

Contract No. _____

PROPERTY SALE AND DEVELOPMENT AGREEMENT

by and between the

CITY OF CINCINNATI,

and

WEST END DEVELOPMENT, LLC

Project Name: FC Cincinnati West End Mixed Use Development

(sale/vacation of City right-of-way for consolidation
and construction of large mixed-use development in the West End neighborhood)

PROPERTY SALE AND DEVELOPMENT AGREEMENT

This Property Sale and Development 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 address of which is 801 Plum Street, Cincinnati, Ohio 45202 (the “**City**”), and **WEST END DEVELOPMENT, LLC**, an Ohio limited liability company, the address of which is 14 E. Fourth Street, Cincinnati, Ohio 45202 (“**Developer**”).

Recitals:

A. The City owns the following real property in the West End neighborhood of Cincinnati designated as public right-of-way under the management of the City’s Department of Transportation and Engineering (“**DOT**”):

(i) an approximately 0.366-acre portion of Wade Street located between Central Parkway and Central Avenue (“**Tract I**”), which tract is more particularly described on Exhibit A-1 (*Legal Description - Wade St., Central Ave., & Kuhfers Al.*) and depicted on Exhibit B-1 (*Vacation Plat - Wade St., Central Ave., & Kuhfers Al.*) hereto;

(ii) an approximately 0.224-acre tract of Central Avenue located between Wade Street and Bauer Avenue (“**Tract II**”), which tract is more particularly described on Exhibit A-1 and depicted on Exhibit B-1 hereto;

(iii) an approximately 0.012-acre tract of Kuhfers Alley located south of Bauer Avenue (“**Tract III**”), which tract is more particularly described on Exhibit A-1 and depicted on Exhibit B-1 hereto;

(iv) an approximately 0.183-acre tract of Bauer Avenue located east of John Street (“**Tract IV**”), which tract is more particularly described on Exhibit A-2 (*Legal Description - Bauer Ave. & Bard Al.*) and depicted on and Exhibit B-2 (*Vacation Plat - Bauer Ave. & Bard Al.*) hereto; and

(v) an approximately 0.029-acre tract of Bard Alley located north of Bauer Avenue (“**Tract V**”), which tract is more particularly described on Exhibit A-2 and depicted on and Exhibit B-2 hereto. Tracts I, II, III, IV, and V are collectively referred to herein as the “**Property**.”

B. Developer, or an affiliate thereof, owns or controls all real property abutting the Property (“**Developer’s Property**”), including the professional soccer stadium constructed on a portion thereof, and has petitioned the City to vacate and sell the Property to Developer to consolidate said Property with Developer’s Property to facilitate a redevelopment project providing approximately 1,272,000 square feet of mixed-use residential, commercial, retail, and office space across seven buildings, as more particularly described on Exhibit C (*Statement of Work, Budget, and Sources of Funds*) hereto (the “**Project**”).

C. Developer has committed to commence on-site construction for the Project no later than April 1, 2024 (the “**Construction Commencement Date**”), and to complete onsite construction no later than December 31, 2026 (the “**Construction Completion Date**”).

D. Pursuant to Chapter 723 of the Ohio Revised Code, the legislative authority of a municipal corporation may convey the fee simple estate or other interest in land used for streets and alleys if it has determined that the property is not needed for municipal purposes.

E. The City has determined that the Property is not needed for transportation or other municipal purposes and that the sale of the Property will not be detrimental to the public interest.

F. Developer has represented that: (i) the owners of all real property abutting Tracts I, II, and III are as follows: [a] Developer, [b] the Port of Greater Cincinnati Development Authority, an Ohio port authority organized and established under Ohio Revised Code Chapter 4582, and [c] Bauer Ventures, LLC, {00393505-10}

an Ohio limited liability company; (ii) the owners of all real property abutting Tracts IV and V are as follows: [a] Developer, [b] West End Holdings LLC, an Ohio limited liability company, [c] Bauer Ventures II, LLC, an Ohio limited liability company, and [d] Bauer Ventures III, LLC, an Ohio limited liability company; and (iii) all necessary abutters will have consented to the vacation and sale of the Property to Developer by executing and delivering quitclaim deeds before the Closing (as defined below).

G. The City has determined, through an arms-length negotiation, that the purchase price of \$100,000 reflects the fair market value of the Property, which Developer has agreed to pay.

H. The City has determined that eliminating competitive bidding in connection with the City's sale of the Property is in the best interests of the City and is justified because (i) Developer, or an affiliate thereof, owns all real property abutting the Property and the Property is necessary in order for Developer to undertake the Project, and (ii) the City desires to facilitate the Project because the City anticipates that the Project will create new temporary and permanent jobs, stimulate economic growth in the West End neighborhood, and will create additional housing in Cincinnati.

I. 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.

J. 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.

K. The City, upon recommendation of the City's Department of Community and Economic Development ("**DCED**"), believes that the Project is in the vital and 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.

L. City Planning Commission, having the authority to approve the change in the use of City-owned property, approved the vacation and sale of the Property to Developer at its meeting on September 15, 2023.

M. Execution of this Agreement was authorized by Cincinnati City Council by Ordinance No. [____]-2023, passed on [____], 2023.

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 Property to Developer. Developer hereby agrees to purchase the Property from the City for \$100,000 (the "**Purchase Price**"). Developer acknowledges that it is familiar with the condition of the Property, and, at Closing, the City shall convey the Property to Developer in "as is," condition with all faults and defects, known or unknown. The City makes no representations or warranties to Developer with respect to the condition of the 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 Property.

2. Closing; Conditions to Closing.

(A) **Conditions.** The purchase of the Property by Developer and the sale and conveyance of the Property by the City to Developer (the "**Closing**") shall not occur unless and until each of the following conditions (collectively, the "**Conditions**") have been satisfied or waived in writing by the City, at the City's sole and absolute discretion; *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 otherwise handle such Conditions at Closing or post-Closing. Developer shall perform all work

and investigations and obtain and prepare all necessary documents to satisfy the Conditions at no cost to the City.

- (i) *Title & Survey*: Developer shall have approved the title to the Property as set forth in a commitment of title insurance obtained by Developer and, if obtained by Developer, an ALTA property survey of the Property;
- (ii) *Geotechnical & Environmental Condition*: Developer shall be satisfied that the geotechnical and environmental condition of the Property is acceptable for the development of the Project;
- (iii) *Abutters' Interests*: Developer shall have provided the City with the following: [x] an attorney's certificate of title certifying the names of all abutters to the Property and [y] *Quitclaim Deeds* from all abutters (excluding the City and Developer) to the City in a form acceptable to the City Solicitor, conveying all right, title, and interest as an abutting property owner in the Property;
- (iv) *Construction Schedule*: Developer shall have provided the proposed construction schedule for the Project;
- (v) *Final Plans*: Developer shall have submitted to the City conceptual drawings for the Project, followed by final plans and specifications for the Project to DCED and DOTE and received approval of the same from DCED and DOTE;
- (vi) *Permits*: Developer shall have secured all zoning and permitting approvals necessary to construct the Project;
- (vii) *Coordinated Report Conditions*: Developer shall have satisfied the conditions of the sale set forth in the City's Coordinated Reports associated with the sale of the Property, which are described more fully in Section 11 below;
- (viii) *Plats and Legal Descriptions*: Developer shall have provided the City with all plats and legal descriptions as required by DOTE, the Department of City Planning and Engagement, and the Hamilton County Auditor, Engineer, and Recorder in connection with the City's vacation and sale of the Property, including, without limitation, acceptable survey plats and legal descriptions with closure of Tracts I through V to accompany the transfer and recording of the Quitclaim Deed in substantially the form attached as Exhibit D (*Form of Quitclaim Deed*) hereto (the "**City's Deed**");
- (ix) *Project Completion*: Based upon all information then available to the City, the City must be reasonably satisfied that Developer has attained or will attain all approvals and awards necessary to complete the Project; has made no false or misleading claims to the City regarding the Project; and is otherwise prepared, able, and ready to complete the Project in accordance with the requirements of this Agreement;
- (x) *Continued Compliance*: Developer shall be in compliance with all obligations under this Agreement and all representations made by Developer under this Agreement or any other document executed between Developer and the City related to the Project shall continue to be true and accurate; and
- (xi) *Other Information*: Developer shall have provided such other information and documents pertaining to Developer or the Project as the City may reasonably require.

(B) 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

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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 within **180 days** of 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.

(C) Closing Date. Subject to the terms and conditions of this Agreement, the Closing shall take place within 90 days after the Effective Date, or on such earlier or later date upon which the City and Developer mutually agree.

(D) Closing Costs and Closing Documents. At the Closing, (i) the City shall confirm that Developer has paid the Purchase Price in full, and (ii) the City shall convey all its right, title, and interest in and to the Property to Developer by the City's Deed in the form of Exhibit D. Developer shall pay all Hamilton County, Ohio recording fees, transfer taxes, and any and all other customary closing costs associated with the Closing such that the City shall not be required to come up with any funds for 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. At Closing, the parties shall execute a settlement statement and all other customary closing documents necessary for the Closing in such forms as approved by the City. The City shall not, however, be required to execute a title affidavit at Closing or other similar documents pertaining to title; Developer acknowledges that the City is selling the Property "as is." Pursuant to Section 301-20 of the Cincinnati Municipal Code, at Closing, Developer shall pay to the City 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.

(E) Maintenance of Property Between Closing and Prior to Construction Commencement. Between the Closing and Construction Commencement (as defined below), Developer, at no expense to the City, shall maintain the Property in presentable condition, including keeping the site reasonably free of debris and other unsightly materials.

(F) Environmental Indemnity. As a material inducement to the City to enter into this Agreement, Developer does hereby agree that, with respect to any environmental condition on or otherwise affecting the Property that exists at or prior to the time of the City's execution of this Agreement (herein, a "**Pre-existing Environmental Condition**"), and regardless of whether or not such Pre-existing Environmental Condition is described in any environmental assessment or any other environmental report that may have been previously furnished by Developer to the City or otherwise obtained by the City, Developer shall (i) at no expense to the City, promptly take all steps necessary to remediate such Pre-existing Environmental Condition, within a reasonable time after discovery, to the satisfaction of the City's Office of Environment and Sustainability, and (ii) defend, indemnify, and hold the City harmless from and against any and all actions, suits, claims, losses, costs (including, without limitation, reasonable attorneys' fees), demands, judgments, liability, and damages suffered or incurred by or asserted against the City as a result of or arising from any such Pre-existing Environmental Condition. Developer's remediation and indemnity obligations under this paragraph shall survive the completion of the Project.

3. Commencement and Completion of Project.

(A) Commencement and Completion of Construction. Following Closing, Developer shall (i) apply for and receive the required building permits from the City's Department of Buildings and Inspections ("**B&I**") for construction of the Project; (ii) commence on-site construction of the Project in accordance with the City-approved plans ("**Construction Commencement**") no later than the Construction Commencement Date; and (iii) complete construction of the Project in accordance with the City-approved plans and specifications and all other City approvals no later than the Construction Completion Date. During construction, Developer shall take all reasonable steps to avoid disrupting the occupants of adjacent properties.

(B) Extension of Terms. Upon written request of Developer, the Director of DCED may, in his or her sole discretion, extend the Construction Commencement Date, and/or the Construction Completion Date by up to 12 months by providing written notice to Developer.

(C) Reacquisition Option for Failure to Timely Commence Construction of the Project. If Construction Commencement has not occurred on or before the Construction Commencement Date, then, at any time thereafter, the City shall have the option to reacquire the 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 (the "**Reacquisition Option**"), exercisable by giving written notice thereof to Developer at any time after the Construction Commencement Date, but prior to the date of Construction Commencement.

(D) Reacquisition Option Closing. If the City elects to exercise the Reacquisition Option, Developer's reconveyance of the Property to the City pursuant to the Reacquisition Option shall take place on the date specified in the City's notice of election. On the date of reconveyance: (i) Developer shall reconvey the Property (including any and all improvements located thereon) to the City or its designee in the same condition as presently exists, reasonable wear and tear and damage by the elements excepted (and under no circumstances shall the City be required to pay for the value of any improvements made by Developer to the Property); (ii) Developer shall pay all customary closing costs associated with such reconveyance (e.g., conveyance fees, transfer tax, recording fees) such that the City shall not be required to come up with any funds at the closing for the re-conveyance, except for the Purchase Price; and (iii) real estate taxes and assessments shall be prorated as of the date of the reconveyance. The provisions of paragraphs (C)-(D) hereof shall be reflected in the City's Deed.

(E) Plans and Specifications. Developer shall complete the Project in accordance with City-approved plans and specifications that are consistent with Exhibit C. 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.

(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 Project. 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, DOTE, other City departments, City Planning Commission, or City Council that may be required in connection with the Project.

(G) Use of Nonfranchised Commercial Waste Haulers Prohibited. Developer acknowledges that the City requires that persons providing commercial waste collection services (as that term is defined under CMC Chapter 730) within the City of Cincinnati obtain a franchise, and the City maintains a list of franchised commercial waste haulers. Questions related to the use of commercial waste franchisees can be directed to, and a list of current franchisees can be obtained from, the City's Office of Environment & Sustainability by calling (513)352-3200.

(H) 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 construction has been completed.

(I) Barricade Fees Payable to DOTE. Developer acknowledges that (i) Developer may be required to obtain a barricade permit and pay barricade fees to DOTE for the closure of any sidewalks and curb lanes of the adjacent street if and when construction necessitates closing the adjoining streets or portions thereof, and (ii) with many entities competing for space on City streets, it is important that construction activities be limited to as little space and the shortest duration as possible and that all work be

scheduled and performed to cause the least interruption to vehicular travel, bicyclists, pedestrians, and businesses; therefore, DOTE shall have the right to evaluate Developer's need for a barricade throughout construction and, if at any time after consultation with Developer DOTE determines that a barricade is not needed, DOTE shall have the right to withdraw the permit.

4. 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 Property. 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 after Closing, the Project or the Property is damaged or destroyed by fire or other casualty during Developer's 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 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 for the improvements 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 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, and failure by Developer to correct such failure 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 Developer commences to cure the default within the Cure Period and thereafter diligently completes such cure within a reasonable period of time (but not exceeding 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, an event of default shall be deemed to have occurred if Developer fails to take corrective action immediately upon discovering such dangerous condition or emergency; or
- ii. 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, or the attachment of, levy upon, or seizure by legal process of any of the property of Developer; or

- iii. 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.

(B) **Remedies.** Upon the occurrence of an event of default under this Agreement that is not cured or corrected within the Cure Period, the City shall be entitled to: (i) if the default occurs prior to Closing, 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 of Developer under this Agreement or the City’s enforcement or termination of this Agreement. The failure of the City to insist upon the strict performance of any covenant or duty or to pursue any remedy under this Agreement 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:

West End Development, LLC
14 E. Fourth Street,
Cincinnati, Ohio 45202
Attention: Chad Munitz

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 duly organized and validly existing under the laws of 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 Developer and all actions necessary have been taken to constitute this Agreement, when executed and delivered, valid and binding obligations of Developer.

(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. General Provisions.

(A) Assignment. 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 and absolute discretion, and any attempt to do so without the City's consent shall, at the City's option, render this Agreement null and void.

(B) Entire Agreement. This Agreement (including the exhibits hereto) contains the entire agreement between the parties with respect to the subject matter hereof and supersedes any and all prior discussions, negotiations, representations, or agreements, written or oral, between them respecting the subject matter hereof.

(C) Amendments and Waivers. This Agreement may be amended, waived, or otherwise modified only by a written amendment signed by both parties.

(D) 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.

(E) 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.

(F) 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.

(G) 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.

(H) No Third-Party Beneficiaries. No third-party beneficiary rights are created by this Agreement.

(I) No Brokers. Developer and the City represent to one another that each of them has not dealt with a real estate broker, salesperson, or other person who might claim entitlement to a fee or other compensation from either party as a result of the parties' execution of this Agreement.

(J) No Recording. This Agreement shall not be recorded in the Hamilton County Recorder's Office.

(K) Time. Time is of the essence with respect to the performance by Developer of its obligations under this Agreement.

(L) 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.

(M) 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.

(N) 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.

(O) 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.

10. Coordinated Report Conditions. Per Coordinated Reports #2-2023, #56-2023, and #58-2023, Developer shall abide by and satisfy the following additional conditions unless and until each of the following additional conditions have been satisfied or waived in writing by the City, at the City's sole and absolute discretion:

(A) DOTE.

- (1) No Auditor's parcels shall be landlocked by this vacation/sale. Developer shall consolidate landlocked parcels with parcels having legal street frontage.
- (2) Central Avenue at Liberty Street and Wade Street at Central Parkway must meet City requirements for transitioning from public street to private street.
- (3) A DOTE street opening permit, obtained by a DOTE licensed street contractor, is required for all private improvements in the public right-of-way. All improvements in the public right-of-way must be built to City standards, policies, and guidelines. Application for permits may be made at Room 425, City Hall, 801 Plum Street. Please note that plan drawings (2 sets), to be reviewed by DOTE, must be attached to the permit application.
- (4) A public turnaround approved by DOTE is needed at the new terminus of Bauer Avenue.
- (5) Bauer Avenue at John Street and Bard Alley at Liberty Street must be closed off with curbs, sidewalks, and/or drive approaches.
- (6) Historic materials in Bard Alley shall be palletted, plastic wrapped, and delivered to the DOTE Millcreek Storage Yard at Developer's expense. This includes, without limitation, granite curbs and brick pavers.

(B) Metropolitan Sewer District of Greater Cincinnati (“MSD”).

- (1) There is an existing combined sewer in Bauer Avenue. If the sewer is to remain, an easement must be reserved to protect the sewer. If the sewer is to be removed, permits from MSD will be required.
- (2) Reserved easements shall be a minimum of 20 feet in width and centered on existing pipes.
- (3) Easement restrictions shall be per MSD Rules and Regulations, Article II, Section 207: “No structure of any kind which can interfere with access to said public sewer shall be placed in or upon a permanent sewer easement, excepting items such as recreational surfaces, paved areas for parking lots, driveways, or other surfaces used for ingress and egress, plants, trees, shrubbery, fences, landscaping, or other similar items, being natural or artificial. Any of the aforesaid surfaces, paved areas, plants, trees, shrubbery, fences, landscaping or other similar items which may be placed upon such said permanent easement shall be so placed at the sole expense of the property owner, and the grantees or assigns of any permanent easement henceforth shall not be responsible to any present owners of the property, nor to their heirs, executors, administrators or assigns, for the condition, damage to, or replacement of any such aforesaid items, or any other items placed upon the easement, resulting from the existence or use of the said permanent easement by the grantees or assigns. Any structure constructed on said property in which said permanent sewer easement exists shall be kept not less than three (3) feet outside the permanent sewer easement line nearest the site of the proposed structure. Any deviation from the aforesaid restrictions shall be petitioned by written request to the Board or their assigns. Each such request shall be considered on an individual basis.”

(C) Greater Cincinnati Water Works (“GCWW”).

- (1) 12-inch, 8-inch and 6-inch public water mains and related appurtenances, including public hydrants and a service branch (8”, Branch No. 143417) that serve property owned by Developer are located within Wade Street and Central Avenue.
- (2) Developer shall submit construction plans, accompanied by a contractor’s bond and letter of intent, for the abandonment of the existing infrastructure outlined in paragraph (1) above, subject to the approval of said submittal package by GCWW and Cincinnati Fire Department (“CFD”).
- (3) As part of the abandonment process, Developer must obtain CFD’s approval to abandon the public fire hydrants. Additionally, the active service branch must be discontinued permanently by Developer using GCWW’s online form.
- (4) Bauer Avenue contains an existing 8-inch public water main, and other appurtenances which provide a vital grid for the public water system and cannot be eliminated. GCWW will allow an easement, but no structures can be built within the easement. If the water main needs to be relocated in the future to accommodate development plans, Developer will be required to install a 12-inch main in a new location maintaining the loop and requiring GCWW written approval for any changes.
- (5) Developer must obtain GCWW approval on the bounds of the GCWW easement upon Bauer Avenue before a Closing on that parcel.
- (6) Bauer Avenue contains an active ¾ inch water service (Branch No. 30184) serving 418 Bauer Avenue. GCWW records show the service contains lead material on the private side of the branch. GCWW understands that Developer controls this property and if this service is not needed it should be discontinued. If it is to be kept, GCWW recommends that the private piping be upgraded to eliminate that lead material.

- (D) Stormwater Management Utility ("SMU").
- (1) Existing stormwater infrastructure within the Property shall either be abandoned, relocated, or transferred to private ownership.
 - (2) There are 2 inlets and short storm lines on the corner of Bauer Avenue and John Street, and an inlet and short storm line on the corner of Bard Alley and Liberty Street. Depending on the scope of the Project these may need to be abandoned or relocated.
- (E) Duke Energy.
- (1) Duke Energy currently has existing overhead electric and existing underground transmission facilities located within Wade Street and Central Avenue that will be impacted by the sale of the Property. There are also multiple third parties being serviced on Central Avenue and Wade Street. Duke Energy has existing overhead facilities above Bauer Avenue and Bard Alley. If said existing overhead electric are to remain in the existing location, Duke Energy requests that an easement be granted in its customarily used easement form at the Closing, and prior to the objections being lifted as well as any primary served third party property owners.
 - (2) In order to minimize disruption to existing utilities, Duke Energy requests the right of unrestricted ingress and egress. No structures may be constructed within said utility area IN CONFLICT WITH SUCH ELECTRIC AND GAS FACILITIES, nor may the utility area be physically altered so as to (a) reduce the clearances of the facilities; (b) impair the ability to maintain the facilities or; (c) create a hazard to Duke Energy's facilities. Any party damaging said facilities shall be responsible for all costs and expenses associated with the repair or replacement of the same. If the said existing overhead electric and gas facilities are to remain in the existing location, Duke Energy Ohio, Inc. Enterprise Land Services (as well as Asset Protection) would request that an easement be granted in its customarily used easement form at the time of the closing of the properties, and prior to the objections being lifted as well as third party property owners currently being serviced.
 - (3) Duke Energy has a gas main running through Bauer Avenue and Central Avenue that would mostly need to remain in place. There is a chance the last part of it could be abandoned but further investigations in the field would need to take place prior to guaranteeing if Duke Energy could abandon this gas main or not. Developer shall discuss whether the services on these gas mains will be removed and therefore Duke could abandon the main, or if the mains can be relocated. Duke will need an easement for these gas facilities or Developer will be responsible for all abandonment or relocation costs.
- (F) AltaFiber.
- (1) There are 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 this request will be handled entirely at Developer's expense.
- (G) B&I.
- (1) Permanent vehicular egress must be maintained for the existing parking garage.
 - (2) Permanent fire/emergency egress must be maintained for the stadium and garage.
 - (3) The Closing shall not occur until a permanent solution is finalized and/or constructed to provide sanitary and storm sewer service to 408 and 414-416 Bauer Avenue, and adequate turnarounds are provided for emergency and sanitation vehicles.

(H) CFD.

- (1) CFD will require the road to follow the code for dead end streets. The street will be 230 feet deep from Central down. Developer shall engage CFD to determine whether the hydrant at 430 Bauer Avenue will be removed, and to provide a plan to keep access to the FDC on Kuhfers Alley.

11. **Exhibits**. The following exhibits are attached hereto and made a part hereof:

Exhibit A-1 – *Legal Description - Wade St., Central Ave., & Kuhfers Al.*

Exhibit A-2 – *Legal Description - Bauer Ave. & Bard Al.*

Exhibit B-1 – *Vacation Plat - Wade St., Central Ave., & Kuhfers Al.*

Exhibit B-2 – *Vacation Plat - Bauer Ave. & Bard Al.*

Exhibit C – *Statement of Work, Budget, and Sources of Funds*

Exhibit D – *Form of Quitclaim Deed*

[SIGNATURES ON THE NEXT 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

By: _____
Sheryl M. M. Long, City Manager

Date: _____

WEST END DEVELOPMENT, LLC,
an Ohio limited liability company

By: _____
Name: _____
Title: _____

Date: _____

Approved as to Form:

Assistant City Solicitor

Certified Date: _____

Fund/Code: _____

Amount: _____

By: _____
Karen Alder, City Finance Director

Exhibit A-1
to Property Sale and Development Agreement

Legal Description - Wade St., Central Ave., & Kuhfers Al.

Tract I

Auditor's Parcel No.: None

Property Address: None; an approximately 0.366-acre portion of Wade Street

Situated in Section 18, Town 4, Fractional Range 1, City of Cincinnati, Hamilton County, Ohio and being part of dedicated Wade Street, the boundary of which being more particularly described as follows:

Beginning at a cross notch set at the intersection of the north right of way line of Wade Street with the west right of way line of Central Parkway;

Thence along said west right of way line, S09°51'38" E a distance of 40.00 feet to a cross notch set at the intersection of said west right of way line with the south right of way line of Wade Street;

Thence along said south right of way line, S80°09'20" W a distance of 390.33 feet to a cross notch found;

Thence continuing, N87°27'55" W a distance of 7.87 feet to a 5/8" iron pin found at the intersection of said south right of way line with the west right of way line of Central Avenue;

Thence along said west right of way line, N09°49'21" W a distance of 38.31 feet to a cross notch set at the intersection of said west right of way line with the north right of way line of Wade Street extended;

Thence along said north right of way line, N80°09'20" E a distance of 397.99 feet to the Point of Beginning.

Containing 0.366 acres of land, more or less and being subject to easements, restrictions, and rights of way of record.

Bearings are based on the Ohio State Plane Coordinate System, South Zone, as derived from the Ohio Department of Transportation's Virtual Reference Stationing (VRS)(NAD83).

The above description is based on a field survey performed by The Kleingers Group in June 2023 under the direct supervision of Matthew D. Habedank, Ohio Professional Surveyor No. 8611.

Tract II

Auditor's Parcel No.: None

Property Address: None; an approximately 0.224-acre portion of Central Avenue

Situated in Sections 18 and 24, Town 4, Fractional Range 1, City of Cincinnati, Hamilton County, Ohio and being part of dedicated Central Avenue, the boundary of which being more particularly described as follows:

Beginning at a cross notch set at the intersection of the south right of way line of Bauer Avenue with the west right of way line of Central Avenue;

Thence N80°10'39" E a distance of 60.00 feet to a cross notch set in the east right of way line of Central Avenue;

EXHIBIT A-1 (Cont.)

Thence along said east right of way line, S09°49'21" E a distance of 162.86 feet to a cross notch set at the intersection of said east right of way line with the north right of way line of Wade Street;

Thence along the north right of way line of Wade Street extended, S80°09'20" W a distance of 60.00 feet to a cross notch set in the aforementioned west right of way line of Central Avenue;

Thence along said west right of way line, N09°49'21" W a distance of 162.88 feet to the Point of Beginning.

Containing 0.224 acres of land, of which 0.194 acres in Section 18 and 0.030 acres, more or less and being subject to easements, restrictions, and rights of way of record.

Bearings are based on the Ohio State Plane Coordinate System, South Zone, as derived from the Ohio Department of Transportation's Virtual Reference Stationing (VRS)(NAD83).

The above description is based on a field survey performed by The Kleingers Group in June 2023 under the direct supervision of Matthew D. Habedank, Ohio Professional Surveyor No. 8611.

Tract III

Auditor's Parcel No.: None

Property Address: None; an approximately 0.012-acre tract of Kuhfers Alley

Situated in Section 24, Town 4, Fractional Range 1, City of Cincinnati, Hamilton County, Ohio and being part of dedicated Kuhfers Alley, the boundary of which being more particularly described as follows:

Beginning at a cross notch set at the intersection of the west right of way line of Kuhfers Alley with the south right of way line of Bauer Avenue;

Thence along said south right of way line, S83°56'12" E a distance of 10.37 feet to a cross notch set at the intersection of said south right of way line with the east right of way line of Kuhfers Alley;

Thence along said east right of way line, S09°21'17" E a distance of 49.93 feet to a cross notch set in the north line of Lot 3 of West End Development North Subdivision as recorded in P.B. 481 Pg. 74;

Thence along said north line, S79°59'07" W a distance of 10.00 feet to a cross notch set;

Thence along the aforementioned west right of way line of Kuhfers Alley, N09°21'17" W a distance of 52.80 feet to the Point of Beginning.

Containing 0.012 acres of land, more or less and being subject to easements, restrictions, and rights of way of record.

Bearings are based on the Ohio State Plane Coordinate System, South Zone, as derived from the Ohio Department of Transportation's Virtual Reference Stationing (VRS)(NAD83).

The above description is based on a field survey performed by The Kleingers Group in June 2023 under the direct supervision of Matthew D. Habedank, Ohio Professional Surveyor No. 8611.

Exhibit A-2
to Property Sale and Development Agreement

Legal Description - Bauer Ave. & Bard Al.

Tract IV

Auditor's Parcel No.: None

Property Address: None; An approximately 0.183-acre tract of Bauer Avenue

Situated in Section 24, Town 4, Fractional Range 1, City of Cincinnati, Hamilton County, Ohio and being part of dedicated Bauer Avenue, the boundary of which being more particularly described as follows:

Beginning at a cross notch set at the intersection of the east right of way line of John Street with the north right of way line of Bauer Avenue;

Thence along said north right of way line, S83°56'12" E a distance of 204.23 feet to a cross notch set;

Thence, S06°03'48" W a distance of 40.00 feet to a cross notch set in the south right of way line of Bauer Avenue;

Thence along said south right of way line, N83°56'12" W a distance of 192.89 feet to a cross notch found at the intersection of said south right of way line with the aforementioned east right of way line of John Street;

Thence along said east right of way line, N09°45'32" W a distance of 41.58 feet to the Point of Beginning.

Containing 0.183 acres of land, more or less and being subject to easements, restrictions, and rights of way of record.

Bearings are based on the Ohio State Plane Coordinate System, South Zone, as derived from the Ohio Department of Transportation's Virtual Reference Stationing (VRS)(NAD83).

The above description is based on a field survey performed by The Kleingers Group in June 2023 under the direct supervision of Matthew D. Habedank, Ohio Professional Surveyor No. 8611.

Tract V

Auditor's Parcel No.: None

Property Address: None; An approximately 0.029-acre tract of Bard Alley

Situated in Section 24, Town 4, Fractional Range 1, City of Cincinnati, Hamilton County, Ohio and being part of dedicated Bard Alley, the boundary of which being more particularly described as follows:

Beginning at a 5/8" iron pin found at the intersection of the east right of way line of Bard Alley and the north right of way line of Bauer Avenue;

Thence along said north right of way line, N83°56'12" W a distance of 10.39 feet to a cross notch set at the intersection of said north right of way line with the west right of way line of Bard Alley;

Thence along said west right of way line, N09°45'32" W a distance of 127.55 feet to a cross notch set at the intersection of said west right of way and the south right of way line of Liberty Street;

Thence along said south right of way line, S83°50'50" E a distance of 10.40 feet to a cross notch found at the intersection of said south right of way line with the aforementioned east right of way line of Bard Alley;

EXHIBIT A-2 (Cont.)

Thence along said east right of way line, S09°45'32" E a distance of 127.53 feet to the Point of Beginning.

Containing 0.029 acres of land, more or less and being subject to easements, restrictions, and rights of way of record.

Bearings are based on the Ohio State Plane Coordinate System, South Zone, as derived from the Ohio Department of Transportation's Virtual Reference Stationing (VRS)(NAD83).

The above description is based on a field survey performed by The Kleingers Group in June 2023 under the direct supervision of Matthew D. Habedank, Ohio Professional Surveyor No. 8611.

Exhibit B-1
to Property Sale and Development Agreement
Vacation Plat - Wade St., Central Ave., & Kuhfers Al.

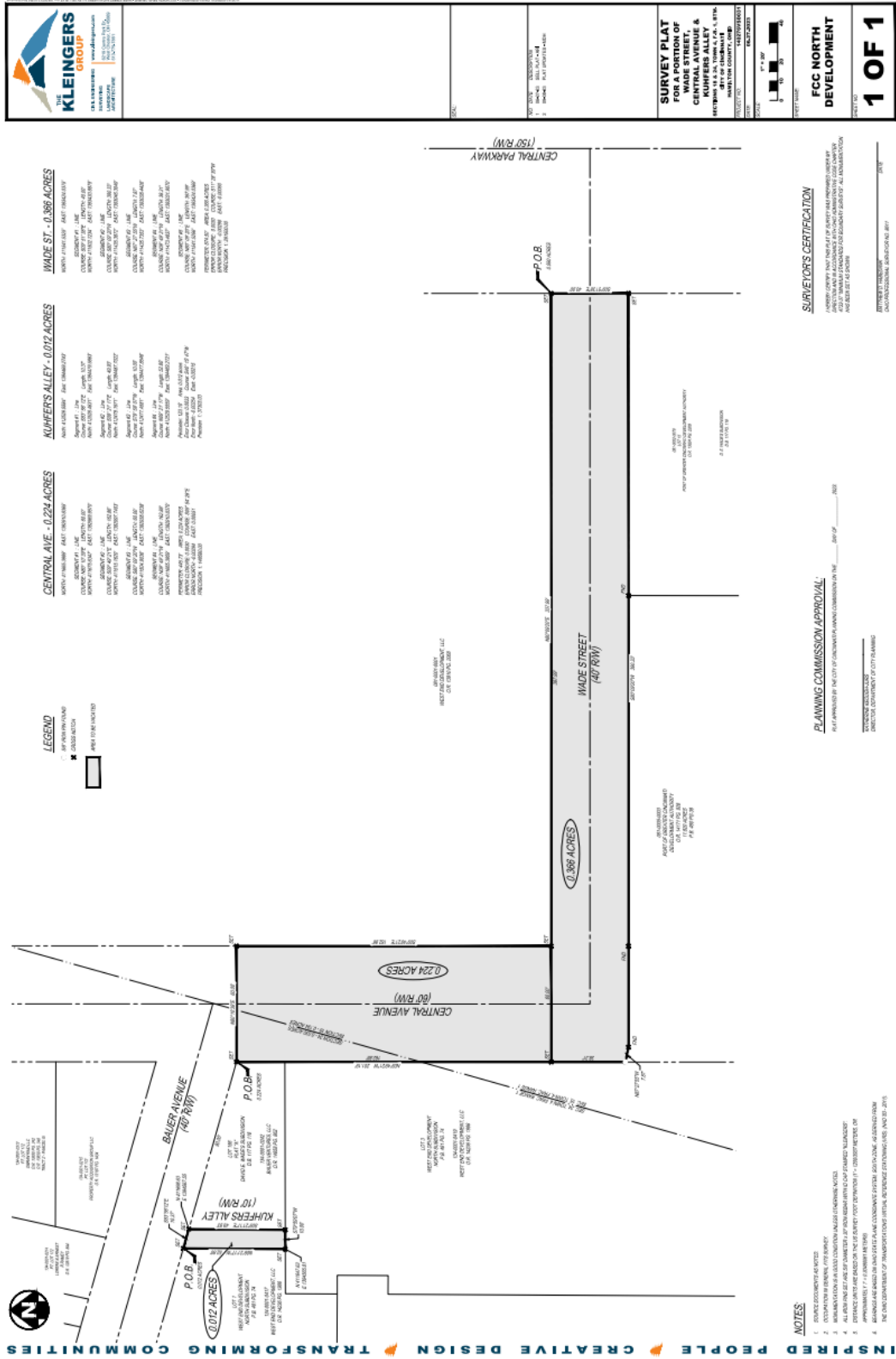


Exhibit C
to Property Sale and Development Agreement

Statement of Work, Budget, and Sources of Funds

Statement of Work

Developer and its partners will develop a 7.5-acre site north of TQL Stadium into a mixed-use district. The new district will create a community hub at the front steps of TQL Stadium.

For the Project, Developer shall construct a 150-room hotel, 150 apartments, 80,000 square feet of office space, 60,000 square feet of retail and restaurants, a 1,500 seat entertainment venue, and a programmed plaza for residents and guests.

Budget

Hard Construction Costs	
Land Acquisition	\$28,000,000
Office Construction Costs	\$24,000,000
Apartment Construction Costs	\$37,500,000
Retail Construction Costs	\$18,843,000
Hotel Construction Costs	\$60,000,000
Entertainment Venue Construction Costs	\$10,395,000
Plaza Construction Costs	\$4,200,000
Tenant Improvement Allowance	\$20,250,000
SUBTOTAL HARD CONSTRUCTION COSTS	\$203,188,000
Soft Costs and Other Costs	
Total Project Soft Costs	\$29,990,000
Capitalized Operating Costs (1 st Year)	\$21,221,725
Other Fees & Commissions	\$9,845,120
SUBTOTAL SOFT COSTS	\$61,056,845
TOTAL PROJECT COSTS	\$264,244,845

Sources of Funds

Construction Debt	\$158,546,908
State TMUD Grant	\$23,782,036
Developer Equity	\$81,915,901
TOTAL	\$264,244,845

Exhibit D
to Property Sale and Development Agreement

Form of Quitclaim Deed

[SEE ATTACHED]

[SPACE ABOVE RESERVED FOR RECORDER]

QUITCLAIM DEED

The **CITY OF CINCINNATI**, an Ohio municipal corporation (the “**City**”), for valuable consideration paid, hereby grants and conveys to **WEST END DEVELOPMENT, LLC**, an Ohio limited liability company, whose tax mailing address is 14 E. Fourth Street, Cincinnati, OH 45202 (“**Grantee**”), all of the City’s right, title, and interest in and to the real property depicted on Exhibit A (Survey Plats) and described on Exhibit B (Legal Descriptions) hereto and incorporated by reference (the “**Property**”).

	Address	Auditor's Parcel ID No.	Prior Instrument Reference	Legal Description
Tract I	N/A; (former Wade Street public right-of-way)	N/A	Deed Book 117, Page 116, Hamilton County, Ohio Records	See <u>Exhibit A</u>
Tract II	N/A; (former Central Avenue public right-of-way)	N/A	Deed Book 117, Page 116, Hamilton County, Ohio Records	See <u>Exhibit A</u>
Tract III	N/A; (former Kuhfers Alley public right-of-way)	N/A	Deed Book 117, Page 118, Hamilton County, Ohio Records	See <u>Exhibit A</u>
Tract IV	N/A; (former Bauer Avenue public right-of-way)	N/A	Deed Book 117, Page 118, Hamilton County, Ohio Records	See <u>Exhibit A</u>
Tract V	N/A; (former Bard Alley public right-of-way)	N/A	Deed Book 117, Page 118, Hamilton County, Ohio Records	See <u>Exhibit A</u>

Pursuant to Ohio Revised Code Chapter 723 and Ordinance No. [____]-2023, passed by Cincinnati City Council on [_____], 2023, the Property is hereby vacated as public right-of-way by the City.

This conveyance is subject to all covenants, conditions, reservations, or easements of record. Also, this conveyance is subject to the reservations, easements, covenants, and restrictions set forth below. Grantee, its successors, and assigns shall forever hold, develop, encumber, lease, occupy, improve, build upon, use, and convey the Property subject to such reservations, easements, covenants, and restrictions, which shall “run with the land” and be binding upon Grantee and its successors-in-interest with respect to the Property.

(A) Creation of Utility Easements: This conveyance is subject to Ohio Revised Code Section 723.041 so that any affected public utility shall be deemed to have a permanent easement in such vacated portions of the Property to maintain, operate, renew, reconstruct, and remove said utility facilities and to access said facilities. The City hereby further reserves and creates the following permanent easements encumbering portions of the Property:

(1) Permanent Water Main Easement: The City hereby reserves and creates a permanent utility easement over a 30-foot-wide area in the vacated rights-of-way formerly known as [____], for the

operation, maintenance, repair, reconstruction, removal, or replacement of water main facilities and all appurtenances located within that portion of the Property. The City shall have the right to enter the easement area from time to time for purposes of inspection, operation, maintenance, repair, reconstruction, removal, and replacement. Grantee shall not do anything to damage or alter the easement area or interfere with the City's reasonable access thereto.

No building, structure, or improvement of any kind shall be made in the water main easement area which will interfere with access to or operation of the water main, except items such as recreational surfaces, paved areas for parking lots, driveways, or other surfaces used for ingress and egress, plants, trees, shrubbery, fences, landscaping, or other similar items, being natural or artificial. The City shall not be responsible to Grantee, its successors or assigns, or present or future owners of property with rights of ingress and egress over said property for any damage done within said easement area to sod, shrubbery, trees, pavement, roadway improvements or other improvements, either natural or artificial, whether said improvement is now existing or added in the future, by reason of entering for the purpose of constructing, maintaining, or replacing the water main. Further, the City shall not be responsible to Grantee, its successors or assigns, or future owners of property with rights of ingress and egress over said property for any damages that result from disruption or denial of said rights of ingress and egress or other rights of access by reason of entering for the purpose of constructing, maintaining, or replacing the water main. No grade changes of any kind over any part of the fill width profile of this easement area are permitted at any time so as to not impact any present or future Greater Cincinnati Water Works operations. Any building, structure, or improvement to be constructed in the vicinity of the easement area shall be kept not less than three (3) feet outside the easement line nearest the proposed structure. The full width easement area must be accessible at all times for future maintenance and operation purposes.

(2) Permanent Sewer Easements: The City hereby reserves and creates a permanent utility easement over a 20-foot-wide area in the vacated rights-of-way formerly known as [_____] for the operation, maintenance, repair, reconstruction, removal, or replacement of existing sanitary sewers and all appurtenances located within that portion of the Property, including access thereto.

No structure of any kind which can interfere with access to said public sewers shall be placed in or upon a permanent sewer easement, excepting items such as recreational surfaces, paved areas for parking lots, driveways, or other surfaces used for ingress and egress, plants, trees, shrubbery, fences, landscaping, or other similar items, being natural or artificial. Any of the aforesaid surfaces, paved areas, plants, trees, shrubbery, fences, landscaping, or other similar items which may be placed upon such said permanent easement shall be so placed at the sole expense of the property owner, and the City shall not be responsible to Grantee, its successors or assigns, for the condition, damage to, or replacement of any such aforesaid items, or any other items placed upon the easement, resulting from the existence or use of the said permanent easement by Grantee, its successors or assigns.

Any structure constructed on said property in which said permanent sewer easement exists shall be kept not less than three (3) feet outside the permanent sewer easement line nearest the site of the proposed structure.

Any deviation from the aforesaid restrictions shall be petitioned by written request. Each such request shall be considered on an individual basis.

(B) Re-conveyance to City upon Failure to Timely Commence Construction: The City and Grantee are parties to a *Property Sale and Development Agreement* dated _____, 20____ (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 (as defined in the Agreement) in accordance with the Agreement, the City has the right to reacquire the Property 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 Recorder's Office. 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.

[signature page follows]

This conveyance was authorized by Ordinance No. [____]-2023, passed by Cincinnati City Council on [____], 2023.

The following exhibits are attached hereto and made a part hereof:

Exhibit A – *Survey Plats*

Exhibit B – *Legal Descriptions*

Executed on the date of acknowledgement.

CITY OF CINCINNATI

By: _____

Printed Name: _____

Title: _____

STATE OF OHIO)

) SS:

COUNTY OF HAMILTON)

The foregoing instrument was acknowledged before me this ____ day of _____, 20____. by _____, the _____ of the **CITY OF CINCINNATI**, an Ohio municipal corporation, on behalf of the municipal corporation.

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

EXHIBIT B
to Quitclaim Deed

Legal Descriptions

[TO BE ATTACHED TO EXECUTION VERSION]