THEREFORE, the City does hereby agree as follows:

1. **Grant of Easements.** The City does hereby grant to Grantee, on the terms and conditions set forth herein and subject to any and all existing easements, covenants, restrictions and other matters of record affecting the Burdened Property, as an appurtenance to and for the benefit of the Benefitted Property, the following easement rights: (i) a non-exclusive access easement on, over, and across the Burdened Property as more particularly described on Exhibit A hereto, (the "**Access Easement**", or the "**Access Easement Area**", as applicable); and (ii) a non-exclusive temporary construction easement on, over, and across the Burdened Property as more particularly described on Exhibit A hereto, (the "**Temporary Construction Easement**", or the "**Temporary Construction Easement Area**", as applicable).

2. **Permitted Uses; Termination.**

(A) **Permitted Use of the Access Easement.** Grantee, its successors, assigns, licensees, employees, agents, and invitees shall have the non-exclusive right to use the Access Easement for vehicular and pedestrian ingress and egress to and from the Benefitted Property to adjoining public rights-of-way. Grantee shall not use or permit the use of the Access Easement in any manner that is inconsistent with the rights granted herein or in a manner that impairs or unreasonably interferes with the rights of the City or others permitted by the City to the use of the Burdened Property, as determined by the City.

(B) **Permitted Use of the Temporary Construction Easement.** Grantee, its employees, agents, successors, assigns, contractors, and subcontractors shall have the non-exclusive right to use the Temporary Construction Easement for uses necessary and appropriate to undertake and complete construction of the Project on the Benefitted Property and restore the Burdened Property. Grantee shall not use or permit the use of the Temporary Construction Easement in any manner that is inconsistent with the rights granted herein or in a manner that impairs or unreasonably interferes with the rights of the City to the use of the Burdened Property.

(C) **Termination.** Notwithstanding anything herein to the contrary, the Access Easement shall automatically terminate (i) upon the complete demolition of the buildings on the Benefitted Property, or (ii) upon ninety (90) days written notice from the City if the City determines that it needs the Access Easement Area or any portion thereof for a municipal purpose. The Temporary Construction Easement shall automatically terminate upon the three-year anniversary of the Effective Date, or on such sooner date on which a certificate of occupancy for the Project is issued by the City's Department of Buildings and Inspections. Upon completion of the Project, and at the request by the City, Grantee shall execute and deliver to the City a release of Grantee's Temporary Construction Easement rights for recording in the Hamilton County, Ohio Records, at Grantee's sole expense.

3. **Temporary Construction Easement & Public Safety.**

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(A) **Public Safety.** Grantee shall, and shall cause its employees, agents, contractors, and subcontractors to use commercially reasonable efforts to protect the safety and health of the public that may be impacted by or proximate to construction-related activities on the Burdened Property. Such efforts shall principally consist of installation by Grantee of site fencing, barricades, and protection of existing pedestrian and vehicular pathways in accordance with all applicable plan approvals issued by DOTE and the Department of Buildings and Inspections, as applicable. Grantee shall apply to DOTE for temporary street closures for areas outside installed site fencing or work within dedicated public right-of-way to accommodate construction activities, as necessary.

(B) **Demolition Cranes.** In the event that the Grantee resolves to use cranes as part of construction activities, Grantee shall provide plans for the location and operation of any cranes needed to complete such activities to the City before any cranes are installed or otherwise placed upon or operated on, above, or within the Burdened Property, including the air space above the Burdened Property. Grantee shall, and shall cause all of its employees, agents, contractors, and subcontractors to, install and at all times operate cranes in accordance with all applicable approvals issued by the Department of Buildings and Inspections or DOTE, as applicable. Grantee shall not locate any cranes until the Department of Buildings and Inspections has issued all necessary building permits approving of such location and shall at all times comply, and shall cause their employees, agents, contractors, and subcontractors to comply, with all requirements of any issued permit. Grantee shall provide to the City crane operation safety protocols, which shall be approved by the City. Grantee shall comply and shall ensure that its employees, agents, contractors, and subcontractors at all times comply with such crane operation safety protocols.

4. **Sole Risk.** Entry upon the Burdened Property shall be at the sole risk of Grantee, its employees, agents, contractors and subcontractors. While on the Burdened Property, except as otherwise provided within this Grant of Easements, Grantee shall not interfere with the rights of the City or anyone else having the right to be on the Burdened Property.

5. **Maintenance and Repairs; Public Utilities.** Grantee, at no cost to the City, shall maintain the Temporary Construction Easement Area in a continuous state of good and safe condition and repair during the construction period. Grantee acknowledges that there may be existing easements for utility lines and related facilities in the vicinity of the Temporary Construction Easement Area. Grantee is solely responsible for the identification and location of public utility facilities on, above, under, or adjacent to the Burdened Property. If Grantee's use of the Burdened Property causes damage to existing utility facilities belonging to a utility provider, Grantee shall immediately notify the appropriate utility provider. All costs of repairing such damage caused by Grantee, including without limitation, all costs of replacing any damaged utility facilities that are not capable of being properly repaired as determined by the applicable utility provider in its sole discretion, shall be borne by Grantee and shall be payable by Grantee within thirty (30) days after Grantee receives documentation substantiating such costs. All activities undertaken by Grantee under this instrument shall be in compliance with all applicable codes, laws, and other governmental standards, policies, guidelines and requirements.

6. **Insurance; Indemnification.** In addition to whatever other insurance and bond requirements as the City may from time to time require, Grantee shall maintain a policy of Commercial General Liability insurance, with an insurance company reasonably acceptable to the City and naming the City as additional insured, in an amount not less than \$1,000,000 per occurrence, combined single limit/\$2,000,000 aggregate, or in such greater amount as the City may from time to time require. Grantee shall furnish to the City a certificate of insurance evidencing such insurance upon the City's request and, in any event, prior to undertaking any construction-related activities upon the Burdened Property. Grantee hereby waives all claims and rights of recovery against the City, and on behalf of Grantee's insurers, rights of subrogation, in connection with any damage or theft of Grantee's equipment or other property that may from time to time be on the Burdened Property, no matter how caused. Grantee shall defend (with counsel reasonably acceptable to the City), indemnify, and hold the City harmless from and against any and all claims, actions, losses, costs (including without limitation reasonable attorneys fees), liability and damages

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suffered or incurred by, or asserted against, the City in connection with construction-related activities, maintenance, repair, use, or other matters associated with the Burdened Property.

7. **Coordinated Report Conditions (CR #28-2019)**. The following additional conditions shall apply:

(A) **DOTE**: DOTE permits will be required for all work on Hammond Street, Hammond Alley and Main Street.

(B) **SMU**: Grantee must maintain the existing SMU inlet infrastructure located on the Burdened Property during construction of the Project and shall not otherwise obstruct the existing SMU inlet infrastructure located on the Burdened Property through Grantee's use of the Burdened Property. Grantee's employees, agents, contractors, or subcontractors shall provide written notice to SMU (i.e., electronic communication) before undertaking any initial construction activities within the Temporary Construction Easement Area. Such written communication shall provide proposed date(s) for initial entry upon the Temporary Construction Easement Area, providing SMU not less than five (5) business days to assess the condition of existing SMU inlet infrastructure.

(C) **Cincinnati Bell**: Cincinnati Bell has existing underground telephone facilities at this location. The existing facilities must remain in place, in service and able to be accessed. Any damage done to the facilities, or any work done to relocate the facilities as a result of Grantee's use of the Burdened Property will be handled entirely at the property owner's expense.

8. **Restoration and Cleaning of the Burdened Property**. The Burdened Property, adjacent streets, and publicly accessible areas are to be kept clean and free of dirt and debris caused by Grantee. Grantee shall, at no cost to the City, restore the Burdened Property affected by construction-related activities to the satisfaction of the City Manager, in his or her reasonable discretion.

9. **No Liens**. Grantee shall immediately remove, at Grantee's sole expense, any purported liens or encumbrances filed against the City or the Burdened Property as a result of Grantee's agents, contractors and subcontractors' entry upon the Burdened Property.

10. **Default**. If Grantee, its successors-in-interest, or assigns fail to perform any maintenance, repair, or other work obligation as set forth herein, and fails to address the same to the City's satisfaction within thirty (30) days after receiving written notice thereof from the City, the City shall have the right, but not the obligation, to perform such maintenance, repair, or other work, at Grantee's expense, payable within ten (10) days after receiving an invoice from the City evidencing the amount due. Any outstanding amount due under this instrument shall create a lien on the Benefitted Properties until fully paid. At the City's option, the City may file an affidavit in the Hamilton County, Ohio Recorder's office to memorialize any outstanding amounts due under this instrument. All obligations of Grantee under this Grant of Easements that have accrued but have not been fully performed as of the termination of the Temporary Construction Easement, including without limitation indemnity obligations, shall survive such termination until fully performed.

11. **Covenants Running with the Land**. The provisions hereof shall run with the land and shall inure to the benefit of the City and Grantee and be binding upon Grantee and its successors-in-interest with respect to the Benefitted Properties.

12. **Governing Law; Severability**. This instrument shall be governed by and construed in accordance with the laws of the City of Cincinnati and the State of Ohio. If any provisions hereof are determined to be invalid or unenforceable by a court of law, the remainder of this instrument shall not be affected thereby, and all other provisions of this instrument shall be valid and enforceable to the fullest extent permitted by law.

13. **Notices.** All notices given hereunder shall be in writing and shall be sent by U.S. certified or registered mail, return receipt requested, or delivered by a recognized courier service, or by personal delivery, to the parties at their respective addresses set forth in the introductory paragraph hereof or such other address as either party may specify from time to time by notice given in the manner prescribed herein. All notices to the City shall be addressed to the Office of the City Manager. In the event of an alleged breach by the City of this instrument, a copy of each notice of breach shall simultaneously be delivered to the Office of the City Solicitor, 801 Plum Street, Room 214, Cincinnati, OH 45202.

14. **Representation of Authority.** Grantee represents and warrants that it has full power and authority to execute and deliver this instrument and to carry out the transactions provided for therein. This instrument has by proper action been duly authorized, executed, and delivered by Grantee, and all actions necessary have been taken to so that this instrument, when executed and delivered, shall contain valid and binding obligations of Grantee.

15. **Counterparts and Electronic Signatures.** This instrument may be executed by the parties hereto in two or more counterparts and each executed counterpart shall be considered an original. This instrument may be executed and delivered by electronic signature; any original signatures that are initially delivered electronically shall be physically delivered as soon as reasonably possible.

16. **Exhibits.** The following exhibits are attached hereto and made a part hereof:
Exhibit A – *Legal Description –Burdened Property*
Exhibit B – *Legal Description –Benefitted Property*

[City Signature Page Follows]

Executed by the City on the date of acknowledgement set forth below (the "Effective Date").

CITY OF CINCINNATI

By: _____

Printed name: _____

Title: _____

Date: _____

STATE OF OHIO)
) ss:
COUNTY OF HAMILTON)

The foregoing instrument was acknowledged before me this ____ day of _____, 2021 by _____, the _____ of the City of Cincinnati, an Ohio municipal corporation, on behalf of the municipal corporation. The notarial act certified hereby is an acknowledgment. No oath or affirmation was administered to the signer with regard to the notarial act certified hereby.

Notary Public
My commission expires: _____

Recommended by:

Markiea L. Carter, Director
Department of Community and Economic Development

Approved by:

John S. Brazina, Director
Department of Transportation and Engineering

Approved as to Form:

Assistant City Solicitor

[Grantee's Signature Page Follows]

Acknowledged and agreed to by:

Fort Wash Hills, LLC,
an Ohio limited liability company

By: _____

Printed name: _____

Title: _____

Date: _____, 2021

This instrument prepared by:

City of Cincinnati Law Department
801 Plum Street, 214
Cincinnati, OH 45202

EXHIBIT A
to
Grant of Easements

Legal Description – Burdened Property

Auditor's Parcel No.: 083-0003-0009-00
Registered Land Certificate #73800

SITUATE IN SECTION 18, TOWN 4, FRACTIONAL RANGE 1 AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE EAST LINE OF MAIN STREET AND THE SOUTH LINE OF FOURTH STREET; THENCE SOUTH 15° 30' EAST, ALONG THE EAST LINE OF MAIN STREET, 219.24 FEET TO THE PLACE OF BEGINNING FOR THIS DESCRIPTION; THENCE FROM SAID BEGINNING POINT, SOUTH 15° 30' EAST, ALONG THE EAST LINE OF MAIN STREET, 36.08 FEET; THENCE NORTH 74° 56' EAST, THROUGH A PARTY WALL OF A FOUR STORY BRICK BUILDING AND SAID LINE PRODUCED EASTWARDLY, 182.77 FEET TO THE WEST LINE OF HAMMOND STREET; THENCE NORTH 15° 32' WEST, ALONG THE WEST LINE OF HAMMOND STREET, 36.09 FEET; THENCE SOUTH 74° 56' WEST, 182.75 FEET TO THE EAST LINE OF MAIN STREET AND THE PLACE OF BEGINNING.

EXHIBIT B
to
Grant of Easements

Legal Description –Benefitted Property

Auditor's Parcel No.: 083-0003-0131-00

SITUATED IN SECTION 18, TOWN 4, FRACTIONAL RANGE 1 BETWEEN THE MIAMIS, THE CITY OF CINCINNATI, HAMILTON COUNTY, OHIO BEING PART OF LOTS 85 AND 86 OF THE ORIGINAL PLAN OF CINCINNATI AND BEING ALL OF FORT WASH HILLS, LLC AS RECORDED IN OFFICIAL RECORD 13813, PAGE 2043 OF THE HAMILTON COUNTY RECORDER'S OFFICE CONTAINING 0.2547 ACRES AND BEING FURTHER DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHWEST CORNER OF SAID LOT 85 OF THE ORIGINAL PLAN OF CINCINNATI, SAID CORNER BEING ON THE INTERSECTION OF THE EAST RIGHT OF WAY OF MAIN STREET (66' RW) AND THE NORTH RIGHT OF WAY OF THIRD STREET (RW VARIES); THENCE, DEPARTING THE NORTH RIGHT OF WAY OF SAID THIRD SREET AND WITH THE EAST RIGHT OF WAY OF SAID MAIN STREET, NORTH 10° 04' 25" WEST, 67.90 FEET TO THE NORTHWEST CORNER OF 300 MAIN, LTD. AS RECORDED IN OFFICIAL RECORD 7238, PAGE 1629, SAID CORNER BEING REFERENCED BY A SET CROSS NOTCH BEING SOUTH 79° 55' 35" WEST, 3.00 FEET, SAID CORNER BEING THE TRUE POINT OF BEGINNING;

THENCE, FROM THE TRUE POINT OF BEGINNING THUS FOUND, DEPARTING SAID 300 MAIN, LTD AND WITH THE EAST RIGHT OF WAY OF SAID MAIN STREET, NORTH 10° 04' 25" WEST, 75.22 FEET TO THE SOUTHWEST CORNER OF CITY OF CINCINNATI LAND (KNOWN AS HAMMOND ALLEY, NOT DEDICATED), AS RECORDED IN PRIOR REGISTERED LAND CERTIFICATE #73800 AND BEING REFERENCED BY A SET CROSS NOTCH AT SOUTH 80° 24' 34" WEST, 3.00 FEET;

THENCE, DEPARTING THE EAST RIGHT OF WAY OF SAID MAIN STREET AND WITH THE SOUTH LINE OF SAID CITY OF CINCINNATI LAND, NORTH 80° 24' 34" EAST, 182.77 FEET TO A SET CROSS NOTCH ON THE WEST RIGHT OF WAY OF HAMMOND STREET;

THENCE, DEPARTING SAID CITY OF CINCINNATI LAND AND WITH THE WEST RIGHT OF WAY OF SAID HAMMOND STREET, SOUTH 10° 03' 55" EAST, 43.62 FEET TO THE NORTH LINE OF NAP WILLIAMS OFFICE BUILDING LLC AS RECORDED IN OFFICIAL RECORD 9392, PAGE 4745, AND BEING REFERENCED BY A SET CROSS NOTCH BEING NORTH 80° 22' 15" EAST, 6.00 FEET;

THENCE, DEPARTING THE WEST RIGHT OF WAY OF SAID HAMMOND STREET AND WITH SAID NAP WILLIAMS OFFICE BUILDING LLC THE FOLLOWING TWO COURSES: SOUTH 80° 22' 15" WEST, 82.68 FEET;

THENCE, SOUTH 10° 04' 25" EAST, 30.71 FEET TO THE NORTHEAST CORNER OF SAID 300 MAIN, LTD, SAID CORNER BEING REFERENCED BY A SET CROSS NOTCH BEING SOUTH 10° 04' 25" EAST, 3.00 FEET;

THENCE, DEPARTING SAID NAP WILLIAMS OFFICE BUILDING LLC AND WITH SAID 300 MAIN, LTD, SOUTH 79° 55' 35" WEST, 100.08 FEET TO THE TRUE POINT OF BEGINNING CONTAINING 0.2547 ACRES OF LAND, MORE OR LESS.

BASIS OF BEARINGS: STATE PLANE COORDINATES (3402) OHIO SOUTH ZONE, NAD83(2011).

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THE ABOVE DESCRIPTION WAS PREPARED FROM A CONSOLIDATION PLAT MADE ON JUNE 11, 2019 UNDER THE DIRECTION OF JEFFREY O. LAMBERT, PROFESSIONAL SURVEYOR #7568 IN THE STATE OF OHIO.

----- space above for county recorder -----

Property: Hammond Street

GRANT OF EASEMENTS
(Access & Temporary Construction Easements)

This Grant of Easements is made as of the Effective Date (as defined on the signature page hereof) by the **CITY OF CINCINNATI**, an Ohio municipal corporation, 801 Plum Street, Cincinnati, OH 45202 (the “**City**”), in favor of **FORT WASH HILLS, LLC**, an Ohio limited liability company, with a tax mailing address of 310 Culvert Street, Suite 500, Cincinnati, OH 45202 (the “**Grantee**”).

Recitals:

A. The City owns certain real property generally located north of Third Street and east of Main Street in the Central Business District, as more particularly described on Exhibit A (*Legal Description – Burdened Property*) hereto (the “**Burdened Property**”), which property is under the management of the City’s Department of Transportation and Engineering (“**DOT**”).

B. By virtue of a deed recorded in OR 13969, Page 2181, Hamilton County, Ohio Records, Grantee owns certain real property located at 312 Main Street, adjacent to the Burdened Property, as more particularly described on Exhibit B (*Legal Description –Benefitted Property*) hereto (the “**Benefitted Property**”).

C. Grantee has undertaken a redevelopment project involving the redevelopment of the Benefitted Property into an approximately 61,500 square foot, 100-room hotel, with an estimated aggregate development cost of \$16,830,000 (the “**Project**”). Grantee anticipates that the Project will create approximately 15 full-time equivalent permanent jobs, and 100 full-time temporary construction jobs during the construction period, and has requested the City to grant pedestrian and vehicular ingress and egress access rights across the Burdened Property to benefit the Project.

D. In connection with the Project, Grantee desires to use temporarily the Burdened Property for construction and construction staging purposes and has requested the City to grant a temporary construction easement over the Burdened Property.

E. The City Manager, in consultation with DOTE, has determined that (i) granting the easements will not have an adverse effect on the City’s retained interest in the Burdened Property, and (ii) granting the easements will not have an adverse effect on the usability or accessibility of any existing transportation-related facilities located on the Burdened Property.

F. The City’s Real Estate Services Division has determined that the approximate fair market value of the easements is \$62,325, however, the City is agreeable to grant the easements to Grantee for

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\$10,000, finding that the City will receive economic and noneconomic benefits from the Project equal to or exceeding the fair market value of the easements in that Grantee's redevelopment project will create numerous full-time equivalent permanent jobs and full-time temporary construction jobs, stimulate economic growth in the Central Business District of Cincinnati, and creatively redevelop three historic structures into a new hotel.

G. The City Planning Commission, having the authority to approve the change in use of City-owned property, approved the easements at its meeting on April 2, 2021.

H. Execution of this instrument was authorized by Ordinance No. [___]-[____], passed by Cincinnati City Council on [_____], 2021.

NOW THEREFORE, the City does hereby agree as follows:

1. Grant of Easements. The City does hereby grant to Grantee, on the terms and conditions set forth herein and subject to any and all existing easements, covenants, restrictions and other matters of record affecting the Burdened Property, as an appurtenance to and for the benefit of the Benefitted Property, the following easement rights: (i) a non-exclusive access easement on, over, and across the Burdened Property as more particularly described on Exhibit A hereto, (the "**Access Easement**", or the "**Access Easement Area**", as applicable); and (ii) a non-exclusive temporary construction easement on, over, and across the Burdened Property as more particularly described on Exhibit A hereto, (the "**Temporary Construction Easement**", or the "**Temporary Construction Easement Area**", as applicable).

2. Permitted Uses; Termination.

(A) Permitted Use of the Access Easement. Grantee, its successors, assigns, licensees, employees, agents, and invitees shall have the non-exclusive right to use the Access Easement for vehicular and pedestrian ingress and egress to and from the Benefitted Property to adjoining public rights-of-way. Grantee shall not use or permit the use of the Access Easement in any manner that is inconsistent with the rights granted herein or in a manner that impairs or unreasonably interferes with the rights of the City or others permitted by the City to the use of the Burdened Property, as determined by the City.

(B) Permitted Use of the Temporary Construction Easement. Grantee, its employees, agents, successors, assigns, contractors, and subcontractors shall have the non-exclusive right to use the Temporary Construction Easement for uses necessary and appropriate to undertake and complete construction of the Project on the Benefitted Property and restore the Burdened Property. Grantee shall not use or permit the use of the Temporary Construction Easement in any manner that is inconsistent with the rights granted herein or in a manner that impairs or unreasonably interferes with the rights of the City to the use of the Burdened Property.

(C) Termination. Notwithstanding anything herein to the contrary, the Access Easement shall automatically terminate (i) upon the complete demolition of the buildings on the Benefitted Property, or (ii) upon ninety (90) days written notice from the City if the City determines that it needs the Access Easement Area or any portion thereof for a municipal purpose. The Temporary Construction Easement shall automatically terminate upon the three-year anniversary of the Effective Date, or on such sooner date on which a certificate of occupancy for the Project is issued by the City's Department of Buildings and Inspections. Upon completion of the Project, and at the request by the City, Grantee shall execute and deliver to the City a release of Grantee's Temporary Construction Easement rights for recording in the Hamilton County, Ohio Records, at Grantee's sole expense.

3. Temporary Construction Easement & Public Safety.

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(A) **Public Safety.** Grantee shall, and shall cause its employees, agents, contractors, and subcontractors to use commercially reasonable efforts to protect the safety and health of the public that may be impacted by or proximate to construction-related activities on the Burdened Property. Such efforts shall principally consist of installation by Grantee of site fencing, barricades, and protection of existing pedestrian and vehicular pathways in accordance with all applicable plan approvals issued by DOTE and the Department of Buildings and Inspections, as applicable. Grantee shall apply to DOTE for temporary street closures for areas outside installed site fencing or work within dedicated public right-of-way to accommodate construction activities, as necessary.

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Exhibit B – *Legal Description –Benefitted Property*

[City Signature Page Follows]

Executed by the City on the date of acknowledgement set forth below (the "Effective Date").

CITY OF CINCINNATI

By: _____

Printed name: _____

Title: _____

Date: _____

STATE OF OHIO)
) ss:
COUNTY OF HAMILTON)

The foregoing instrument was acknowledged before me this ___ day of _____, 2021 by _____, the _____ of the City of Cincinnati, an Ohio municipal corporation, on behalf of the municipal corporation. The notarial act certified hereby is an acknowledgment. No oath or affirmation was administered to the signer with regard to the notarial act certified hereby.

Notary Public
My commission expires: _____

Recommended by:

Markiea L. Carter, Director
Department of Community and Economic Development

Approved by:

John S. Brazina, Director
Department of Transportation and Engineering

Approved as to Form:

Assistant City Solicitor

[*Grantee's Signature Page Follows*]

Acknowledged and agreed to by:

Fort Wash Hills, LLC,
an Ohio limited liability company

By: _____

Printed name: _____

Title: _____

Date: _____, 2021

This instrument prepared by:

City of Cincinnati Law Department
801 Plum Street, 214
Cincinnati, OH 45202

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to
Grant of Easements

Legal Description – Burdened Property

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Registered Land Certificate #73800

SITUATE IN SECTION 18, TOWN 4, FRACTIONAL RANGE 1 AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE EAST LINE OF MAIN STREET AND THE SOUTH LINE OF FOURTH STREET; THENCE SOUTH 15° 30' EAST, ALONG THE EAST LINE OF MAIN STREET, 219.24 FEET TO THE PLACE OF BEGINNING FOR THIS DESCRIPTION; THENCE FROM SAID BEGINNING POINT, SOUTH 15° 30' EAST, ALONG THE EAST LINE OF MAIN STREET, 36.08 FEET; THENCE NORTH 74° 56' EAST, THROUGH A PARTY WALL OF A FOUR STORY BRICK BUILDING AND SAID LINE PRODUCED EASTWARDLY, 182.77 FEET TO THE WEST LINE OF HAMMOND STREET; THENCE NORTH 15° 32' WEST, ALONG THE WEST LINE OF HAMMOND STREET, 36.09 FEET; THENCE SOUTH 74° 56' WEST, 182.75 FEET TO THE EAST LINE OF MAIN STREET AND THE PLACE OF BEGINNING.

EXHIBIT B
to
Grant of Easements

Legal Description –Benefitted Property

Auditor's Parcel No.: 083-0003-0131-00

SITUATED IN SECTION 18, TOWN 4, FRACTIONAL RANGE 1 BETWEEN THE MIAMIS, THE CITY OF CINCINNATI, HAMILTON COUNTY, OHIO BEING PART OF LOTS 85 AND 86 OF THE ORIGINAL PLAN OF CINCINNATI AND BEING ALL OF FORT WASH HILLS, LLC AS RECORDED IN OFFICIAL RECORD 13813, PAGE 2043 OF THE HAMILTON COUNTY RECORDER'S OFFICE CONTAINING 0.2547 ACRES AND BEING FURTHER DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHWEST CORNER OF SAID LOT 85 OF THE ORIGINAL PLAN OF CINCINNATI, SAID CORNER BEING ON THE INTERSECTION OF THE EAST RIGHT OF WAY OF MAIN STREET (66' RW) AND THE NORTH RIGHT OF WAY OF THIRD STREET (RW VARIES); THENCE, DEPARTING THE NORTH RIGHT OF WAY OF SAID THIRD SREET AND WITH THE EAST RIGHT OF WAY OF SAID MAIN STREET, NORTH 10° 04' 25" WEST, 67.90 FEET TO THE NORTHWEST CORNER OF 300 MAIN, LTD. AS RECORDED IN OFFICIAL RECORD 7238, PAGE 1629, SAID CORNER BEING REFERENCED BY A SET CROSS NOTCH BEING SOUTH 79° 55' 35" WEST, 3.00 FEET, SAID CORNER BEING THE TRUE POINT OF BEGINNING;

THENCE, FROM THE TRUE POINT OF BEGINNING THUS FOUND, DEPARTING SAID 300 MAIN, LTD AND WITH THE EAST RIGHT OF WAY OF SAID MAIN STREET, NORTH 10° 04' 25" WEST, 75.22 FEET TO THE SOUTHWEST CORNER OF CITY OF CINCINNATI LAND (KNOWN AS HAMMOND ALLEY, NOT DEDICATED), AS RECORDED IN PRIOR REGISTERED LAND CERTIFICATE #73800 AND BEING REFERENCED BY A SET CROSS NOTCH AT SOUTH 80° 24' 34" WEST, 3.00 FEET;

THENCE, DEPARTING THE EAST RIGHT OF WAY OF SAID MAIN STREET AND WITH THE SOUTH LINE OF SAID CITY OF CINCINNATI LAND, NORTH 80° 24' 34" EAST, 182.77 FEET TO A SET CROSS NOTCH ON THE WEST RIGHT OF WAY OF HAMMOND STREET;

THENCE, DEPARTING SAID CITY OF CINCINNATI LAND AND WITH THE WEST RIGHT OF WAY OF SAID HAMMOND STREET, SOUTH 10° 03' 55" EAST, 43.62 FEET TO THE NORTH LINE OF NAP WILLIAMS OFFICE BUILDING LLC AS RECORDED IN OFFICIAL RECORD 9392, PAGE 4745, AND BEING REFERENCED BY A SET CROSS NOTCH BEING NORTH 80° 22' 15" EAST, 6.00 FEET;

THENCE, DEPARTING THE WEST RIGHT OF WAY OF SAID HAMMOND STREET AND WITH SAID NAP WILLIAMS OFFICE BUILDING LLC THE FOLLOWING TWO COURSES: SOUTH 80° 22' 15" WEST, 82.68 FEET;

THENCE, SOUTH 10° 04' 25" EAST, 30.71 FEET TO THE NORTHEAST CORNER OF SAID 300 MAIN, LTD, SAID CORNER BEING REFERENCED BY A SET CROSS NOTCH BEING SOUTH 10° 04' 25" EAST, 3.00 FEET;

THENCE, DEPARTING SAID NAP WILLIAMS OFFICE BUILDING LLC AND WITH SAID 300 MAIN, LTD, SOUTH 79° 55' 35" WEST, 100.08 FEET TO THE TRUE POINT OF BEGINNING CONTAINING 0.2547 ACRES OF LAND, MORE OR LESS.

BASIS OF BEARINGS: STATE PLANE COORDINATES (3402) OHIO SOUTH ZONE, NAD83(2011).

{00343702-3}

70683947v2

THE ABOVE DESCRIPTION WAS PREPARED FROM A CONSOLIDATION PLAT MADE ON JUNE 11, 2019 UNDER THE DIRECTION OF JEFFREY O. LAMBERT, PROFESSIONAL SURVEYOR #7568 IN THE STATE OF OHIO.

August 2, 2021

To: Members of the Budget and Finance Committee 202102554
From: Paula Boggs Muething, City Manager
Subject: **Emergency Ordinance – Industrial/Organizational Solutions (I/OS)
Moral Obligation**

Attached is an Emergency Ordinance captioned:

AUTHORIZING a payment of \$66,347.30 from the Human Resources Department General Fund non-personnel operating budget account no. 050x121x1000x7289 as a moral obligation to Industrial/Organizational Solutions (“I/OS”) for payment of outstanding charges for legally and contractually required testing services for Police and Fire promotional exams for sworn personnel provided by I/OS prior to the execution of a professional services contract.

Approval of this Emergency Ordinance authorizes a payment of \$66,347.30 from the Human Resources Department's non-personnel operating budget account no. 050x121x1000x7289 as a moral obligation to Industrial/Organizational Solutions (“I/OS”) for payment of outstanding charges for legally and contractually required testing services for Police and Fire promotional exams for sworn personnel provided by I/OS prior to the execution of a professional services contract. Sufficient funds are available in the account for this payment.

The previous contract with Industrial/Organizational Solutions (I/OS) expired in FY 2020. Due to COVID-19 and associated Temporary Emergency Leave (TEL) policies and the Early Retirement Incentive Program (ERIP), the Human Resources Department was not able to immediately execute a new contract. However, I/OS continued to provide necessary promotional exam testing services to the City.

The Approved FY 2021 Budget Update did not include resources for promotional testing, but sufficient resources were made available in the Final Adjustment Ordinance (FAO) on May 19, 2021, through Ordinance No. 0179-2021. However, the vendor provided invoices prior to the passage of the FAO. As a result, Human Resources was unable to certify funds to pay the invoices.

The reason for the emergency is the immediate need for the City to provide I/OS with payment for its services in a timely manner.

The Administration recommends passage of this Emergency Ordinance.

cc: Andrew M. Dudas, Budget Director
Karen Alder, Finance Director

Attachment

EMERGENCY

City of Cincinnati

AKS

AWB

An Ordinance No. _____

- 2021

AUTHORIZING a payment of \$66,347.30 from the Human Resources Department General Fund non-personnel operating budget account no. 050x121x1000x7289 as a moral obligation to Industrial/Organizational Solutions (“I/OS”) for payment of outstanding charges for legally and contractually required testing services for Police and Fire promotional exams for sworn personnel provided by I/OS prior to the execution of a professional services contract.

WHEREAS, the City’s contract with Industrial/Organizational Solutions (“I/OS”) for legally and contractually required testing services for Police and Fire promotional exams for sworn personnel expired in FY 2020; and

WHEREAS, due to COVID-19 and associated Temporary Emergency Leave policies and the Early Retirement Incentive Program, the Human Resources Department was not able to immediately execute a new contract; and

WHEREAS, I/OS continued to provide necessary promotional exam testing services to the City; and

WHEREAS, the Approved FY 2021 Budget Update did not include resources for promotional testing, but sufficient resources were made available in the Final Adjustment Ordinance (“FAO”) on May 19, 2021, through Ordinance No. 0179-2021; however, the vendor provided invoices prior to the passage of the FAO; and

WHEREAS, as a result, Human Resources was unable to certify the funds in a timely manner; and

WHEREAS, City Council wishes to provide payment to I/OS for their services in a total amount of \$66,347.30; now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio:

Section 1. That the Finance Director is authorized to make a payment of \$66,347.30 from the Human Resources Department General Fund non-personnel operating budget account no. 050x121x1000x7289 as a moral obligation to Industrial/Organizational Solutions for payment of

outstanding charges for legally and contractually required testing services for Police and Fire promotional exams for sworn personnel provided by the vendor prior to the execution of a contract.

Section 2. That the proper City officials are authorized to do all things necessary and proper to carry out the terms of Section 1 hereof.

Section 3. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need for the City to provide I/OS with payment for its services in a timely manner.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

August 2, 2021

To: Members of the Budget and Finance Committee 202102531
From: Paula Boggs Muething, City Manager
Subject: **EMERGENCY ORDINANCE – APPROVING AND AUTHORIZING
CRA TAX EXEMPTION AGREEMENT WITH SLD ENTERPRISES,
LLC AND BROTHERS EXPRESS, LLC**

Attached is an Emergency Ordinance captioned:

APPROVING AND AUTHORIZING the City Manager to execute a *Community Reinvestment Area Tax Exemption Agreement* with SLD Enterprises, LLC and Brothers Express, LLC, thereby authorizing a 12-year tax exemption for 100% of the value of improvements made to real property located at 5790 Center Hill Avenue in the Winton Hills neighborhood of Cincinnati, in connection with the construction of approximately 11,200 square feet of industrial space and approximately 2,800 square feet of office space, at a total construction cost of approximately \$1,780,000

BACKGROUND/CURRENT CONDITIONS

In June 2021, the Developer purchased 5790 Center Hill Avenue in the Winton Hills neighborhood. This property is located in the Center Hill Business Park and has been vacant for a number of years.

DEVELOPER INFORMATION

The Developer, SLD Enterprises, LLC, is an affiliate of Brothers Express, LLC. Brothers Express, LLC is a trucking company currently located at 7162 Reading Road in Roselawn.

PROJECT DESCRIPTION

The Developer plans to construct a 14,000 square foot trucking and warehouse facility composed of 11,200 square feet of industrial space and 2,800 square feet of office space. The total project cost is approximately \$2,179,050 (\$1,780,000 in hard costs). The project is expected to retain 35 full-time equivalent employees (FTEs) with a total annual payroll of \$2,150,000, to create 6 new FTEs with a total annual payroll of \$360,000, and to create 40 full-time temporary construction jobs with a total annual payroll of \$500,000.

PROPOSED INCENTIVE

DCED is recommending a 12-year, net 52% CRA tax exemption.

Pursuant to the Commercial CRA policy established by City Council, this project scored 11 points as indicated below which would merit a 12-year net 52% CRA Tax Abatement:

“But For” Analysis (0-3 points) *	3
LEED (0-6 points)	0
Neighborhood VTICA (1 point for contributions over 1% but less than 15% and 8 points for contributions of 15% or more)	8
TOTAL	11

* “But For” Analysis Explanation: 3 points were awarded for the following reasons:

- This project will bring a long-vacant site back into productive use.
- Construction on this site requires the installation of a Methane Gas Evacuation System, which significantly increases the project’s pre-development costs.

SUMMARY	
Forgone Public Benefit if Project Does not Proceed	
CPS PILOT (Forgone New Revenue)	(\$120,886)
VTICA (Forgone New Revenue)	(\$54,948)
Income Tax (Forgone New Revenue)	(\$640,395)
Total Public Benefit Lost	(\$816,230)
Incentive Value	
Annual Net Incentive to Developer	\$15,874
Total Term Incentive to Developer	\$190,487
City's Portion of Property Taxes Forgone	\$51,480
Public Benefit	
CPS PILOT	
Annual CPS Pilot	\$10,074
Total Term CPS PILOT	\$120,886
VTICA	
Annual VTICA	\$4,579
Total Term VTICA	\$54,948
Income Tax (Max)	\$640,395
Total Public Benefit (CPS PILOT/VTICA /Income Tax)	\$816,230
Total Public Benefit ROI*	\$4.28
City's ROI*	\$15.86

PROJECT TEAM & TIMELINE

The project’s legislative team (listed below) is available to answer questions regarding this project.

- Assistant City Manager: Billy Weber (Ext. 3318)

CRA Agreement

SLD Enterprises, LLC and Brothers Express, LLC

Page 3 of 3

- DCED Deputy Director: Dan Bower (Ext. 1955)
- Project Attorney: Kaitlyn Geiger (Ext. 4544)

The anticipated council timeline is as follows:

- August 2, 2021: Budget and Finance
- August 4, 2021: City Council for Final Approval

RECOMMENDATION

The Administration recommends approval of this Emergency Ordinance. The emergency clause is needed so that the project can meet its construction commencement deadlines.

Attachment: A. Property location and photographs

Copy: Markiea L. Carter, Director, Department of Community & Economic Development

Attachment A: Location and Photographs



Property Location



5790 Center Hill Avenue

EMERGENCY

City of Cincinnati

TJL

AWB

An Ordinance No. _____ - 2021

APPROVING AND AUTHORIZING the City Manager to execute a *Community Reinvestment Area Tax Exemption Agreement* with SLD Enterprises, LLC and Brothers Express, LLC, thereby authorizing a 12-year tax exemption for 100% of the value of improvements made to real property located at 5790 Center Hill Avenue in the Winton Hills neighborhood of Cincinnati, in connection with the construction of approximately 11,200 square feet of industrial space and approximately 2,800 square feet of office space, at a total construction cost of approximately \$1,780,000.

WHEREAS, to encourage the development of real property and the acquisition of personal property, the Council of the City of Cincinnati by Ordinance No. 274-2017 passed on September 27, 2017, designated the area within the corporate boundaries of the City of Cincinnati as a “Community Reinvestment Area” pursuant to Ohio Revised Code (“ORC”) Sections 3735.65 through 3735.70 (the “Statute”); and

WHEREAS, Ordinance No. 275-2017 passed by this Council on September 27, 2017, as amended by Ordinance No. 339-2018, passed by this Council on October 31, 2018, sets forth certain additional policies, conditions and limitations regarding newly constructed or remodeled commercial and residential structures in the Community Reinvestment Area; and

WHEREAS, effective October 23, 2017, the Director of Development of the State of Ohio determined that the area within the corporate boundaries of the City of Cincinnati contains the characteristics set forth in the Statute and confirmed such area as a Community Reinvestment Area under the Statute; and

WHEREAS, SLD Enterprises, LLC and Brothers Express, LLC (collectively, the “Company”) desire to construct approximately 11,200 square feet of industrial space and approximately 2,800 square feet of office space on real property at 5790 Center Hill Avenue located within the corporate boundaries of the City of Cincinnati (the “Improvements”), provided that the appropriate development incentives are available to support the economic viability of the Improvements; and

WHEREAS, to provide an appropriate development incentive for the Improvements, the City Manager has recommended a *Community Reinvestment Area Tax Exemption Agreement*, in substantially the form of Attachment A to this ordinance, to authorize a real property tax exemption for the Improvements in accordance with the Statute; and

WHEREAS, the property is located within the Cincinnati City School District; and

WHEREAS, the Board of Education of the Cincinnati City School District (the “Board of Education”), pursuant to that certain *Tax Incentive Agreement* effective as of April 28, 2020 (as

may be amended, the “Board of Education Agreement”), has approved exemptions of up to 100% of Community Reinvestment Area projects, waived advance notice and the right to review such projects, and waived sharing or allocation of municipal income taxes in connection with such projects; and

WHEREAS, pursuant to the Board of Education Agreement, the Company has entered into (or will enter into) an agreement with the Board of Education requiring the Company to pay the Board of Education amounts equal to 33% of the exempt real property taxes; and

WHEREAS, the Company has represented that it has entered into (or will enter into) a voluntary tax incentive contribution agreement with a third-party organization for amounts equal to 15% of the exempt real property taxes, which funds shall be committed by the third-party organization to facilitate permanent improvements and neighborhood services furthering redevelopment in the neighborhood of the Improvements and to support affordable housing on a City-wide basis; and

WHEREAS, the Improvements do not involve relocation of part or all of the Company’s operations from another county or municipal corporation in Ohio or, if there is relocation, notice has been given per ORC Section 3735.673; now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio:

Section 1. That Council approves a *Community Reinvestment Area Tax Exemption Agreement* with SLD Enterprises, LLC and Brothers Express, LLC (the “Agreement”), thereby authorizing 12-year tax exemption for 100% of the assessed value of improvements to be made to real property located at 5790 Center Hill Avenue in Cincinnati, as calculated by the Hamilton County Auditor, in connection with the construction of approximately 11,200 square feet of industrial space and approximately 2,800 square feet of office space, to be completed at a total construction cost of approximately \$1,780,000.

Section 2. That Council authorizes the City Manager:

- (i) to execute the Agreement on behalf of the City in substantially the form of Attachment A to this ordinance; and
- (ii) to forward on behalf of Council a copy of the Agreement, within fifteen (15) days after execution, to the Director of the Ohio Development Services Agency in accordance with Ohio Revised Code Section 3735.671(F); and
- (iii) to submit on behalf of Council annual reports on the Agreement to the Director of the Ohio Development Services Agency and to the Board of Education of the

Cincinnati City School District, in accordance with Ohio Revised Code Section 3735.672; and

- (iv) to take all necessary and proper actions to fulfill the City’s obligations under the Agreement.

Section 3. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to allow the construction described in this ordinance and the corresponding revitalization of the City of Cincinnati and the benefits to the City's economic welfare to begin at the earliest possible time.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

Attachment A to Ordinance

CRA Tax Exemption Agreement

SEE ATTACHED

Community Reinvestment Area Tax Exemption Agreement

This Community Reinvestment Area Tax Exemption Agreement (this "Agreement") is made and entered into as of the Effective Date (as defined on the signature page hereof) by and among the CITY OF CINCINNATI, an Ohio municipal corporation (the "City"), SLD ENTERPRISES, LLC, an Ohio limited liability company (the "Owner"), and BROTHERS EXPRESS, LLC, an Ohio limited liability company (the "Tenant"); and together with the Owner, the "Company").

Recitals:

- A. The City, through the adoption of Ordinance No. 274-2017 on September 27, 2017, designated the entire City of Cincinnati as a Community Reinvestment Area to encourage the development of real property and the acquisition of personal property in that area, pursuant to Ohio Revised Code Sections 3735.65 through 3735.70 (the "Statute").
- B. In accordance with the Statute, the Ohio Director of Development has forwarded to the City the Director's determination dated October 23, 2017, stating that the findings contained in Ordinance No. 274-2017 are valid and that the entire City is a Community Reinvestment Area under the Statute. By such determination, the Director of Development of the State of Ohio determined that the area within the corporate boundaries of the City of Cincinnati contains the characteristics set forth in the Statute and confirmed such area as a Community Reinvestment Area under the Statute.
- C. The Council of the City of Cincinnati has also passed Ordinance No. 275-2017 as of September 27, 2017, as amended by Ordinance No. 339-2018 passed on October 31, 2018 (the "Commercial Policy Ordinance"), which sets forth certain additional policies, conditions and limitations regarding newly constructed or remodeled commercial and residential structures in the Community Reinvestment Area.
- D. The Owner is the sole owner of, and the Tenant is the long-term tenant of, certain real property within the City, located at 5790 Center Hill Avenue, Cincinnati, Ohio 45232, (the "Property"), as further described in Exhibit A (Legal Description of Property) hereto. Notwithstanding the foregoing, the Property shall not include any residential condominiums being developed in connection with the Project (as defined below) (the "Excluded Property"), and the Company acknowledges and agrees that the City's Community Reinvestment Area program entails separate applications by the owner of any residential condominium units included within the Project. For the avoidance of doubt, the Excluded Property shall not be exempt under this Agreement; however, this provision shall not be deemed to prohibit any owners from time to time of any Excluded Property from separately applying for a tax abatement in accordance with applicable law.
- E. The Company has proposed to construct a new building located on the Property, within the boundaries of the City of Cincinnati, as more fully described in Section 1 herein (the "Project"), provided that the appropriate development incentives are available to support the economic viability of the Project.
- F. The Statute provides that if any part of a project is to be used for commercial or industrial purposes, including projects containing four or more dwelling units, in order to be eligible for tax exemption the City and the Company must enter into an agreement pursuant to Ohio Revised Code Section 3735.671 prior to commencement of construction or remodeling.
- G. The City, having appropriate authority under the Statute for this type of project, agrees (as provided herein and subject to all conditions herein) to provide the Company with the tax exemption incentives stated herein, available under the Statute, for development of the Project.
- H. The Company has submitted to the City an application for this tax exemption agreement (the "Application"), a copy of which is attached hereto as Exhibit B, has remitted with the Application (i) the City application fee of One Thousand Two Hundred Fifty Dollars (\$1,250) made payable to the

City and (ii) in accordance with Ohio Revised Code Section 3735.672(C), the state application fee of Seven Hundred Fifty Dollars (\$750) made payable to the Ohio Development Services Agency ("ODSA"), to be forwarded to the ODSA with an executed copy of this Agreement.

- I. The Director of the City's Department of Community and Economic Development has recommended approval of the Application on the basis that the Company is qualified by financial responsibility and business experience to create and preserve employment opportunities and improve the economic climate of the City.
- J. The Board of Education of the Cincinnati City School District (the "Board of Education"), pursuant to that certain *Tax Incentive Agreement* effective as of April 28, 2020, has approved exemptions of up to one hundred percent (100%) of Community Reinvestment Area projects, waived advance notice and right to review such projects, and waived sharing or allocation of municipal income taxes in connection with such projects.
- K. The Company has entered into (or will enter into) an agreement with the Board of Education requiring the Company to pay the Board of Education amounts equal to thirty-three percent (33%) of the full amount of exempt real property taxes that would have been paid to Hamilton County if this Agreement were not in effect (the "Board of Education Agreement").
- L. The Company represents and warrants to the City that the Company and its major tenants, if any, do not intend to relocate part or all of their operations to the City from another county or municipal corporation in the State of Ohio (the "State").
- M. The Company represents that within the past five (5) years neither the Company, nor any related member of the Company nor any entity to which the Company is a successor has discontinued operations at a project site in the State during the term of a property tax exemption agreement (under Ohio Revised Code Section 3735.671, 5709.62, 5709.63 or 5709.632) applicable to that site, and the Company acknowledges that misrepresentation hereunder will result in voiding of this Agreement.
- N. The Company represents and warrants to the City that the Company is not subject to an Enterprise Zone Agreement with the City of Cincinnati for the Property or the Project.
- O. The Company acknowledges that the Winton Hills neighborhood is a rising neighborhood in need of resources for development, neighborhood improvements, amenities, and organizations oriented towards neighborhood services. The Company anticipates that future development, improvements, amenities and organizations will contribute to the quality and vitality of the neighborhood, therefore increasing the value of the Property and directly and indirectly contributing to the Project's success. The Project's success, in turn, will benefit the neighborhood. Although this feedback effect will promote the revitalization and redevelopment of the City, it could also impact the affordability of property in the area. Therefore, in support of the Winton Hills neighborhood and with the intention of preserving and improving the availability of quality, reliable affordable housing on a City-wide basis, as a material inducement to the City to enter into this Agreement, the Company hereby represents to the City that it will enter into a voluntary tax incentive contribution agreement ("VTICA") with a City-designated third-party non-profit administrative organization (the "Third-Party Administrator") to contribute to the Third-Party Administrator an amount equal to fifteen percent (15%) of the real property taxes that would have been payable on the abated property but for the City-authorized tax abatement (the "VTICA Contribution"). Half of such VTICA Contribution is to be committed by the Third-Party Administrator to facilitate permanent improvements and neighborhood services furthering urban redevelopment in the Winton Hills neighborhood and the other half of such VTICA Contribution is to be committed by the Third-Party Administrator in supporting quality affordable housing on a City-wide basis. The Company hereby represents and warrants that it will pay the VTICA Contribution for the full term of the abatement.

- P. This Agreement has been authorized by Ordinance No. ___-20___, passed by Cincinnati City Council on _____, 2021.
- Q. In determining to recommend and authorize this Agreement, the Department of Community and Economic Development and City Council, respectively, have acted in material reliance on the Company's representations in the Application and herein regarding the Project including, but not limited to, representations relating to the number of jobs to be created and/or retained by the Company, the Board of Education Agreement, the VTICA Contribution, and the Project's effect in promoting the general welfare of the people of Cincinnati by, for example, encouraging the development of real property located in the Community Reinvestment Area and thereby promoting economic growth and vitality in Cincinnati.

NOW, THEREFORE, pursuant to Ohio Revised Code Section 3735.67(A) and in conformity with the format required under Ohio Revised Code Section 3735.671, in consideration of the mutual covenants contained herein and the benefit to be derived by the parties from the execution hereof, the parties agree as follows:

Section 1. Project. Upon issuance of the necessary zoning and building approvals, the Company agrees to construct a new building on the Property into approximately 11,200 square feet of industrial space, and approximately 2,800 square feet of office space (the "Improvements"), at an estimated aggregate cost of \$1,780,000 to commence after the execution of this Agreement and to be completed no later than June 1, 2022; *provided*, however, that the Director of the Department of Community and Economic Development (the "Housing Officer") may, in her discretion, extend such deadline for a period of up to 12 months by written notice if, in the Director's judgment, the Company is proceeding in good faith towards completion. The construction shall be in compliance with applicable building code requirements and zoning regulations. In addition to the foregoing, (A) the Project shall comply with the Americans with Disabilities Act, together with any and all regulations or other binding directives promulgated pursuant thereto (collectively, the "ADA"), and (B) if (i) any building(s) within the Project is subject to the accessibility requirements of the ADA (e.g., by constituting a "place of public accommodation" or another category of structure to which the ADA is applicable) and (ii) such building(s) is not already required to meet the Contractual Minimum Accessibility Requirements (as defined below) pursuant to the ADA, applicable building code requirements, or by any other legal requirement, then the Company shall cause such building(s) to comply with the Contractual Minimum Accessibility Requirements in addition to any requirements pursuant to the ADA and the applicable building code or legal requirement. As used herein, "**Contractual Minimum Accessibility Requirements**" means that a building shall, at a minimum, include (1) at least one point of entry (as used in the ADA), accessible from a public right of way, with respect to which all architectural barriers (as used in the ADA) to entry have been eliminated, and (2) if such accessible point of entry is not a building's primary point of entry, conspicuous signage directing persons to such accessible point of entry.

Section 2. Real Property Tax Exemption. Subject to the satisfaction of the conditions set forth in this Agreement, the City approves exemption from real property taxation, pursuant to and to the fullest extent authorized by the Statute, of one hundred percent (100%) of the amount by which the Improvements increase the assessed value of the Property as determined by the Hamilton County Auditor, for a period of 12 years, provided that the Company shall have entered into the Board of Education Agreement. Within 120 days after completion of the Project (unless otherwise extended in writing by the City's Housing Officer), the Company must file the appropriate application for tax exemption with the City's Housing Officer. The Company is solely responsible to take this action. Upon receipt of the application for tax exemption, the City will proceed with the exemption authorized by this Agreement. In accordance with Ohio Revised Code Section 3735.67, the exemption is conditioned on verification by the Housing Officer of (A) the completion of construction, (B) the cost of construction, (C) the facts asserted in the application for exemption and (D) if a remodeled structure is a structure of historical or architectural significance as designated by the City, state or federal government, that the appropriateness of the construction has been certified in writing by the appropriate agency. If the required verification is made, the Housing Officer will forward the exemption application to the Hamilton County Auditor with the necessary certification by the Housing Officer. Subject to the conditions set forth in this Agreement, the exemption commences the first

tax year for which the Improvements would first be taxable were the Improvements not exempted from taxation. The dates provided in this paragraph refer to tax years in which the subject property is assessed, as opposed to years in which taxes are billed. No exemption shall commence after tax year 2022 nor extend beyond the earlier of (i) tax year 2033 or (ii) the end of the 12th year of exemption.

Section 3. Use; Maintenance; Inspections. The Company shall use the Property solely for the purposes described in Section 1 hereof and shall properly maintain and repair the Property throughout the period of tax exemption authorized herein. The Company authorizes the Housing Officer, or the Housing Officer's designees, to enter upon the Property as reasonably required to perform property inspections in accordance with Ohio Revised Code Section 3735.68.

Section 4. Compliance with Board of Education Agreement. As a condition of the tax exemption authorized under this Agreement, the Company agrees to enter into and comply with its obligation under the Board of Education Agreement.

Section 5. Duty of Company to Pay Taxes. As required by Ohio Revised Code Section 3735.671(C)(2), the Company shall pay such real property taxes as are not exempted under this Agreement and are charged against the Property and shall file all tax reports and returns as required by law. If the Company fails to pay such taxes or file such returns and reports, exemptions from taxation granted or authorized under this Agreement are rescinded beginning with the year for which such taxes are charged or such reports or returns are required to be filed and continuing thereafter.

Section 6. Company Certifications Regarding Non-Delinquency of Tax Obligations. As required by Ohio Revised Code Section 3735.671(C)(3), the Company certifies that at the time this Agreement is executed, the Company does not owe any delinquent real or tangible personal property taxes to any taxing authority of the State, and does not owe delinquent taxes for which the Company is liable under Ohio Revised Code Chapters 5733, 5735, 5739, 5741, 5743, 5747 or 5753, or if such delinquent taxes are owed, the Company currently is paying the delinquent taxes pursuant to an undertaking enforceable by the State or an agent or instrumentality thereof, has filed a petition in bankruptcy under 101, et seq., or such a petition has been filed against the Company. For the purposes of this certification, delinquent taxes are taxes that remain unpaid on the latest day prescribed for payment without penalty under the chapter of the Ohio Revised Code governing payment of those taxes.

Section 7. Covenant of Satisfaction of Tax and Other Obligations. In accordance with Ohio Revised Code Section 9.66, (A) the Company affirmatively covenants that it does not owe: (i) any delinquent taxes to the State or to a political subdivision of the State; (ii) any moneys to the State or a State agency for the administration or enforcement of any environmental laws of the State; or (iii) any other moneys to the State, a State agency or a political subdivision of the State that are past due, regardless of whether the amounts owed are being contested in a court of law or not; (B) the Company authorizes the City and/or the State to inspect the personal financial statements of the Company, including tax records and other similar information not ordinarily open to public inspection; and (C) the Company authorizes the Ohio Environmental Protection Agency and the Ohio Department of Taxation to release information to the City and or other State departments in connection with the above statements. As provided by statute, a knowingly false statement under this section may be prosecuted as a first degree misdemeanor under Ohio Revised Code Section 2921.13, may render the Company ineligible for any future economic development assistance from the State or any political subdivision of the State, and will result in the City requiring the Company's repayment of any assistance provided by the City in connection with the Project.

Section 8. City Cooperation. As required by Ohio Revised Code Section 3735.671(C)(4), upon specific request from the Company, the City shall perform such acts as are reasonably necessary or appropriate to effect, claim, reserve and maintain exemptions from taxation granted under this Agreement including, without limitation, joining in the execution of all documentation and providing any necessary certificates required in connection with such exemptions.

Section 9. Continuation of Exemptions. As provided in Ohio Revised Code Section 3735.671(C)(5), if for any reason the City revokes the designation of the City of Cincinnati as a Community

Reinvestment Area, entitlements granted under this Agreement shall continue for the number of years specified under this Agreement, unless the Company materially fails to fulfill its obligations under this Agreement and the City terminates or modifies the exemptions from taxation authorized pursuant to this Agreement.

Section 10. City Not Liable. The Company acknowledges that the exemption authorized in this Agreement is subject to approval and implementation by the appropriate state and/or county taxing authorities. The Company acknowledges that the City does not give any guarantee or assurance that the exemption approved in this Agreement will be so approved, and the Company agrees that in no event shall the Company seek to hold the City liable in any way in the event such exemption is not granted or implemented.

Section 11. Small Business Enterprise Program.

A. Compliance with Small Business Enterprise Program. The policy of the City is that a fair share of contracts be awarded to Small Business Enterprises (as such term is defined in Cincinnati Municipal Code ("CMC") Section 323-1-S, "SBEs"). Pursuant to CMC Section 323-11, the City's annual goal for SBE participation shall be thirty percent (30%) of the City's total dollars spent for construction (as such term is defined in CMC Section 323-1-C4), supplies (as such term is defined in CMC Section 323-1-S5), services (as such term is defined in CMC Section 323-1-S) and professional services (as such term is defined in CMC Section 323-1-P2). Accordingly, the Company shall use its best efforts and take affirmative steps to achieve the City's goal of voluntarily meeting thirty percent (30%) SBE participation. A list of SBEs may be obtained from the City's Department of Economic Inclusion. The Company may refer interested firms to the City's Department of Economic Inclusion for review and possible certification as an SBE. The Company shall comply with the provisions of CMC Chapter 323, including without limitation taking at least the following affirmative steps:

- (i) Including qualified SBEs on solicitation lists.
- (ii) Assuring that SBEs are solicited whenever they are potential sources. The Company must advertise, on at least two separate occasions, both in local minority publications and in other local newspapers of general circulation, invitations to SBEs to provide services, to supply materials, or to bid on construction contracts, as applicable.
- (iii) When economically feasible, dividing total requirements into small tasks or quantities so as to permit maximum SBE participation.
- (iv) If any subcontracts are to be let, the Company shall require the prime contractor (if different from the Company) to take the above affirmative steps.
- (v) Prior to the commencement of work under any subcontracts, the Company shall provide to the City a list of such subcontractors, including information as to the dollar amount of the subcontracts and such other information as may be requested by the City. The Company shall update the report monthly.
- (vi) The Company shall periodically document its best efforts and affirmative steps to meet the above SBE participation goals by submitting such information as may be requested from time to time by the City.

B. Remedies for Noncompliance with Small Business Enterprise Program. Failure of the Company or its contractors and subcontractors to take the affirmative steps specified above, to provide fair and equal opportunity to SBEs, or to provide technical assistance to SBEs as may be necessary to reach SBE participation as set out in CMC Chapter 323 may be construed by the City as failure of the Company to use its best efforts, and, in addition to other remedies under this Agreement, may be a cause for the City to file suit in Common Pleas Court to enforce specific performance of the terms of this Section. The provisions of CMC Section 323-99 are hereby incorporated by reference into this Agreement.

Section 12. Jobs. The Company represents that, as of the date of the execution of this Agreement, the Tenant has (a) 35 full-time equivalent employees in the City of Cincinnati, with a total payroll

of \$2,150,000 (the "Retained Jobs"), and (b) no other existing employment in the City of Cincinnati or at other locations in the State.

Section 13. Job Creation and Retention.

A. Jobs to be Retained by Company. The Company agrees to use its best efforts to cause the Retained Jobs to be retained in connection with the Project.

B. Jobs to be Created by Company. The Company agrees to use its best efforts to create or cause to be created (i) 6 full-time permanent jobs and (ii) 40 full-time temporary construction jobs at the Property in connection with the Project. In the case of the construction jobs, the job creation and retention period shall be concurrent with construction, and in the case of the other jobs described herein, the job creation period shall begin upon completion of construction and shall end three (3) years thereafter.

C. Company's Estimated Payroll Increase. The increase in the number of employees employed at the Project will result in approximately (i) \$360,000 of additional annual payroll with respect to the full-time permanent jobs, and (ii) \$500,000 of additional annual payroll prior to the completion of the Project with respect to the full-time temporary construction jobs.

D. Community Reinvestment Area Employment. The Company shall (i) adopt hiring practices to ensure that it gives preference to residents of the City relative to residents of the State who do not reside in the City when hiring new employees under this Agreement and (ii) use best efforts to confirm that at least twenty-five percent (25%) of the new employees shall be residents of the City of Cincinnati.

E. Posting Available Employment Opportunities. To the extent allowable by law, the Company shall use its best efforts to post available employment opportunities within the Company's organization or the organization of any subcontractor working with the Company with the Ohio Means Jobs Center, 1916 Central Parkway, Cincinnati, Ohio 45214-2305, through its Employer Services Unit Manager at 513-746-7200.

Section 14. Equal Employment Opportunity. This Agreement is subject to the City's Equal Employment Opportunity Program contained in CMC Chapter 325. The Equal Employment Opportunity Clause in CMC Section 325-9 is incorporated by reference in this Agreement. The term "Company" is substituted for "Contractor" throughout CMC Section 325-9 in the context of this Agreement.

Section 15. Compliance with Immigration and Nationality Act. In the performance of its obligations under this Agreement, the Company agrees to comply with the provisions of the Immigration and Nationality Act codified at 8 U.S.C. §§ 1324a(a)(1)(A) and (a)(2). Any noncompliance with such provisions shall be solely determined by either the federal agencies authorized to enforce the Immigration and Nationality Act or the U.S. Attorney General, in accordance with Executive Order 12989 of the U.S. President dated February 13, 1996, and as amended by Executive Order 13465 of the U.S. President dated June 6, 2008.

Section 16. Default. As provided in Ohio Revised Code Section 3735.671(C)(6), if the Company materially fails to fulfill its obligations under this Agreement, or if the City determines that the certification as to delinquent taxes required by this Agreement (Section 6 hereof) or the covenant of satisfaction of tax and other obligations (Section 7 hereof) is fraudulent, the City may terminate or modify the exemptions from taxation granted or authorized under this Agreement and may require the repayment by the Company of the amount of taxes that would have been payable had the Improvements not been exempted from taxation pursuant to this Agreement. A modification of exemption may be in the form of reduction in the number of years that eligible property is exempt and/or a reduction in the exemption percentage. The City shall provide written notice to the Company prior to finding the Company in default under this section. The notice shall provide the Company with not less than thirty (30) days to cure the default prior to City termination or modification of the exemptions under this Agreement. The City may

extend the cure period as reasonably necessary under the circumstances. In the event of such termination or modification, the City is authorized to so notify the appropriate taxing authorities in order to effect the termination or modification. If repayment of previously exempt taxes is required by the City under this Section, such amount shall be paid as directed by the City within thirty (30) days of written demand. The City may secure repayment of such taxes by a lien on the Property in the amount required to be repaid. Such a lien shall attach, and may be perfected, collected, and enforced, in the same manner as a mortgage lien on real property, and shall otherwise have the same force and effect as a mortgage lien on real property. Amounts due and not paid when due under this Section 16 shall bear interest at the rate specified in Ohio Revised Code Section 1343.03(A) (as in effect on the date of the City's payment demand).

Section 17. Annual Review and Report. As required by Ohio Revised Code Sections 3735.671(C)(7) and 5709.85, the Company shall provide to the City's Tax Incentive Review Council (or to the City Manager if so requested by the City) any information reasonably required by the Council or the City Manager to evaluate the Company's compliance with this Agreement, including returns filed pursuant to Ohio Revised Code Section 5711.02 if requested by the Council or City Manager. The performance of the Company's obligations stated in this Agreement shall be subject to annual review by the City's Tax Incentive Review Council (the "Annual Review and Report"). The Company shall submit information for the Annual Review and Report to the City no later than March 1 of each year.

Section 18. Revocation.

A. Generally. Pursuant to Ohio Revised Code Section 3735.68, the housing officer shall make annual inspections of the properties within the community reinvestment area upon which are located structures or construction for which an exemption has been granted under Ohio Revised Code Section 3735.67. If the housing officer finds that the property has not been properly maintained or repaired due to the neglect of the Company, the housing officer may revoke the exemption at any time after the first year of exemption. If the Company has materially failed to fulfill its obligations under this Agreement, or if the owner is determined to have violated division (E) of that section (see Section 18(B) of this Agreement), City Council, subject to the terms of the agreement, may revoke the exemption at any time after the first year of exemption. The housing officer or City Council shall notify the county auditor and the Company that the tax exemption no longer applies. If the housing officer or legislative authority revokes a tax exemption, the housing officer shall send a report of the revocation to the community reinvestment area housing council and to the tax incentive review council established pursuant to section 3735.69 or 5709.85 of the Revised Code, containing a statement of the findings as to the maintenance and repair of the property, failure to fulfill obligations under the written agreement, or violation of division (E) of Ohio Revised Code Section 3735.671, and the reason for revoking the exemption.

B. Prior Statutory Violations. The Company represents and warrants to the City that it is not prohibited by Ohio Revised Code Section 3735.671(E) from entering into this Agreement. As required by Ohio Revised Code Section 3735.671(C)(9), exemptions from taxation granted or authorized under this Agreement shall be revoked if it is determined that the Company, any successor to the Company or any related member (as those terms are defined in division (E) of Ohio Revised Code Section 3735.671) has violated the prohibition against entering into this Agreement under division (E) of Ohio Revised Code Section 3735.671 or under Ohio Revised Code Sections 5709.62 or 5709.63 prior to the time prescribed by that division or either of those sections.

Section 19. False Statements; Penalties; Material Representations.

A. Generally. As required in connection with Ohio Revised Code Section 9.66(C), the Company affirmatively covenants that it has made no false statements to the State or the City in the process of obtaining approval for this Agreement. If any representative of the Company has knowingly made a false statement to the State or the City to obtain approval for this Agreement, or if the Company fails to provide any information expressly required under the Application, the Company shall be required to immediately return all benefits received under this Agreement (by payment of the amount of taxes exempted hereunder, paid as directed by the City within thirty (30)

days of written demand) and the Company shall be ineligible for any future economic development assistance from the State, any State agency or any political subdivision of the State pursuant to Ohio Revised Code Section 9.66(C)(1). Amounts due and not paid under this Section 19 shall bear interest at the rate of twelve percent (12%) per year. Any person who provides a false statement to secure economic development assistance (as defined in Ohio Revised Code Section 9.66) may be guilty of falsification, a misdemeanor of the first degree, pursuant to Ohio Revised Code Section 2921.13(F)(1), which is punishable by fine of not more than One Thousand Dollars (\$1,000) and/or a term of imprisonment of not more than six (6) months.

B. Material Representations – Board of Education Agreement and VTICA. The Parties acknowledge and agree that a material failure by the Company to comply with its representations concerning the Board of Education Agreement or VTICA Contribution shall constitute an event of default for purposes of Section 16 (*Default*) and the basis for revocation under Section 18 (*Revocation*). Subject to the terms of the VTICA, if the VTICA is unenforceable for reasons of infeasibility or otherwise, the Company shall enter into alternative arrangements providing for the economic equivalent of the VTICA Contribution. Such arrangements may include, but are not limited to, providing for the economic equivalent of the VTICA Contribution through formation of a special improvement district. For purposes of this Section 19.B, alternative arrangements must result in services substantially similar to those that would have been supported through the VTICA and at a value that is the economic equivalent of the VTICA Contribution, which value shall not be required to exceed the VTICA Contribution amount that would have been payable by the Company. Any determination of infeasibility or mechanism for providing alternative arrangements is subject to approval by the City at its sole discretion. Nothing in this Section 19.B shall operate to limit the City's enforcement authority under this Agreement including, without limitation, Section 16, Section 18, and Section 19.A.

Section 20. Conflict of Interest. The Company covenants that, to the Company's knowledge, no employee of the City has any personal interest, direct or indirect, in any matters pertaining to the Project, and the Company agrees to take appropriate steps to prevent any employee of the City from obtaining any such interest throughout the term of this Agreement.

Section 21. Annual Fee. As authorized by Ohio Revised Code Section 3735.671(D), the Company shall pay an annual fee of Five Hundred Dollars (\$500) or one percent (1%) of the annual taxes exempted under this Agreement, whichever is greater, but not to exceed Two Thousand, Five Hundred Dollars (\$2,500) per annum. This fee is due with submission of the information for Annual Review and Report by March 1 of each year.

Section 22. Discontinued Operations. As provided in Ohio Revised Code Section 3735.671(E), if, prior to the expiration of the term of this Agreement, the Company discontinues operations at the Project so that the Property is no longer being used for the purposes described in Section 1 hereof, then the Company, its successors, and any related member shall not enter into an agreement under Ohio Revised Code Sections 3735.671, 5709.62, 5709.63 or 5709.632, and no legislative authority shall enter into such an agreement with the Company, its successors or any related member prior to the expiration of five (5) years after the discontinuation of operations. As used in this Section 22, "successors" and "related member" shall have the meanings set forth in Ohio Revised Code Section 3735.671(E).

Section 23. Notices. Unless otherwise specified herein, each party shall address written notices, demands and communications in connection with this Agreement to the other party as follows (or to such other address as is communicated in accordance with this Section):

To the City:

City of Cincinnati
Attention: Director of the Department of Community and Economic Development
Centennial Plaza Two, Suite 700
805 Central Avenue
Cincinnati, Ohio 45202

To the Owner:

SLD ENTERPRISES, LLC
Attention: James E. Huegel, Sr., CEO
7162 Reading Road, Suite 300
Cincinnati, Ohio 45237

To the Tenant:

BROTHERS EXPRESS, LLC
Attention: James E. Huegel, Sr., Managing Member
7162 Reading Road, Suite 1001
Cincinnati, Ohio 45237

If the Company sends a notice to the City alleging that the City is in default under this Agreement, the Company shall simultaneously send a copy of such notice to: City Solicitor, City of Cincinnati, 801 Plum Street, Room 214, Cincinnati, OH 45202.

Section 24. Acknowledgment of City Participation. The Company agrees to acknowledge the support of the City on construction signs, project and exhibition signage, and any publicity such as that appearing on the internet, television, cable television, radio, or in the press or any other printed media. In identifying the City as a Project partner, the Company shall use either the phrase "Project Assistance by the City of Cincinnati" or a City of Cincinnati logotype or other form of acknowledgement that has been approved in advance in writing by the City.

Section 25. Entire Agreement. This Agreement and the Exhibits attached hereto constitute the entire agreement between the City and the Company with respect to the subject matter herein, superseding any prior or contemporaneous agreement with respect thereto.

Section 26. Governing Law. This Agreement is entered into and is to be performed in the State. The City and the Company agree that the law of the State of Ohio shall govern the rights, obligations, duties and liabilities of the parties to this Agreement and shall govern the interpretation of this Agreement.

Section 27. Waiver. The City's waiver of any breach by the Company of any provision of this Agreement shall not constitute or operate as a waiver by the City of any other breach of such provision or of any other provisions, nor shall any failure or delay by the City to enforce any provision hereof operate as a waiver of such provision or of any other provision.

Section 28. Severability. This Agreement shall be severable; if any part or parts of this Agreement shall for any reason be held invalid or unenforceable by a court of competent jurisdiction, all remaining parts shall remain binding and in full force and effect.

Section 29. Amendment. This Agreement may be modified or amended only by a written agreement duly executed by the parties hereto or their representatives.

Section 30. Non-Assignment. As required by Ohio Revised Code Section 3735.671(C)(8), this Agreement is not transferable or assignable by the Company without the express written approval of the City Manager of the City. If the Company has entered into a Board of Education Agreement or VTICA in

connection with the Property, the City shall not approve the assignment of this Agreement unless the assignee has assumed the Company's remaining obligations under the Board of Education Agreement and VTICA, as applicable. Failure to assign or otherwise perform the Company's obligations under the Board of Education Agreement or VTICA upon transfer of the Property during the term of the tax abatement authorized by this Agreement shall be basis for revocation of the tax exemption under Section 18.

Section 31. Recording. At its election, the City may record this Agreement at the City's expense in the Hamilton County Recorder's Office.

Section 32. Legislative Action Required. As provided in Ohio Revised Code Section 3735.671(C)(10), the Company and the City acknowledge that this Agreement must be approved by formal action of the City Council of the City as a condition for this Agreement to take effect. Notwithstanding anything to the contrary herein, this Agreement shall take effect after the later of the date of such approval or the final date of execution of this Agreement by all parties.

Section 33. Additional Representations and Warranties of Company. The Company represents and warrants that (a) it is duly organized and existing and it has full power and authority to take, and has taken, all action necessary to execute and deliver this Agreement and any other documents required or permitted to be executed or delivered by it in connection with this Agreement, and to fulfill its obligations hereunder; (b) no notices to, or consents, authorizations or approvals of, any person are required (other than any already given or obtained) for its due execution, delivery and performance of this Agreement; and (c) this Agreement has been duly executed and delivered by it and constitutes the legal, valid and binding obligation of the Company.

Section 34. Certification as to Non-Debarment. The Company represents that neither it nor any of its principals is presently debarred by any federal, state, or local government agency. In completing the Project, the Company shall not solicit bids from any contractors or subcontractors who are identified as being debarred by any federal, state, or local government agency. If the Company or any of its principals becomes debarred by any federal, state, or local government agency during the term of this Agreement, the company shall be considered in default under this Agreement.

Section 35. Appeals. Pursuant to Ohio Revised Code Section 3735.70, a person aggrieved under the Statute or this Agreement may appeal to the community reinvestment area housing council, which shall have the authority to overrule any decision of a housing officer. Appeals may be taken from a decision of the council to the court of common pleas of the county where the area is located.

Section 36. Wage Enforcement.

(i) Applicability. Council passed Ordinance No. 22-2016 on February 3, 2016, which ordained Chapter 326 (Wage Enforcement) of the Cincinnati Municipal Code (the "Wage Enforcement Chapter"). The Wage Enforcement Chapter was then amended by Ordinance No. 96-2017, passed May 17, 2017. As amended, the Wage Enforcement Chapter imposes certain requirements upon persons entering into agreements with the City whereby the City provides an incentive or benefit that is projected to exceed \$25,000, as described more particularly in the Wage Enforcement Chapter. Cincinnati Municipal Code Section 326-5 requires that the language below be included in contracts subject to the Wage Enforcement Chapter.

(ii) Required Contractual Language. Capitalized terms used, but not defined, in this clause (ii) have the meanings ascribed thereto in the Wage Enforcement Chapter.

(a) This contract is or may be subject to the Wage Enforcement provisions of the Cincinnati Municipal Code. These provisions require that any Person who has an Agreement with the city or with a Contractor or Subcontractor of that Person shall report all Complaints or Adverse Determinations of Wage Theft and Payroll Fraud (as each of those terms is defined in Chapter 326 of the Cincinnati Municipal Code) against the Contractor or Subcontractors to the Department of Economic Inclusion within 30 days of notification of the Complaint or Adverse Determination.

(b) If this contract is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this contract is required to include provisions in solicitations and contracts regarding a Development Site that all employers, Contractors or Subcontractors performing or proposing to perform work on a Development Site provide an initial sworn and notarized "Affidavit Regarding Wage Theft and Payroll Fraud" on a form prescribed by the city manager or his or her designee and, within 30 days of an Adverse Determination or Complaint of Wage Theft or Payroll Fraud, shall provide an "Amended Affidavit Regarding Wage Theft and Payroll Fraud" on a form prescribed by the city manager or his or her designee.

(c) If this contract is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this contract is required to authorize, and does hereby specifically authorize, any local, state or federal agency, court, administrative body or other entity investigating a complaint of Wage Theft or Payroll Fraud against the Person (collectively "investigative bodies") to release to the City's Department of Economic Inclusion any and all evidence, findings, complaints and determinations associated with the allegations of Wage Theft or Payroll Fraud upon the City's request and further authorizes such investigative bodies to keep the City advised regarding the status of the investigation and ultimate determination. If the investigative bodies require the Person to provide additional authorization on a prescribed form or in another manner, the Person shall be required to provide such additional authorization within 14 days of a request by the City.

(d) If this Agreement is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this Agreement shall include in its contracts with all Contractors language that requires the Contractors to provide the authorizations set forth in subsection (c) above and that further requires each Contractor to include in its contracts with Subcontractors those same obligations for each Subcontractor and each lower tier subcontractor.

(e) If this Agreement is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this Agreement shall post a conspicuous notice on the Development Site throughout the entire period work is being performed pursuant to the Agreement indicating that the work being performed is subject to Cincinnati Municipal Code Chapter 326, Wage Enforcement, as administered by the City of Cincinnati Department of Economic Inclusion. Such notice shall include contact information for the Department of Economic Inclusion as provided by the department.

(f) Under the Wage Enforcement provisions, the City shall have the authority, under appropriate circumstances, to terminate this contract or to reduce the incentives or subsidies to be provided under this contract and to seek other remedies, including debarment.

Section 37. Legal Requirements. In completing and operating the Project, the Company shall comply with all applicable statutes, ordinances, regulations, and rules of the government of the United States, State of Ohio, County of Hamilton, and City of Cincinnati.

Section 38. Joint and Several Liability. The obligations and liability of the Owner and the Tenant under this Agreement are joint and several, except as otherwise expressly indicated. In dealing with said entities, the City shall be entitled to rely upon information, notices, documents and the like received by the City from only one of said entities to the same extent as if the same had been provided to the City by both entities.

Section 39. Counterparts and Electronic Signatures. This Agreement may be executed by the parties hereto in two or more counterparts and each executed counterpart shall be considered an original but all of which together shall constitute one and the same instrument. This Agreement may be executed and delivered by electronic signature; any original signatures that are initially delivered electronically shall be physically delivered as soon as reasonably possible.

Remainder of this page intentionally left blank. Signature page follows.

Executed by the parties on the dates indicated below, effective as of the later of such dates (the "Effective Date").

CITY OF CINCINNATI,
an Ohio municipal corporation

SLD ENTERPRISES, LLC,
an Ohio limited liability company

By: _____
Paula Boggs Muething, City Manager

Date: _____, 2021

By: _____

Printed Name: _____

Title: _____

Date: _____, 2021

Authorized by resolution dated _____

BROTHERS EXPRESS, LLC,
an Ohio limited liability company

By: _____

Printed Name: _____

Title: _____

Date: _____, 2021

Approved as to Form:

Assistant City Solicitor

Certified Date: _____

Fund/Code: _____

Amount: _____

By: _____
Karen Alder, City Finance Director

Exhibit A to CRA Agreement

LEGAL DESCRIPTION OF PROPERTY

Property Address: 5790 Center Hill Avenue, Cincinnati, Ohio 45232

Parcel ID No.: 238-0004-0036-00

Situate in the State of Ohio, County of Hamilton, Section 18, Township 3, Fractional Range 2, Millcreek Township and being all of Lot Number 1 of Center Hill Business Park as the same is shown on the plat thereof recorded in Plat Book 258, Page 40 of the Hamilton County, Ohio Recorder's Office.

Exhibit B to CRA Agreement
APPLICATION FOR TAX EXEMPTION

TO BE ATTACHED

Community Reinvestment Area Tax Exemption Agreement

This Community Reinvestment Area Tax Exemption Agreement (this "Agreement") is made and entered into as of the Effective Date (as defined on the signature page hereof) by and among the CITY OF CINCINNATI, an Ohio municipal corporation (the "City"), SLD ENTERPRISES, LLC, an Ohio limited liability company (the "Owner"), and BROTHERS EXPRESS, LLC, an Ohio limited liability company (the "Tenant"); and together with the Owner, the "Company").

Recitals:

- A. The City, through the adoption of Ordinance No. 274-2017 on September 27, 2017, designated the entire City of Cincinnati as a Community Reinvestment Area to encourage the development of real property and the acquisition of personal property in that area, pursuant to Ohio Revised Code Sections 3735.65 through 3735.70 (the "Statute").
- B. In accordance with the Statute, the Ohio Director of Development has forwarded to the City the Director's determination dated October 23, 2017, stating that the findings contained in Ordinance No. 274-2017 are valid and that the entire City is a Community Reinvestment Area under the Statute. By such determination, the Director of Development of the State of Ohio determined that the area within the corporate boundaries of the City of Cincinnati contains the characteristics set forth in the Statute and confirmed such area as a Community Reinvestment Area under the Statute.
- C. The Council of the City of Cincinnati has also passed Ordinance No. 275-2017 as of September 27, 2017, as amended by Ordinance No. 339-2018 passed on October 31, 2018 (the "Commercial Policy Ordinance"), which sets forth certain additional policies, conditions and limitations regarding newly constructed or remodeled commercial and residential structures in the Community Reinvestment Area.
- D. The Owner is the sole owner of, and the Tenant is the long-term tenant of, certain real property within the City, located at 5790 Center Hill Avenue, Cincinnati, Ohio 45232, (the "Property"), as further described in Exhibit A (Legal Description of Property) hereto. Notwithstanding the foregoing, the Property shall not include any residential condominiums being developed in connection with the Project (as defined below) (the "Excluded Property"), and the Company acknowledges and agrees that the City's Community Reinvestment Area program entails separate applications by the owner of any residential condominium units included within the Project. For the avoidance of doubt, the Excluded Property shall not be exempt under this Agreement; however, this provision shall not be deemed to prohibit any owners from time to time of any Excluded Property from separately applying for a tax abatement in accordance with applicable law.
- E. The Company has proposed to construct a new building located on the Property, within the boundaries of the City of Cincinnati, as more fully described in Section 1 herein (the "Project"), provided that the appropriate development incentives are available to support the economic viability of the Project.
- F. The Statute provides that if any part of a project is to be used for commercial or industrial purposes, including projects containing four or more dwelling units, in order to be eligible for tax exemption the City and the Company must enter into an agreement pursuant to Ohio Revised Code Section 3735.671 prior to commencement of construction or remodeling.
- G. The City, having appropriate authority under the Statute for this type of project, agrees (as provided herein and subject to all conditions herein) to provide the Company with the tax exemption incentives stated herein, available under the Statute, for development of the Project.
- H. The Company has submitted to the City an application for this tax exemption agreement (the "Application"), a copy of which is attached hereto as Exhibit B, has remitted with the Application (i) the City application fee of One Thousand Two Hundred Fifty Dollars (\$1,250) made payable to the

City and (ii) in accordance with Ohio Revised Code Section 3735.672(C), the state application fee of Seven Hundred Fifty Dollars (\$750) made payable to the Ohio Development Services Agency (“ODSA”), to be forwarded to the ODSA with an executed copy of this Agreement.

- I. The Director of the City’s Department of Community and Economic Development has recommended approval of the Application on the basis that the Company is qualified by financial responsibility and business experience to create and preserve employment opportunities and improve the economic climate of the City.
- J. The Board of Education of the Cincinnati City School District (the “Board of Education”), pursuant to that certain *Tax Incentive Agreement* effective as of April 28, 2020, has approved exemptions of up to one hundred percent (100%) of Community Reinvestment Area projects, waived advance notice and right to review such projects, and waived sharing or allocation of municipal income taxes in connection with such projects.
- K. The Company has entered into (or will enter into) an agreement with the Board of Education requiring the Company to pay the Board of Education amounts equal to thirty-three percent (33%) of the full amount of exempt real property taxes that would have been paid to Hamilton County if this Agreement were not in effect (the “Board of Education Agreement”).
- L. The Company represents and warrants to the City that the Company and its major tenants, if any, do not intend to relocate part or all of their operations to the City from another county or municipal corporation in the State of Ohio (the “State”).
- M. The Company represents that within the past five (5) years neither the Company, nor any related member of the Company nor any entity to which the Company is a successor has discontinued operations at a project site in the State during the term of a property tax exemption agreement (under Ohio Revised Code Section 3735.671, 5709.62, 5709.63 or 5709.632) applicable to that site, and the Company acknowledges that misrepresentation hereunder will result in voiding of this Agreement.
- N. The Company represents and warrants to the City that the Company is not subject to an Enterprise Zone Agreement with the City of Cincinnati for the Property or the Project.
- O. The Company acknowledges that the Winton Hills neighborhood is a rising neighborhood in need of resources for development, neighborhood improvements, amenities, and organizations oriented towards neighborhood services. The Company anticipates that future development, improvements, amenities and organizations will contribute to the quality and vitality of the neighborhood, therefore increasing the value of the Property and directly and indirectly contributing to the Project’s success. The Project’s success, in turn, will benefit the neighborhood. Although this feedback effect will promote the revitalization and redevelopment of the City, it could also impact the affordability of property in the area. Therefore, in support of the Winton Hills neighborhood and with the intention of preserving and improving the availability of quality, reliable affordable housing on a City-wide basis, as a material inducement to the City to enter into this Agreement, the Company hereby represents to the City that it will enter into a voluntary tax incentive contribution agreement (“VTICA”) with a City-designated third-party non-profit administrative organization (the “Third-Party Administrator”) to contribute to the Third-Party Administrator an amount equal to fifteen percent (15%) of the real property taxes that would have been payable on the abated property but for the City-authorized tax abatement (the “VTICA Contribution”). Half of such VTICA Contribution is to be committed by the Third-Party Administrator to facilitate permanent improvements and neighborhood services furthering urban redevelopment in the Winton Hills neighborhood and the other half of such VTICA Contribution is to be committed by the Third-Party Administrator in supporting quality affordable housing on a City-wide basis. The Company hereby represents and warrants that it will pay the VTICA Contribution for the full term of the abatement.

- P. This Agreement has been authorized by Ordinance No. ____-20____, passed by Cincinnati City Council on _____, 2021.
- Q. In determining to recommend and authorize this Agreement, the Department of Community and Economic Development and City Council, respectively, have acted in material reliance on the Company's representations in the Application and herein regarding the Project including, but not limited to, representations relating to the number of jobs to be created and/or retained by the Company, the Board of Education Agreement, the VTICA Contribution, and the Project's effect in promoting the general welfare of the people of Cincinnati by, for example, encouraging the development of real property located in the Community Reinvestment Area and thereby promoting economic growth and vitality in Cincinnati.

NOW, THEREFORE, pursuant to Ohio Revised Code Section 3735.67(A) and in conformity with the format required under Ohio Revised Code Section 3735.671, in consideration of the mutual covenants contained herein and the benefit to be derived by the parties from the execution hereof, the parties agree as follows:

Section 1. Project. Upon issuance of the necessary zoning and building approvals, the Company agrees to construct a new building on the Property into approximately 11,200 square feet of industrial space, and approximately 2,800 square feet of office space (the "Improvements"), at an estimated aggregate cost of \$1,780,000 to commence after the execution of this Agreement and to be completed no later than June 1, 2022; *provided*, however, that the Director of the Department of Community and Economic Development (the "Housing Officer") may, in her discretion, extend such deadline for a period of up to 12 months by written notice if, in the Director's judgment, the Company is proceeding in good faith towards completion. The construction shall be in compliance with applicable building code requirements and zoning regulations. In addition to the foregoing, (A) the Project shall comply with the Americans with Disabilities Act, together with any and all regulations or other binding directives promulgated pursuant thereto (collectively, the "**ADA**"), and (B) if (i) any building(s) within the Project is subject to the accessibility requirements of the ADA (e.g., by constituting a "place of public accommodation" or another category of structure to which the ADA is applicable) and (ii) such building(s) is not already required to meet the Contractual Minimum Accessibility Requirements (as defined below) pursuant to the ADA, applicable building code requirements, or by any other legal requirement, then the Company shall cause such building(s) to comply with the Contractual Minimum Accessibility Requirements in addition to any requirements pursuant to the ADA and the applicable building code or legal requirement. As used herein, "**Contractual Minimum Accessibility Requirements**" means that a building shall, at a minimum, include (1) at least one point of entry (as used in the ADA), accessible from a public right of way, with respect to which all architectural barriers (as used in the ADA) to entry have been eliminated, and (2) if such accessible point of entry is not a building's primary point of entry, conspicuous signage directing persons to such accessible point of entry.

Section 2. Real Property Tax Exemption. Subject to the satisfaction of the conditions set forth in this Agreement, the City approves exemption from real property taxation, pursuant to and to the fullest extent authorized by the Statute, of one hundred percent (100%) of the amount by which the Improvements increase the assessed value of the Property as determined by the Hamilton County Auditor, for a period of 12 years, provided that the Company shall have entered into the Board of Education Agreement. Within 120 days after completion of the Project (unless otherwise extended in writing by the City's Housing Officer), the Company must file the appropriate application for tax exemption with the City's Housing Officer. The Company is solely responsible to take this action. Upon receipt of the application for tax exemption, the City will proceed with the exemption authorized by this Agreement. In accordance with Ohio Revised Code Section 3735.67, the exemption is conditioned on verification by the Housing Officer of (A) the completion of construction, (B) the cost of construction, (C) the facts asserted in the application for exemption and (D) if a remodeled structure is a structure of historical or architectural significance as designated by the City, state or federal government, that the appropriateness of the construction has been certified in writing by the appropriate agency. If the required verification is made, the Housing Officer will forward the exemption application to the Hamilton County Auditor with the necessary certification by the Housing Officer. Subject to the conditions set forth in this Agreement, the exemption commences the first

tax year for which the Improvements would first be taxable were the Improvements not exempted from taxation. The dates provided in this paragraph refer to tax years in which the subject property is assessed, as opposed to years in which taxes are billed. No exemption shall commence after tax year 2022 nor extend beyond the earlier of (i) tax year 2033 or (ii) the end of the 12th year of exemption.

Section 3. Use; Maintenance; Inspections. The Company shall use the Property solely for the purposes described in Section 1 hereof and shall properly maintain and repair the Property throughout the period of tax exemption authorized herein. The Company authorizes the Housing Officer, or the Housing Officer's designees, to enter upon the Property as reasonably required to perform property inspections in accordance with Ohio Revised Code Section 3735.68.

Section 4. Compliance with Board of Education Agreement. As a condition of the tax exemption authorized under this Agreement, the Company agrees to enter into and comply with its obligation under the Board of Education Agreement.

Section 5. Duty of Company to Pay Taxes. As required by Ohio Revised Code Section 3735.671(C)(2), the Company shall pay such real property taxes as are not exempted under this Agreement and are charged against the Property and shall file all tax reports and returns as required by law. If the Company fails to pay such taxes or file such returns and reports, exemptions from taxation granted or authorized under this Agreement are rescinded beginning with the year for which such taxes are charged or such reports or returns are required to be filed and continuing thereafter.

Section 6. Company Certifications Regarding Non-Delinquency of Tax Obligations. As required by Ohio Revised Code Section 3735.671(C)(3), the Company certifies that at the time this Agreement is executed, the Company does not owe any delinquent real or tangible personal property taxes to any taxing authority of the State, and does not owe delinquent taxes for which the Company is liable under Ohio Revised Code Chapters 5733, 5735, 5739, 5741, 5743, 5747 or 5753, or if such delinquent taxes are owed, the Company currently is paying the delinquent taxes pursuant to an undertaking enforceable by the State or an agent or instrumentality thereof, has filed a petition in bankruptcy under 101, et seq., or such a petition has been filed against the Company. For the purposes of this certification, delinquent taxes are taxes that remain unpaid on the latest day prescribed for payment without penalty under the chapter of the Ohio Revised Code governing payment of those taxes.

Section 7. Covenant of Satisfaction of Tax and Other Obligations. In accordance with Ohio Revised Code Section 9.66, (A) the Company affirmatively covenants that it does not owe: (i) any delinquent taxes to the State or to a political subdivision of the State; (ii) any moneys to the State or a State agency for the administration or enforcement of any environmental laws of the State; or (iii) any other moneys to the State, a State agency or a political subdivision of the State that are past due, regardless of whether the amounts owed are being contested in a court of law or not; (B) the Company authorizes the City and/or the State to inspect the personal financial statements of the Company, including tax records and other similar information not ordinarily open to public inspection; and (C) the Company authorizes the Ohio Environmental Protection Agency and the Ohio Department of Taxation to release information to the City and or other State departments in connection with the above statements. As provided by statute, a knowingly false statement under this section may be prosecuted as a first degree misdemeanor under Ohio Revised Code Section 2921.13, may render the Company ineligible for any future economic development assistance from the State or any political subdivision of the State, and will result in the City requiring the Company's repayment of any assistance provided by the City in connection with the Project.

Section 8. City Cooperation. As required by Ohio Revised Code Section 3735.671(C)(4), upon specific request from the Company, the City shall perform such acts as are reasonably necessary or appropriate to effect, claim, reserve and maintain exemptions from taxation granted under this Agreement including, without limitation, joining in the execution of all documentation and providing any necessary certificates required in connection with such exemptions.

Section 9. Continuation of Exemptions. As provided in Ohio Revised Code Section 3735.671(C)(5), if for any reason the City revokes the designation of the City of Cincinnati as a Community

Reinvestment Area, entitlements granted under this Agreement shall continue for the number of years specified under this Agreement, unless the Company materially fails to fulfill its obligations under this Agreement and the City terminates or modifies the exemptions from taxation authorized pursuant to this Agreement.

Section 10. City Not Liable. The Company acknowledges that the exemption authorized in this Agreement is subject to approval and implementation by the appropriate state and/or county taxing authorities. The Company acknowledges that the City does not give any guarantee or assurance that the exemption approved in this Agreement will be so approved, and the Company agrees that in no event shall the Company seek to hold the City liable in any way in the event such exemption is not granted or implemented.

Section 11. Small Business Enterprise Program.

A. Compliance with Small Business Enterprise Program. The policy of the City is that a fair share of contracts be awarded to Small Business Enterprises (as such term is defined in Cincinnati Municipal Code (“CMC”) Section 323-1-S, “SBEs”). Pursuant to CMC Section 323-11, the City’s annual goal for SBE participation shall be thirty percent (30%) of the City’s total dollars spent for construction (as such term is defined in CMC Section 323-1-C4), supplies (as such term is defined in CMC Section 323-1-S5), services (as such term is defined in CMC Section 323-1-S) and professional services (as such term is defined in CMC Section 323-1-P2). Accordingly, the Company shall use its best efforts and take affirmative steps to achieve the City’s goal of voluntarily meeting thirty percent (30%) SBE participation. A list of SBEs may be obtained from the City’s Department of Economic Inclusion. The Company may refer interested firms to the City’s Department of Economic Inclusion for review and possible certification as an SBE. The Company shall comply with the provisions of CMC Chapter 323, including without limitation taking at least the following affirmative steps:

- (i) Including qualified SBEs on solicitation lists.
- (ii) Assuring that SBEs are solicited whenever they are potential sources. The Company must advertise, on at least two separate occasions, both in local minority publications and in other local newspapers of general circulation, invitations to SBEs to provide services, to supply materials, or to bid on construction contracts, as applicable.
- (iii) When economically feasible, dividing total requirements into small tasks or quantities so as to permit maximum SBE participation.
- (iv) If any subcontracts are to be let, the Company shall require the prime contractor (if different from the Company) to take the above affirmative steps.
- (v) Prior to the commencement of work under any subcontracts, the Company shall provide to the City a list of such subcontractors, including information as to the dollar amount of the subcontracts and such other information as may be requested by the City. The Company shall update the report monthly.
- (vi) The Company shall periodically document its best efforts and affirmative steps to meet the above SBE participation goals by submitting such information as may be requested from time to time by the City.

B. Remedies for Noncompliance with Small Business Enterprise Program. Failure of the Company or its contractors and subcontractors to take the affirmative steps specified above, to provide fair and equal opportunity to SBEs, or to provide technical assistance to SBEs as may be necessary to reach SBE participation as set out in CMC Chapter 323 may be construed by the City as failure of the Company to use its best efforts, and, in addition to other remedies under this Agreement, may be a cause for the City to file suit in Common Pleas Court to enforce specific performance of the terms of this Section. The provisions of CMC Section 323-99 are hereby incorporated by reference into this Agreement.

Section 12. Jobs. The Company represents that, as of the date of the execution of this Agreement, the Tenant has (a) 35 full-time equivalent employees in the City of Cincinnati, with a total payroll

of \$2,150,000 (the "Retained Jobs"), and (b) no other existing employment in the City of Cincinnati or at other locations in the State.

Section 13. Job Creation and Retention.

A. Jobs to be Retained by Company. The Company agrees to use its best efforts to cause the Retained Jobs to be retained in connection with the Project.

B. Jobs to be Created by Company. The Company agrees to use its best efforts to create or cause to be created (i) 6 full-time permanent jobs and (ii) 40 full-time temporary construction jobs at the Property in connection with the Project. In the case of the construction jobs, the job creation and retention period shall be concurrent with construction, and in the case of the other jobs described herein, the job creation period shall begin upon completion of construction and shall end three (3) years thereafter.

C. Company's Estimated Payroll Increase. The increase in the number of employees employed at the Project will result in approximately (i) \$360,000 of additional annual payroll with respect to the full-time permanent jobs, and (ii) \$500,000 of additional annual payroll prior to the completion of the Project with respect to the full-time temporary construction jobs.

D. Community Reinvestment Area Employment. The Company shall (i) adopt hiring practices to ensure that it gives preference to residents of the City relative to residents of the State who do not reside in the City when hiring new employees under this Agreement and (ii) use best efforts to confirm that at least twenty-five percent (25%) of the new employees shall be residents of the City of Cincinnati.

E. Posting Available Employment Opportunities. To the extent allowable by law, the Company shall use its best efforts to post available employment opportunities within the Company's organization or the organization of any subcontractor working with the Company with the Ohio Means Jobs Center, 1916 Central Parkway, Cincinnati, Ohio 45214-2305, through its Employer Services Unit Manager at 513-746-7200.

Section 14. Equal Employment Opportunity. This Agreement is subject to the City's Equal Employment Opportunity Program contained in CMC Chapter 325. The Equal Employment Opportunity Clause in CMC Section 325-9 is incorporated by reference in this Agreement. The term "Company" is substituted for "Contractor" throughout CMC Section 325-9 in the context of this Agreement.

Section 15. Compliance with Immigration and Nationality Act. In the performance of its obligations under this Agreement, the Company agrees to comply with the provisions of the Immigration and Nationality Act codified at 8 U.S.C. §§ 1324a(a)(1)(A) and (a)(2). Any noncompliance with such provisions shall be solely determined by either the federal agencies authorized to enforce the Immigration and Nationality Act or the U.S. Attorney General, in accordance with Executive Order 12989 of the U.S. President dated February 13, 1996, and as amended by Executive Order 13465 of the U.S. President dated June 6, 2008.

Section 16. Default. As provided in Ohio Revised Code Section 3735.671(C)(6), if the Company materially fails to fulfill its obligations under this Agreement, or if the City determines that the certification as to delinquent taxes required by this Agreement (Section 6 hereof) or the covenant of satisfaction of tax and other obligations (Section 7 hereof) is fraudulent, the City may terminate or modify the exemptions from taxation granted or authorized under this Agreement and may require the repayment by the Company of the amount of taxes that would have been payable had the Improvements not been exempted from taxation pursuant to this Agreement. A modification of exemption may be in the form of reduction in the number of years that eligible property is exempt and/or a reduction in the exemption percentage. The City shall provide written notice to the Company prior to finding the Company in default under this section. The notice shall provide the Company with not less than thirty (30) days to cure the default prior to City termination or modification of the exemptions under this Agreement. The City may

extend the cure period as reasonably necessary under the circumstances. In the event of such termination or modification, the City is authorized to so notify the appropriate taxing authorities in order to effect the termination or modification. If repayment of previously exempt taxes is required by the City under this Section, such amount shall be paid as directed by the City within thirty (30) days of written demand. The City may secure repayment of such taxes by a lien on the Property in the amount required to be repaid. Such a lien shall attach, and may be perfected, collected, and enforced, in the same manner as a mortgage lien on real property, and shall otherwise have the same force and effect as a mortgage lien on real property. Amounts due and not paid when due under this Section 16 shall bear interest at the rate specified in Ohio Revised Code Section 1343.03(A) (as in effect on the date of the City's payment demand).

Section 17. Annual Review and Report. As required by Ohio Revised Code Sections 3735.671(C)(7) and 5709.85, the Company shall provide to the City's Tax Incentive Review Council (or to the City Manager if so requested by the City) any information reasonably required by the Council or the City Manager to evaluate the Company's compliance with this Agreement, including returns filed pursuant to Ohio Revised Code Section 5711.02 if requested by the Council or City Manager. The performance of the Company's obligations stated in this Agreement shall be subject to annual review by the City's Tax Incentive Review Council (the "Annual Review and Report"). The Company shall submit information for the Annual Review and Report to the City no later than March 1 of each year.

Section 18. Revocation.

A. Generally. Pursuant to Ohio Revised Code Section 3735.68, the housing officer shall make annual inspections of the properties within the community reinvestment area upon which are located structures or construction for which an exemption has been granted under Ohio Revised Code Section 3735.67. If the housing officer finds that the property has not been properly maintained or repaired due to the neglect of the Company, the housing officer may revoke the exemption at any time after the first year of exemption. If the Company has materially failed to fulfill its obligations under this Agreement, or if the owner is determined to have violated division (E) of that section (see Section 18(B) of this Agreement), City Council, subject to the terms of the agreement, may revoke the exemption at any time after the first year of exemption. The housing officer or City Council shall notify the county auditor and the Company that the tax exemption no longer applies. If the housing officer or legislative authority revokes a tax exemption, the housing officer shall send a report of the revocation to the community reinvestment area housing council and to the tax incentive review council established pursuant to section 3735.69 or 5709.85 of the Revised Code, containing a statement of the findings as to the maintenance and repair of the property, failure to fulfill obligations under the written agreement, or violation of division (E) of Ohio Revised Code Section 3735.671, and the reason for revoking the exemption.

B. Prior Statutory Violations. The Company represents and warrants to the City that it is not prohibited by Ohio Revised Code Section 3735.671(E) from entering into this Agreement. As required by Ohio Revised Code Section 3735.671(C)(9), exemptions from taxation granted or authorized under this Agreement shall be revoked if it is determined that the Company, any successor to the Company or any related member (as those terms are defined in division (E) of Ohio Revised Code Section 3735.671) has violated the prohibition against entering into this Agreement under division (E) of Ohio Revised Code Section 3735.671 or under Ohio Revised Code Sections 5709.62 or 5709.63 prior to the time prescribed by that division or either of those sections.

Section 19. False Statements; Penalties; Material Representations.

A. Generally. As required in connection with Ohio Revised Code Section 9.66(C), the Company affirmatively covenants that it has made no false statements to the State or the City in the process of obtaining approval for this Agreement. If any representative of the Company has knowingly made a false statement to the State or the City to obtain approval for this Agreement, or if the Company fails to provide any information expressly required under the Application, the Company shall be required to immediately return all benefits received under this Agreement (by payment of the amount of taxes exempted hereunder, paid as directed by the City within thirty (30)

days of written demand) and the Company shall be ineligible for any future economic development assistance from the State, any State agency or any political subdivision of the State pursuant to Ohio Revised Code Section 9.66(C)(1). Amounts due and not paid under this Section 19 shall bear interest at the rate of twelve percent (12%) per year. Any person who provides a false statement to secure economic development assistance (as defined in Ohio Revised Code Section 9.66) may be guilty of falsification, a misdemeanor of the first degree, pursuant to Ohio Revised Code Section 2921.13(F)(1), which is punishable by fine of not more than One Thousand Dollars (\$1,000) and/or a term of imprisonment of not more than six (6) months.

B. Material Representations – Board of Education Agreement and VTICA. The Parties acknowledge and agree that a material failure by the Company to comply with its representations concerning the Board of Education Agreement or VTICA Contribution shall constitute an event of default for purposes of Section 16 (*Default*) and the basis for revocation under Section 18 (*Revocation*). Subject to the terms of the VTICA, if the VTICA is unenforceable for reasons of infeasibility or otherwise, the Company shall enter into alternative arrangements providing for the economic equivalent of the VTICA Contribution. Such arrangements may include, but are not limited to, providing for the economic equivalent of the VTICA Contribution through formation of a special improvement district. For purposes of this Section 19.B, alternative arrangements must result in services substantially similar to those that would have been supported through the VTICA and at a value that is the economic equivalent of the VTICA Contribution, which value shall not be required to exceed the VTICA Contribution amount that would have been payable by the Company. Any determination of infeasibility or mechanism for providing alternative arrangements is subject to approval by the City at its sole discretion. Nothing in this Section 19.B shall operate to limit the City's enforcement authority under this Agreement including, without limitation, Section 16, Section 18, and Section 19.A.

Section 20. Conflict of Interest. The Company covenants that, to the Company's knowledge, no employee of the City has any personal interest, direct or indirect, in any matters pertaining to the Project, and the Company agrees to take appropriate steps to prevent any employee of the City from obtaining any such interest throughout the term of this Agreement.

Section 21. Annual Fee. As authorized by Ohio Revised Code Section 3735.671(D), the Company shall pay an annual fee of Five Hundred Dollars (\$500) or one percent (1%) of the annual taxes exempted under this Agreement, whichever is greater, but not to exceed Two Thousand, Five Hundred Dollars (\$2,500) per annum. This fee is due with submission of the information for Annual Review and Report by March 1 of each year.

Section 22. Discontinued Operations. As provided in Ohio Revised Code Section 3735.671(E), if, prior to the expiration of the term of this Agreement, the Company discontinues operations at the Project so that the Property is no longer being used for the purposes described in Section 1 hereof, then the Company, its successors, and any related member shall not enter into an agreement under Ohio Revised Code Sections 3735.671, 5709.62, 5709.63 or 5709.632, and no legislative authority shall enter into such an agreement with the Company, its successors or any related member prior to the expiration of five (5) years after the discontinuation of operations. As used in this Section 22, "successors" and "related member" shall have the meanings set forth in Ohio Revised Code Section 3735.671(E).

Section 23. Notices. Unless otherwise specified herein, each party shall address written notices, demands and communications in connection with this Agreement to the other party as follows (or to such other address as is communicated in accordance with this Section):

To the City:

City of Cincinnati
Attention: Director of the Department of Community and Economic Development
Centennial Plaza Two, Suite 700
805 Central Avenue
Cincinnati, Ohio 45202

To the Owner:

SLD ENTERPRISES, LLC
Attention: James E. Huegel, Sr., CEO
7162 Reading Road, Suite 300
Cincinnati, Ohio 45237

To the Tenant:

BROTHERS EXPRESS, LLC
Attention: James E. Huegel, Sr., Managing Member
7162 Reading Road, Suite 1001
Cincinnati, Ohio 45237

If the Company sends a notice to the City alleging that the City is in default under this Agreement, the Company shall simultaneously send a copy of such notice to: City Solicitor, City of Cincinnati, 801 Plum Street, Room 214, Cincinnati, OH 45202.

Section 24. Acknowledgment of City Participation. The Company agrees to acknowledge the support of the City on construction signs, project and exhibition signage, and any publicity such as that appearing on the internet, television, cable television, radio, or in the press or any other printed media. In identifying the City as a Project partner, the Company shall use either the phrase "Project Assistance by the City of Cincinnati" or a City of Cincinnati logotype or other form of acknowledgement that has been approved in advance in writing by the City.

Section 25. Entire Agreement. This Agreement and the Exhibits attached hereto constitute the entire agreement between the City and the Company with respect to the subject matter herein, superseding any prior or contemporaneous agreement with respect thereto.

Section 26. Governing Law. This Agreement is entered into and is to be performed in the State. The City and the Company agree that the law of the State of Ohio shall govern the rights, obligations, duties and liabilities of the parties to this Agreement and shall govern the interpretation of this Agreement.

Section 27. Waiver. The City's waiver of any breach by the Company of any provision of this Agreement shall not constitute or operate as a waiver by the City of any other breach of such provision or of any other provisions, nor shall any failure or delay by the City to enforce any provision hereof operate as a waiver of such provision or of any other provision.

Section 28. Severability. This Agreement shall be severable; if any part or parts of this Agreement shall for any reason be held invalid or unenforceable by a court of competent jurisdiction, all remaining parts shall remain binding and in full force and effect.

Section 29. Amendment. This Agreement may be modified or amended only by a written agreement duly executed by the parties hereto or their representatives.

Section 30. Non-Assignment. As required by Ohio Revised Code Section 3735.671(C)(8), this Agreement is not transferable or assignable by the Company without the express written approval of the City Manager of the City. If the Company has entered into a Board of Education Agreement or VTICA in

connection with the Property, the City shall not approve the assignment of this Agreement unless the assignee has assumed the Company's remaining obligations under the Board of Education Agreement and VTICA, as applicable. Failure to assign or otherwise perform the Company's obligations under the Board of Education Agreement or VTICA upon transfer of the Property during the term of the tax abatement authorized by this Agreement shall be basis for revocation of the tax exemption under Section 18.

Section 31. Recording. At its election, the City may record this Agreement at the City's expense in the Hamilton County Recorder's Office.

Section 32. Legislative Action Required. As provided in Ohio Revised Code Section 3735.671(C)(10), the Company and the City acknowledge that this Agreement must be approved by formal action of the City Council of the City as a condition for this Agreement to take effect. Notwithstanding anything to the contrary herein, this Agreement shall take effect after the later of the date of such approval or the final date of execution of this Agreement by all parties.

Section 33. Additional Representations and Warranties of Company. The Company represents and warrants that (a) it is duly organized and existing and it has full power and authority to take, and has taken, all action necessary to execute and deliver this Agreement and any other documents required or permitted to be executed or delivered by it in connection with this Agreement, and to fulfill its obligations hereunder; (b) no notices to, or consents, authorizations or approvals of, any person are required (other than any already given or obtained) for its due execution, delivery and performance of this Agreement; and (c) this Agreement has been duly executed and delivered by it and constitutes the legal, valid and binding obligation of the Company.

Section 34. Certification as to Non-Debarment. The Company represents that neither it nor any of its principals is presently debarred by any federal, state, or local government agency. In completing the Project, the Company shall not solicit bids from any contractors or subcontractors who are identified as being debarred by any federal, state, or local government agency. If the Company or any of its principals becomes debarred by any federal, state, or local government agency during the term of this Agreement, the company shall be considered in default under this Agreement.

Section 35. Appeals. Pursuant to Ohio Revised Code Section 3735.70, a person aggrieved under the Statute or this Agreement may appeal to the community reinvestment area housing council, which shall have the authority to overrule any decision of a housing officer. Appeals may be taken from a decision of the council to the court of common pleas of the county where the area is located.

Section 36. Wage Enforcement.

(i) Applicability. Council passed Ordinance No. 22-2016 on February 3, 2016, which ordained Chapter 326 (Wage Enforcement) of the Cincinnati Municipal Code (the "Wage Enforcement Chapter"). The Wage Enforcement Chapter was then amended by Ordinance No. 96-2017, passed May 17, 2017. As amended, the Wage Enforcement Chapter imposes certain requirements upon persons entering into agreements with the City whereby the City provides an incentive or benefit that is projected to exceed \$25,000, as described more particularly in the Wage Enforcement Chapter. Cincinnati Municipal Code Section 326-5 requires that the language below be included in contracts subject to the Wage Enforcement Chapter.

(ii) Required Contractual Language. Capitalized terms used, but not defined, in this clause (ii) have the meanings ascribed thereto in the Wage Enforcement Chapter.

(a) This contract is or may be subject to the Wage Enforcement provisions of the Cincinnati Municipal Code. These provisions require that any Person who has an Agreement with the city or with a Contractor or Subcontractor of that Person shall report all Complaints or Adverse Determinations of Wage Theft and Payroll Fraud (as each of those terms is defined in Chapter 326 of the Cincinnati Municipal Code) against the Contractor or Subcontractors to the Department of Economic Inclusion within 30 days of notification of the Complaint or Adverse Determination.

(b) If this contract is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this contract is required to include provisions in solicitations and contracts regarding a Development Site that all employers, Contractors or Subcontractors performing or proposing to perform work on a Development Site provide an initial sworn and notarized "Affidavit Regarding Wage Theft and Payroll Fraud" on a form prescribed by the city manager or his or her designee and, within 30 days of an Adverse Determination or Complaint of Wage Theft or Payroll Fraud, shall provide an "Amended Affidavit Regarding Wage Theft and Payroll Fraud" on a form prescribed by the city manager or his or her designee.

(c) If this contract is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this contract is required to authorize, and does hereby specifically authorize, any local, state or federal agency, court, administrative body or other entity investigating a complaint of Wage Theft or Payroll Fraud against the Person (collectively "investigative bodies") to release to the City's Department of Economic Inclusion any and all evidence, findings, complaints and determinations associated with the allegations of Wage Theft or Payroll Fraud upon the City's request and further authorizes such investigative bodies to keep the City advised regarding the status of the investigation and ultimate determination. If the investigative bodies require the Person to provide additional authorization on a prescribed form or in another manner, the Person shall be required to provide such additional authorization within 14 days of a request by the City.

(d) If this Agreement is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this Agreement shall include in its contracts with all Contractors language that requires the Contractors to provide the authorizations set forth in subsection (c) above and that further requires each Contractor to include in its contracts with Subcontractors those same obligations for each Subcontractor and each lower tier subcontractor.

(e) If this Agreement is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this Agreement shall post a conspicuous notice on the Development Site throughout the entire period work is being performed pursuant to the Agreement indicating that the work being performed is subject to Cincinnati Municipal Code Chapter 326, Wage Enforcement, as administered by the City of Cincinnati Department of Economic Inclusion. Such notice shall include contact information for the Department of Economic Inclusion as provided by the department.

(f) Under the Wage Enforcement provisions, the City shall have the authority, under appropriate circumstances, to terminate this contract or to reduce the incentives or subsidies to be provided under this contract and to seek other remedies, including debarment.

Section 37. Legal Requirements. In completing and operating the Project, the Company shall comply with all applicable statutes, ordinances, regulations, and rules of the government of the United States, State of Ohio, County of Hamilton, and City of Cincinnati.

Section 38. Joint and Several Liability. The obligations and liability of the Owner and the Tenant under this Agreement are joint and several, except as otherwise expressly indicated. In dealing with said entities, the City shall be entitled to rely upon information, notices, documents and the like received by the City from only one of said entities to the same extent as if the same had been provided to the City by both entities.

Section 39. Counterparts and Electronic Signatures. This Agreement may be executed by the parties hereto in two or more counterparts and each executed counterpart shall be considered an original but all of which together shall constitute one and the same instrument. This Agreement may be executed and delivered by electronic signature; any original signatures that are initially delivered electronically shall be physically delivered as soon as reasonably possible.

Remainder of this page intentionally left blank. Signature page follows.

Executed by the parties on the dates indicated below, effective as of the later of such dates (the "Effective Date").

CITY OF CINCINNATI,
an Ohio municipal corporation

SLD ENTERPRISES, LLC,
an Ohio limited liability company

By: _____
Paula Boggs Muething, City Manager

Date: _____, 2021

By: _____

Printed Name: _____

Title: _____

Date: _____, 2021

Authorized by resolution dated _____

BROTHERS EXPRESS, LLC,
an Ohio limited liability company

By: _____

Printed Name: _____

Title: _____

Date: _____, 2021

Approved as to Form:

Assistant City Solicitor

Certified Date: _____

Fund/Code: _____

Amount: _____

By: _____
Karen Alder, City Finance Director

Exhibit A to CRA Agreement

LEGAL DESCRIPTION OF PROPERTY

Property Address: 5790 Center Hill Avenue, Cincinnati, Ohio 45232

Parcel ID No.: 238-0004-0036-00

Situate in the State of Ohio, County of Hamilton, Section 18, Township 3, Fractional Range 2, Millcreek Township and being all of Lot Number 1 of Center Hill Business Park as the same is shown on the plat thereof recorded in Plat Book 258, Page 40 of the Hamilton County, Ohio Recorder's Office.

Exhibit B to CRA Agreement
APPLICATION FOR TAX EXEMPTION

TO BE ATTACHED