



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, November 15, 2021

1:00 PM

Council Chambers, Room 300

ROLL CALL

AGENDA

- [202103082](#) MOTION, submitted by Councilmember Kearney, WE MOVE for City Council to allocate \$6,000 from a source identified by the City Administration to the Whitney Strong Foundation to provide "Save a Life" training to local community organizations.

Sponsors: Kearney

Attachments: [Motion](#)
[Statement](#)
- [202103093](#) ORDINANCE (EMERGENCY) submitted by Paula Boggs Muething, City Manager, on 11/10/2021, ESTABLISHING new capital improvement program project account no. 980x164x221615, "Fountain Place Redevelopment - Divisions Inc"; AUTHORIZING the transfer and appropriation of the sum of \$1,200,000 from the unappropriated surplus of Urban Renewal - Tax Increment Bond Fund 852 to newly established capital improvement program project account no. 980x164x221615, "Fountain Place Redevelopment - Divisions Inc," for the purpose of providing resources for improvements to real property located at project site 50 West 5th Street; DECLARING that expenditures from capital improvement program project account no. 980x164x221615 serve a public purpose; and DECLARING this capital improvement project an urban renewal project located in an urban renewal area, each as defined in Ohio Revised Code Chapter 725.

Sponsors: City Manager

Attachments: [Transmittal](#)
[Ordinance](#)
- [202103094](#) ORDINANCE (EMERGENCY) submitted by Paula Boggs Muething, City

Manager, on 11/10/2021, PROVIDING FOR THE ISSUANCE, SALE AND DELIVERY OF NOT TO EXCEED \$1,200,000 OF ECONOMIC DEVELOPMENT REVENUE BONDS (FOUNDRY URBAN RENEW AL PROJECT), OR NOTES IN ANTICIPATION THEREOF, OF THE CITY OF CINCINNATI, COUNTY OF HAMILTON, STATE OF OHIO, FOR THE PURPOSE OF JOB CREATION WITHIN THE CITY'S CENTRAL BUSINESS DISTRICT; AUTHORIZING A PLEDGE AND LIEN ON CERTAIN REVENUES AND OTHER CITY RESOURCES, AS APPROPRIATE, TO SECURE SUCH BONDS OR NOTES; AND AUTHORIZING NECESSARY DOCUMENTS TO SECURE SUCH BONDS OR NOTES.

Sponsors: City Manager

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

4. [202103096](#) ORDINANCE (EMERGENCY) submitted by Paula Boggs Muething, City Manager, on 11/10/2021, APPROVING AND AUTHORIZING the execution of a Job Creation Tax Credit Agreement with Divisions Maintenance Group, pursuant to which the company agrees to create 649 new jobs at its office on the 3rd and 4th floors of the Foundry building (formerly known as Fountain Place) located at 505 Vine Street in Cincinnati's Central Business District and for a period of 10 years, the City agrees to provide an income tax credit equal to 50% of the City income tax revenue from such new jobs.

Sponsors: City Manager

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

5. [202103092](#) ORDINANCE (EMERGENCY) submitted by Paula Boggs Muething, City Manager, on 11/17/2021, AUTHORIZING the expenditure of City funds from Stormwater Management Fund non-personnel operating account no. 107x311x4000x7264 for the repair of a scour hole in a portion of the Mill Creek Channel owned by the Millcreek Valley Conservancy District; and DECLARING such expenditure to serve a public purpose.

Sponsors: City Manager

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

6. [202103073](#) ORDINANCE (EMERGENCY) submitted by Paula Boggs Muething, City Manager, on 11/10/2021, AUTHORIZING the establishment of new capital improvement program project account no. 980x162x221604, "Barrister Affordable Housing - TIF," for the purpose of providing resources for the Barrister Project, an affordable Low-Income Housing Tax Credit housing development located in Downtown Cincinnati; AUTHORIZING the transfer and appropriation of \$945,000 from the

unappropriated surplus of Downtown/OTR East Equivalent Fund 483 to newly established capital improvement program project account no. 980x162x221604, "Barrister Affordable Housing - TIF," to provide resources for construction and development costs associated with the Barrister Project housing development; and further DECLARING that expenditures from capital improvement program project account no. 980x162x221604, "Barrister Affordable Housing - TIF," will serve a public purpose because the project will create additional affordable housing in Cincinnati.

Sponsors: City Manager

Attachments: [Transmittal](#)
[Ordinance](#)
[Attachment A](#)
[Attachment B](#)

7. [202103075](#) ORDINANCE (EMERGENCY) submitted by Paula Boggs Muething, City Manager, on 11/10/2021, APPROVING AND AUTHORIZING the City Manager to execute a Community Reinvestment Area Tax Exemption Agreement (LEED or Living Building Challenge) with Griffon Apartments, LLC, an affiliate of The Model Group, Inc. and Cincinnati Center City Development Corporation (3CDC), thereby authorizing a 15-year tax exemption for 100% of the value of improvements made to real property located at 30 E. 15th Street, 1684 Central Parkway, 1827 Logan Street, and 1617-16119 Race Street in the Over-the-Rhine neighborhood of Cincinnati, in connection with the remodeling of 2 existing buildings and construction of 2 new buildings to create, in aggregate, approximately 861 square feet of commercial space and approximately 30,678 square feet of residential space, consisting of 48 residential rental units, which remodeling and construction 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 and construction cost of approximately \$9,567,187.

Sponsors: City Manager

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

8. [202103077](#) ORDINANCE (EMERGENCY) submitted by Paula Boggs Muething, City Manager, on 11/10/2021, AUTHORIZING the payment of \$3,600 from the Human Resources Department General Fund non-personnel operating budget account no. 050x121x2000x7281 as a moral obligation to William J. Miller, Jr. for payment of outstanding charges for labor arbitration services provided on May 21, 2021.

Sponsors: City Manager

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

9. [202103104](#) ORDINANCE (EMERGENCY) submitted by Paula Boggs Muething, City Manager, on 11/17/2021, ESTABLISHING new bond fund, Fund No. 887, "Water Works Capital Improvements 2021"; and AUTHORIZING receipt and deposit of resources in an amount of up to \$70,000,000.00 from bond sale proceeds to the newly established Fund No. 887 for the purpose of providing resources for Water Works capital improvement projects.

Sponsors: City Manager

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

ADJOURNMENT

City of Cincinnati



801 Plum Street, Suite 346-A
Cincinnati, Ohio 45202

Phone (513) 352-5205
Email Jan.Michele.Kearney@cityofcincinnati.org
Web www.cityofcincinnati.org

Jan-Michele Lemon Kearney
Councilmember

November 8, 2021

MOTION

WE MOVE for City Council to allocate \$6,000 from a source identified by the City Administration to the Whitney Strong Foundation to provide "Save a Life" training to local community organizations.



Councilmember Jan-Michele Lemon Kearney

STATEMENT

See attached information.

Law & Public Safety

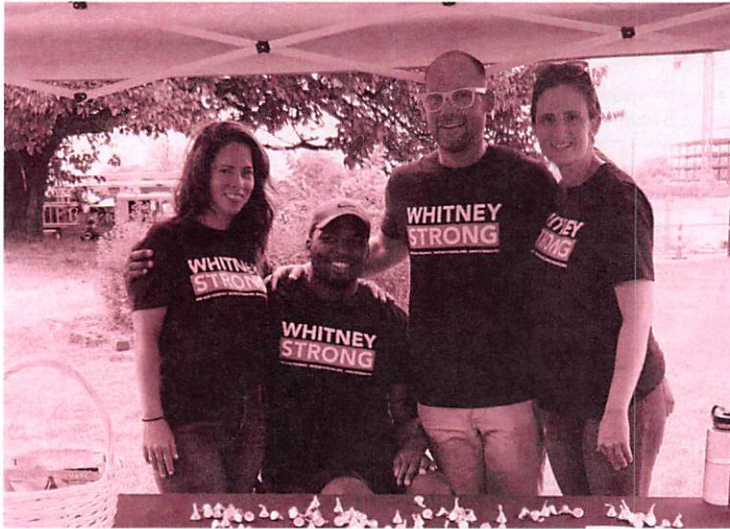
JB



W/S
WHITNEY/STRONG



1N5



Whitney/Strong's mission is to realize fewer lives impacted by gun violence through advocating and executing responsible gun ownership. We are proud to partner with Christ Emmanuel Christian Fellowship, 1N5, Project ChildSafe, and the Cincinnati Police Department to provide training and resources to help reduce firearm death and injury.

You can learn more about our organization and the miraculous survival story behind it by visiting WhitneyStrong.org or by following on social media:



Firearm Suicide Statistics

- Suicide is the 10th leading cause of death in the United States*
- On average, there are 132 suicides per day in the United States*
- In 2018, 1,555 people died of gun violence in Ohio**
 - 962 died to firearm suicide
 - 48 of those were 18 and younger

*American Foundation of Suicide Prevention (AFSP)

**WISQARS, Centers for Disease Control and Prevention, National Center for Injury Prevention and Control

What can you do?



Learn the warning signs/risk factors

- Lost interest in things they once enjoyed
- Low energy/sleeping too much/too little
- Isolated socially/avoids social interactions
- Engages in self-harm behaviors or researching ways to harm themselves
- Increase in drug/alcohol use
- Difficulty concentrating
- Decreased academic performance
- Acting irritable, anxious or reckless, or displaying mood swings

• Talking about:

- Wanting to die or kill oneself – thoughts of suicide
- Feeling hopeless or having no reason to live
- Feeling trapped or in unbearable pain
- Being a burden to others, saying goodbye
- Fears weight gain and/or diets and exercises obsessively

Do not wait for symptoms to appear to begin conversations about mental wellness. Encourage strategies for healthy living.



Start The Conversation – How To:

1. Set up a time & place — Pick a comfortable, relaxed time to talk
2. Be direct — Let them know you've been noticing a change in their behavior, be honest
3. Listen — Listen carefully to their response and look for any warning signs, let the person explain how they are feeling without passing judgement
4. Respond empathetically — Emphasize that you want to support the person, let them know you recognize and respect their feelings



Protective Factors Can Help

- Caring relationship with a trusted adult
- Sense of connection or participation in school
- Positive self-esteem and good coping skills
- Access to care for emotional & physical problems or for substance abuse disorders



Safely Store Firearms

Studies have shown a decreased risk for self-inflicted injury among adolescents when guns are stored safely.***

What do we mean by safe storage?

Safe storage means all guns are stored in a locked gun safe, cabinet or case, locked in a gun rack or stored with a cable lock (like the one provided in this kit). Ammunition should be locked in a separate location.



Know Your Resources

Visit:

- Your Primary Care Provider or Pediatrician
- Mental Health Professional
- Walk-in Clinic
- Emergency Department
- Urgent Care Center

Find a Mental Health Provider:

- findtreatment.samhsa.gov
- Mentalhealthamerica.net/finding-help

Access the National Suicide Prevention Lifeline:

1-800-273-TALK (8255)
Suicidepreventionlifeline.org

Text HELLO to 741741

(Free, 24/7, confidential crisis support by text.)

Call 911 for emergencies

Local Ohio Resources

Psychiatric Intake Response Center:
(PIRC) at Children's Hospital
(513) 636-4124

Find a mental health professional:
www.mindpeacecincinnati.org

Mental Health Access Point (MHAP):
www.mentalhealthaccesspoint.org
(513) 558-8888

***Council on Injury, Violence, and Poison Prevention Executive Committee. Firearm-related Injuries Affected the Pediatric Population, American Academy of Pediatrics 2012.

November 10, 2021

To: Mayor and Members of City Council 202103093
From: Paula Boggs Muething, City Manager
Subject: **Emergency Ordinance – DCED: Fountain Place Redevelopment – Divisions, Inc.**

Attached is an Emergency Ordinance captioned:

ESTABLISHING new capital improvement program project account no. 980x164x221615, “Fountain Place Redevelopment – Divisions Inc”; **AUTHORIZING** the transfer and appropriation of the sum of \$1,200,000 from the unappropriated surplus of Urban Renewal – Tax Increment Bond Fund 852 to newly established capital improvement program project account no. 980x164x221615, “Fountain Place Redevelopment – Divisions Inc,” for the purpose of providing resources for improvements to real property located at project site 50 West 5th Street; **DECLARING** that expenditures from capital improvement program project account no. 980x164x221615 serve a public purpose; and **DECLARING** this capital improvement project an urban renewal project located in an urban renewal area, each as defined in Ohio Revised Code Chapter 725.

Approval of this Emergency Ordinance authorizes the establishment of new capital improvement program project account no. 980x164x221615, “Fountain Place Redevelopment – Divisions Inc” for the purpose of providing resources for improvements to real property located at 50 West 5th Street. Approval of this Emergency Ordinance also authorizes the transfer and appropriation of \$1,200,000 from the unappropriated surplus of Urban Renewal Tax – Increment Bond Fund 852 to newly established capital improvement program project account no. 980x164x221615, “Fountain Place Redevelopment – Divisions Inc” for the purpose of providing resources for improvements to the project site, which costs may include, without limitation, acquisition, demolition, and hard construction costs for renovation of the project site, and permanent public improvements in the right of way benefitting the project site, all as allowable by law.

Finally, the Emergency Ordinance will declare that expenditures from capital improvement program project account no. 980x164x221615, “Fountain Place Redevelopment – Divisions Inc” will serve a public purpose because the redevelopment project will provide new jobs and economically beneficial impacts, supporting the redevelopment of the City’s Central Business District. It will also declare this capital project to be an urban renewal project, located in an urban renewal area, as defined by Ohio Revised Code Chapter 725.

An accompanying ordinance will be necessary to authorize the issuance of the Urban Renewal Bond resources appropriated in this Emergency Ordinance.

Divisions, Inc. (dba Divisions Maintenance Group) will be locating their headquarters at the project site. The owner of the project site, Fountain Place, LLC, an affiliate of Cincinnati Center Development Corporation (3CDC), will be facilitating the construction of the improvements on behalf of the Divisions, Inc. The Project will create approximately 205,000 square feet of office space and 20,000 square feet of commercial space; it will also rehabilitate an existing 164-space parking garage.

The Fountain Place Redevelopment project is in accordance with the Compete goal to “Cultivate our position as the most vibrant and economically healthiest part of our region” of Plan Cincinnati (2012), specifically, the strategy to “Target investment to geographic areas where there is already economic activity” as described on pages 114-117.

The reason for the emergency is the immediate need to ensure the necessary resources are made available to execute the funding agreement within the established timeline.

The Administration recommends passage of this Emergency Ordinance.

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



Attachment



EMERGENCY

City of Cincinnati

KKF

AWB

An Ordinance No. _____

-2021

ESTABLISHING new capital improvement program project account no. 980x164x221615, "Fountain Place Redevelopment – Divisions Inc"; **AUTHORIZING** the transfer and appropriation of the sum of \$1,200,000 from the unappropriated surplus of Urban Renewal – Tax Increment Bond Fund 852 to newly established capital improvement program project account no. 980x164x221615, "Fountain Place Redevelopment – Divisions Inc," for the purpose of providing resources for improvements to real property located at project site 50 West 5th Street; **DECLARING** that expenditures from capital improvement program project account no. 980x164x221615 serve a public purpose; and **DECLARING** this capital improvement project an urban renewal project located in an urban renewal area, each as defined in Ohio Revised Code Chapter 725.

WHEREAS, Divisions, Inc., d/b/a Divisions Maintenance Group, will be locating its headquarters to the renovated building located at 50 West 5th Street, also known as 505 Vine Street (the "Project Site"); and

WHEREAS, the owner of the Project Site, Fountain Place, LLC, will be facilitating construction of the improvements on behalf of Divisions, Inc, among other improvements to the Project Site, including creating approximately 205,000 square feet of office space and 20,000 square feet of commercial space, and rehabilitating an existing 164-space parking garage (the "Project"); and

WHEREAS, the Project Site constitutes an urban renewal area and the Project constitutes an urban renewal project, each for purposes of Ohio Revised Code Chapter 725; and

WHEREAS, resources need to be in place prior to executing a funding agreement; and

WHEREAS, the Project is in accordance with the Compete goal to "cultivate our position as the most vibrant and economically healthiest part of our region," specifically, the strategy to "target investment to geographic areas where there is already economic activity" described on pages 114-117 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. 980x164x221615, "Fountain Place Redevelopment –

Divisions Inc,” for the purpose of providing resources for improvements to real property located at 50 West 5th Street, also known as 505 Vine Street (the “Project Site”).

Section 2. That the transfer and appropriation of the sum of \$1,200,000 from the unappropriated surplus of Urban Renewal – Tax Increment Bond Fund 852 to newly established capital improvement program project account no. 980x164x221615, “Fountain Place Redevelopment – Divisions Inc,” for the purpose of providing resources for improvements to the Project Site, which costs may include, without limitation, acquisition, demolition, and hard construction costs for renovation of the Project Site, and permanent public improvements in the right of way benefitting the Project Site, all as allowable by law (the “Project”), is hereby authorized.

Section 3. That Council hereby declares that expenditures from capital improvement program project account no. 980x164x221615, “Fountain Place Redevelopment – Divisions Inc,” will serve a public purpose because the redevelopment project will provide new jobs and economically beneficial impacts supporting the redevelopment of the City’s Central Business District.

Section 4. That Council hereby declares that the Project constitutes an urban renewal project and the Project Site constitutes an urban renewal area, each as defined in Section 725 of the Ohio Revised Code.

Section 5. That Council authorizes the appropriate City officials to take all necessary and proper actions as they deem necessary or appropriate to fulfill the terms of this ordinance, including, without limitation, entering into any agreements, amendments, and other instruments pertaining to the Project.

Section 6. That the proper City officials are authorized to do all things necessary and proper to carry out the terms of Sections 1 through 5 hereof.

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 the immediate need to ensure the necessary resources are made available to execute the funding agreement within the established timeline.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

November 10, 2021

To: Mayor and Members of City Council **202103094**

From: Paula Boggs Muething, City Manager

Subject: **Emergency Ordinance for Issuance of \$1,200,000 Economic Development Revenue Bonds (Foundry Urban Renewal Project)**

Transmitted herewith is an Emergency Ordinance captioned as follows:

PROVIDING FOR THE ISSUANCE, SALE AND DELIVERY OF NOT TO EXCEED \$1,200,000 OF ECONOMIC DEVELOPMENT REVENUE BONDS (FOUNDRY URBAN RENEWAL PROJECT), OR NOTES IN ANTICIPATION THEREOF, OF THE CITY OF CINCINNATI, COUNTY OF HAMILTON, STATE OF OHIO, FOR THE PURPOSE OF JOB CREATION WITHIN THE CITY'S CENTRAL BUSINESS DISTRICT; AUTHORIZING A PLEDGE AND LIEN ON CERTAIN REVENUES AND OTHER CITY RESOURCES, AS APPROPRIATE, TO SECURE SUCH BONDS OR NOTES; AND AUTHORIZING NECESSARY DOCUMENTS TO SECURE SUCH BONDS OR NOTES.

This emergency ordinance authorizes the Finance Director to proceed with the sale of bonds or notes (the "Financing") in the amount of \$1,200,000 to fund urban renewal improvements in the Central Business District. The Financing will provide funds for the redevelopment project known as The Foundry, located at 50 West 5th Street / 505 Vine Street. The Financing is planned to occur in FY 2022 and a competitive interest rate not to exceed 6.00%. The Financing will be repaid by service payments in lieu of taxes received by the City pursuant to Chapter 725 of the Ohio Revised Code and deposited into the Urban Renewal Debt Retirement Fund. The emergency ordinance authorizes the Finance Director to approve the interest rates, dates of issuance, and maturity dates, and is necessary in order to advance construction of the Project in accordance with existing construction schedule requirements and to take advantage of currently favorable interest rates.

The Administration recommends passage of this Emergency Ordinance.

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

Attachment

EMERGENCY

City of Cincinnati

- 2021 *AWB*

An Ordinance No. _____

PROVIDING FOR THE ISSUANCE, SALE AND DELIVERY OF NOT TO EXCEED \$1,200,000 OF ECONOMIC DEVELOPMENT REVENUE BONDS (FOUNDRY URBAN RENEWAL PROJECT), OR NOTES IN ANTICIPATION THEREOF, OF THE CITY OF CINCINNATI, COUNTY OF HAMILTON, STATE OF OHIO, FOR THE PURPOSE OF JOB CREATION WITHIN THE CITY'S CENTRAL BUSINESS DISTRICT; AUTHORIZING A PLEDGE AND LIEN ON CERTAIN REVENUES AND OTHER CITY RESOURCES, AS APPROPRIATE, TO SECURE SUCH BONDS OR NOTES; AND AUTHORIZING NECESSARY DOCUMENTS TO SECURE SUCH BONDS OR NOTES.

WHEREAS, the City of Cincinnati, Ohio (the "City") seeks to create and preserve jobs and employment opportunities within the corporate boundaries of the City in order to improve the economic welfare of the people of the City and the State of Ohio in furtherance of the public purposes set forth in Article VIII, Section 13 of the Ohio Constitution (the "Authorized Purposes"); and

WHEREAS, the City and Fountain Place, LLC (the "Developer") have entered in to a Property Sale and Development Agreement dated December 23, 2019, pursuant to which the Developer has agreed to redevelop certain property within the Central Business District of the City located at 50 West 5th Street, also known as 505 Vine Street (the "Project Site"), including without limitation, creating approximately 205,000 square feet of office space and 20,000 square feet of commercial space, and rehabilitating an existing 164-space parking garage (the "Project"); and

WHEREAS, the Project Site constitutes an urban renewal area and the Project constitutes an urban renewal project, each for purposes of Ohio Revised Code Chapter 725; and

WHEREAS, this Council by this ordinance authorizes the issuance of urban renewal bonds or notes to finance a portion of the Project in furtherance of the Authorized Purposes; now, therefore,

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

Section 1. Definitions. That when used in this ordinance, and the Indenture (as hereinafter defined), if any, the following words shall have the indicated meanings:

"Authorized Officer" means any officer, member or employee of the Issuer authorized by a certificate of the Executive to perform the act or sign the document in question, and if there is no such authorization, means the Executive.

“Bond” or “Bonds” means the Issuer's not to exceed \$1,200,000 Economic Development Revenue Bonds (Foundry Urban Renewal Project), Series 2021, to be issued in a manner determined by the Fiscal Officer.

“Bondholder,” “Holder,” “holder of Bonds,” “owner of Bonds” or any similar term means any person in whose name a Bond or Note is registered on the Bond Register.

“Bond Legislation” means this ordinance.

“Bond Register” means the records for the registration and transfer of Bonds or Notes maintained by the institution appointed as registrar and paying agent pursuant to the Fiscal Officer's Certificate or by the Trustee as Bond registrar pursuant to the Indenture.

“Bond Service Charges” means the principal, interest and any premium required to be paid on any Bonds or Notes.

“Code” means the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder.

“Executive” means the City Manager or any Assistant City Manager of the Issuer.

“Fiscal Officer” means the Director of Finance, as Fiscal Officer of the Issuer.

“Fiscal Officer's Certificate” means the certificate executed by the Fiscal Officer setting forth any terms relating to the issuance of the Bonds or Notes which are not specified in this Bond Legislation.

“Indenture” means the Trust Agreement (if any) to be dated as of such date as is selected by the Fiscal Officer by and between the Issuer and the Trustee securing the Bonds or Notes, as the same may be amended as provided therein.

“Interest Payment Date” or “interest payment date” means, as to the Bonds or Notes, the dates designated as such in the Indenture or the Fiscal Officer's Certificate.

“Issuer” means the City of Cincinnati, Hamilton County, Ohio.

“Issuing Authority” means the City Council of the Issuer.

“Legal Officer” means the City Solicitor of the Issuer.

“Outstanding Bonds” or “Bonds outstanding” or “outstanding” as applied to Bonds, means, as of the applicable date, all Bonds which have been authenticated and delivered, or are then being delivered, by the Issuer pursuant to this Bond Legislation and the Fiscal Officer's Certificate or by the Trustee under the Indenture, as applicable, except:

- (a) Bonds cancelled on surrender, exchange or transfer or cancelled because of payment at or prior to such date;

(b) Bonds for the payment, redemption or purchase for cancellation of which sufficient monies have been deposited and credited for the purpose on or prior to that date in the Bond Fund, or other Special Fund or account or with the Trustee or Paying Agent (whether upon or prior to the maturity of those Bonds); and provided that if any of those Bonds are to be purchased for cancellation a firm offer for sale stating the price shall have been received and accepted;

(c) Bonds which are deemed to have been paid pursuant to the provisions of the Indenture or any Bonds which are deemed to have been paid pursuant to the provisions of this Bond Legislation and the Fiscal Officer's Certificate; and

(d) Bonds in lieu of which others have been authenticated under the Indenture or this Bond Legislation and the Fiscal Officer's Certificate.

“Notes” means notes issued in anticipation of the issuance of the Bonds.

“Paying Agent” means the Trustee or its lawful successor, or the registrar and paying agent appointed pursuant to the Fiscal Officer's Certificate, as applicable.

“person” or “Person” or words importing persons means firms, associations, partnerships (including, without limitation, general and limited partnerships), joint ventures, societies, estates, trusts, corporations, public or governmental bodies, other legal entities and natural persons.

“Revenues” means all Service Payments in Lieu of Taxes received by the City pursuant to Chapter 725 of the Ohio Revised Code and deposited into the Urban Renewal Debt Retirement Fund excluding amounts necessary to make annual principal and interest payments on any and all Bonds or Notes issued pursuant to Chapter 725 of the Ohio Revised Code, which were issued prior to the issuance of the Bonds or Notes provided for in this Ordinance.

“State” means the State of Ohio.

“Trustee” means the bank or trust company that is appointed or any successor trustee under the terms of the Indenture, if any.

Any reference to the Issuer, the Issuing Authority, or to their members, officers or to other public officers, boards, commissions, departments, institutions, agencies, bodies or entities shall include those which succeed to their functions, duties or responsibilities by operation of law, and also those who at the time may legally act in their place.

References to any act or resolution of the Ohio General Assembly, or to a section, chapter, division, paragraph or other provision of the Ohio Revised Code or the Constitution of Ohio, or the laws of Ohio, shall include that act or resolution, and that section, chapter, division, paragraph or other provision and those laws as from time to time amended, modified, supplemented, revised or superseded, unless expressly stated to the contrary, provided that no such amendment, modification, supplementation, revision or supersession shall alter the obligation to pay the Bond Service Charges on Bonds or Notes outstanding, at the time of any such action, in the amount and manner, at the times and from the sources provided in the Bond Legislation and the Indenture, except as otherwise herein permitted.

Unless the context otherwise indicates, words importing the singular number shall include the plural number and words importing the plural number shall include the singular number. The terms “hereof,” “herein,” “hereby,” “hereto” and “hereunder,” and similar terms, means both the Bond Legislation and the Indenture, except in the case of reference to a stated section number of either.

Section 2. Determinations by Issuing Authority. The Issuing Authority hereby finds and determines that it is necessary to issue, sell and deliver the Bonds in the principal amount of not to exceed \$1,200,000 upon the terms set forth herein, as supplemented by the Indenture or the Fiscal Officer's Certificate, for the purpose of paying the costs of, or reimbursing Fountain Place, LLC or other entities for expenditures previously made in furtherance of, the redevelopment of certain real property within the Central Business District of the City located at 50 West 5th Street, also known as 505 Vine Street, including, without limitation, creating approximately 205,000 square feet of office space and 20,000 square feet of commercial space, and rehabilitating an existing 164-space parking garage (the “Project”); which costs may include, without limitation, acquisition, demolition, and hard construction costs for renovation of the Project, and permanent public improvements in the right of way benefitting the Project; all as allowable by law; such principal amount may be increased by the amounts necessary to fund a debt service reserve fund (if needed), capitalized interest (if any), costs of issuance, and other necessary and permitted costs, all as determined by the Fiscal Officer. The officers specified herein are authorized to execute and deliver the documents necessary or appropriate in order to secure the Bonds or Notes.

This Council hereby determines that the issuance of the Bonds will be for a proper public and municipal purpose and in the best interest of the Issuer.

Section 3. Terms of the Bonds.

(a) Form, Denominations and Dates. The Bonds shall be designated “Economic Development Revenue Bonds (Foundry Urban Renewal Project),” shall be negotiable instruments, shall be issued only in fully registered form, without coupons, and shall express upon their faces the purpose for which they are issued. The Bonds shall be dated as of their date of issuance, shall be numbered as determined by the Bond registrar or by the Trustee as Bond registrar, and shall be issued in denominations of \$5,000 or any integral multiple thereof or as otherwise provided in the Fiscal Officer's Certificate. The Bonds shall be exchangeable for other Bonds in the manner and upon the terms set forth in the Indenture or the Fiscal Officer's Certificate.

(b) Execution, Interest Rates and Maturities. The Bonds shall be executed by the signatures of the Mayor and Fiscal Officer of the Issuer and shall bear the official seal of the Issuer (provided that both of such signatures and such seal may be facsimiles), and shall bear the manual authenticating signature of an authorized signer of the Bond registrar or the Trustee, as appropriate. The Bonds shall bear interest from the most recent date to which interest has been paid or duly provided for, or, if no interest has been paid or duly provided for, from their dates. The Bonds shall mature or be subject to mandatory sinking fund redemption at the times and in the respective principal amounts, and such

principal amounts shall bear interest payable semiannually on each Interest Payment Date, at the respective rates per annum not to exceed 6.00%, as determined by the Fiscal Officer (after negotiation, if the Bonds are sold, with the original purchaser of the Bonds) and set forth in the Fiscal Officer's Certificate or in a bond purchase agreement, as applicable. All Bonds shall finally mature not later than as allowable by law.

(c) Optional Redemption. The Bonds of the maturities specified in the Fiscal Officer's Certificate or, if applicable, in the bond purchase agreement shall be subject to redemption, in the manner provided in the Fiscal Officer's Certificate or the Indenture, as applicable, at the option of the Issuer, by lot, either in whole or in part, on any date, and at the redemption prices (expressed as percentages of the principal amount to be redeemed) set forth in the Fiscal Officer's Certificate or Indenture, as applicable, plus accrued interest to the date fixed for redemption.

(d) Payment. Bond Service Charges with respect to the Bonds shall be payable in lawful money of the United States of America without deduction for the services of the Trustee or the Paying Agent, in the manner provided in the Fiscal Officer's Certificate or the Indenture, as applicable.

Section 4. Issuance of Notes. If the Fiscal Officer, in the exercise of his or her judgment, determines that it is preferable that notes rather than bonds be issued initially, there are hereby authorized Notes in the aggregate principal amount of not to exceed \$1,200,000 which may be issued in anticipation of the issuance of a like principal amount of said bonds for the purpose described in Section 2 hereof. Such Notes shall be issued in such numbers and denominations as may be determined by the Fiscal Officer; shall bear interest at a rate or rates 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 Fiscal Officer, payable on such dates as are determined by the Fiscal Officer; shall be dated as of their date of issuance; shall mature on such date or dates as may be selected by the Fiscal Officer; may be callable in whole or in part at any time prior to maturity as approved by the Fiscal Officer; may be issued in installments as approved by the Fiscal Officer; shall be designated "Economic Development Revenue Bond Anticipation Notes (Foundry Urban Renewal Project)"; and shall be payable as to principal at the office of the Paying Agent or the office of the Treasurer of the City, and the interest thereon shall be paid by the Paying Agent or the office of the Treasurer of the City on each Interest Payment Date to the holders of the Notes. Said Notes shall bear the signature of the Mayor, which may be a facsimile, and the manual signature of the Fiscal Officer, shall bear 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 5. Sale of the Bonds or Notes. The Bonds or Notes 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 awarded and sold at public or private sale, in the sound discretion of the Fiscal Officer without further action by this Council, at such price as is determined by the Fiscal Officer, plus accrued interest on the aggregate principal amount of the Bonds or Notes from their dates to the date of delivery and payment. The Executive or Fiscal Officer is hereby authorized to make arrangements for the delivery of the Bonds or Notes to, and

payment therefor by, the purchaser or purchasers thereof at the price determined by the Fiscal Officer; and the Executive or Fiscal Officer is hereby authorized to execute a purchase agreement for the Bonds or Notes, if applicable, without further action by this Council.

Section 6. Allocation of Proceeds of the Bonds or Notes. The proceeds received by the Issuer from the sale of the Bonds or Notes shall be allocated, and are hereby appropriated, in the amounts, and to the funds, set forth in the Fiscal Officer's Certificate or the Indenture, as applicable.

Section 7. Security for the Bonds or Notes. The security for the Bonds or Notes shall be a pledge of Revenues or any other permissible funds determined by the Fiscal Officer and further described in the Indenture or the Fiscal Officer's Certificate, and a lien upon the Revenues is hereby granted for such purpose.

The Executive and the Fiscal Officer, in their sound discretion, are hereby authorized to further secure the Bonds or Notes by pledging toward payment of the Bonds or Notes other moneys not raised by taxation received by the Issuer, in the order and to the extent that they deem necessary or appropriate to obtain a favorable interest rate on the Bonds. The Executive and Fiscal Officer are further authorized to evidence such additional security in whatever manner they deem appropriate, and to execute and deliver any documents necessary to that end. Anything in the Indenture, the Bond Legislation or the Bonds or Notes notwithstanding, neither the Indenture, the Bond Legislation, nor the Bonds or Notes will constitute a debt, or a pledge of the faith, credit or taxing power of the Issuer, the State or any political subdivision thereof, and the holders or owners of the Bonds or Notes shall have no right to have taxes levied by the Issuing Authority, the General Assembly of the State, or the taxing authority of any political subdivision of the State for the payment of the Bond Service Charges, and the Bonds or Notes shall contain on their faces a statement to that effect. Nothing herein shall be deemed to prohibit the Issuer from lawfully using, of its own volition, any of its general resources, including lawfully available City income tax revenues, for the fulfillment of any of the terms and conditions of the Indenture, the Bond Legislation, or the Bonds or Notes; provided, that no moneys raised by taxation are obligated or pledged therefore.

The Executive and the Fiscal Officer are hereby authorized to make provision in the Indenture securing such Bonds or Notes for: the application of the Revenues; creation of such funds as are necessary or appropriate; investment of moneys in such funds; use of such funds; recordkeeping; such covenants of the Issuer as are necessary or appropriate; and such other matters as are customary or appropriate to be contained in the Indenture.

Section 8. Execution of the Indenture and Other Documents. The Executive and the Fiscal Officer are each hereby authorized to execute, acknowledge and deliver, on behalf of the Issuer, to the Trustee the Indenture (if any).

The Fiscal Officer is hereby authorized to exercise his or her discretion in order to set the terms contained in the Fiscal Officer's Certificate and to execute and deliver the same.

The Executive and the Fiscal Officer are each hereby separately authorized to take any and all actions and to execute such other instruments that may be necessary or appropriate in the opinion of nationally recognized bond counsel, in order to effect the issuance of the Bonds or Notes and the intent of the Bond Legislation. The Fiscal Officer, or other appropriate officer of the Issuer, shall certify a true transcript of all proceedings had with respect to the issuance of the Bonds or Notes, along with such information from the records of the Issuer as is necessary to determine the regularity and validity of the issuance of the Bonds or Notes.

This Bond Legislation shall constitute a part of the Indenture as therein provided and for all purposes of the Indenture, including, without limitation, application to the Bond Legislation of the provisions in the Indenture relating to amendment, modification and supplementation, and provisions for severability.

The Fiscal Officer is hereby authorized to appoint a trustee, paying agent and registrar for the Bonds or (if necessary) the Notes.

Section 9. Offering Document. That if deemed necessary by bond counsel, the Executive and the Fiscal Officer are each separately authorized to execute and deliver a preliminary offering document and a final document on behalf of the Issuer, which shall be in such form as such officers may approve, their execution thereof on behalf of the Issuer to be conclusive evidence of such approval, and copies thereof are hereby authorized to be prepared and furnished to the original purchaser of the Bonds or Notes for distribution to prospective purchasers of the Bonds or Notes and other interested persons.

The Executive and the Fiscal Officer on behalf of the Issuer and each of them are hereby each separately authorized to furnish such information, to execute such instruments and to take such other actions in cooperation with the original purchaser of the Bonds or Notes as may be reasonably requested to qualify the Bonds or Notes for offer and sale under the Blue Sky or other securities laws and regulations and to determine their eligibility for investment under the laws and regulations of such states and other jurisdictions of the United States of America as may be designated by the original purchaser; provided however, that the Issuer shall not be required to register as a dealer or broker in any such state or jurisdiction or become subject to the service of process in any jurisdiction in which the Issuer is not now subject to such service.

Section 10. Taxability. As to any Bonds or Notes which constitute obligations the interest on which is excludable from gross income for federal income tax purposes under the Code, this Council, for and on behalf of the City, hereby covenants that it will restrict the use of the proceeds of the Bonds or Notes hereby authorized in such manner and to such extent, if any, and take such other actions as may be necessary, after taking into account reasonable expectations at the time the debt is incurred, so that they will not constitute obligations the interest on which is subject to federal income taxation or that they will not constitute "arbitrage bonds" under Sections 103(b)(2) and 148 of the Code. The Fiscal Officer or any other officer having responsibility with respect to the issuance of the Bonds or Notes is authorized to give an appropriate certificate on behalf of the City on the date of delivery of the Bonds or Notes for inclusion in the transcript of proceedings, setting forth the facts, estimates and circumstances and

reasonable expectations pertaining to the use of the proceeds thereof and the provisions of said Sections 103(b)(2) and 148 and regulations thereunder.

These Bonds or Notes are not designated “qualified tax-exempt obligations” for the purposes set forth in Section 265(b)(3) of the Code.

Section 11. Severability. Should it be judicially determined by a court having jurisdiction to pass upon the validity of the Bond Legislation, the Indenture or the Bonds or Notes, that any provision of the Bond Legislation is beyond the powers of the Issuing Authority or the Issuer, or is otherwise invalid, then such decision shall in no way affect the validity of the Bond Legislation, the Indenture or the Bonds or Notes, or any proceedings related thereto, except as to the particular matters found by such decision to be invalid.

Section 12. Book Entry Bonds or Notes. The Issuing Authority hereby determines that these Bonds or Notes may but are not required to be issued in Book-Entry-Only form through The Depository Trust Company, New York, New York. The Letter of Representations to The Depository Trust Company from the City, dated March 21, 1995, as supplemented from time to time, is hereby ratified and confirmed.

So long as these Bonds or Notes are in Book-Entry-Only form, the following covenants and agreements of the Issuer shall be in effect:

(a) Definitions.

“Beneficial Owner” means the person in whose name a Bond or Note is recorded as the beneficial owner of such Bond or Note by the respective systems of DTC and each of the DTC Participants.

“CEDE & Co” means CEDE & Co, the nominee of DTC, and any successor nominee of DTC with respect to the Bonds or Notes.

“DTC” means The Depository Trust Company, a limited purpose trust company organized under the laws of the State of New York, and its successors and assigns.

“DTC Participant” means banks, brokers or dealers who are participants of DTC.

“Letter of Representations” means the Letter of Representations dated March 21, 1995, as supplemented from time to time, from the City and the Paying Agent and Registrar, to DTC with respect to the Bonds or Notes, which shall be the binding obligation of the City and the Paying Agent and Registrar.

The Bonds or Notes shall initially be issued in global book entry form registered in the name of CEDE & Co, as nominee for DTC.

While in book entry form, payment of interest for any Bond or Note registered in the name of CEDE & Co shall be made by wire transfer or such other manner as permitted by the Letter of Representations, to the account of CEDE & Co on the Interest

Payment Date or the redemption date at the address indicated for CEDE & Co in the bond register.

(b) Book Entry Bonds or Notes.

(i) Except as provided in Section 14(c) hereof, the registered owner of all of the Bonds or Notes shall be DTC and the Bond or Notes shall be registered in the name of CEDE & Co, as nominee for DTC. The City and the Paying Agent and Registrar shall supplement (with a description of the bonds) the Letter of Representations with DTC, and the provisions of such Letter of Representations shall be incorporated herein by reference.

(ii) The Bonds or Notes shall be initially issued in the form of single fully registered global certificates in the amount of each separate stated maturity of the Bonds or Notes. Upon initial issuance, the ownership of such Bonds or Notes shall be registered in the City's bond register in the name of CEDE & Co, as nominee of DTC. The Paying Agent and Registrar and the City may treat DTC (or its nominee) as the sole and exclusive registered owner of the Bonds or Notes registered in its name for the purposes of payment of the principal, or redemption price of or interest on the Bonds or Notes, selecting the Bonds or Notes or portions thereof to be redeemed, giving any notice permitted or required to be given to Bondholders under this ordinance, registering the transfer of Bonds or Notes, obtaining any consent or other action to be taken by Bondholders and for all other purposes whatsoever; and neither the Paying Agent and Registrar nor the City shall be affected by any notice to the contrary. Neither the Paying Agent and Registrar nor the City shall have any responsibility or obligation to any DTC Participant, any person claiming a beneficial ownership interest in the Bonds or Notes under or through DTC or any DTC Participant, or any other person which is not shown on the registration books of the Paying Agent and Registrar as being a registered owner, with respect to the accuracy of any records maintained by DTC or any DTC Participant; the payment of DTC or any DTC Participant of any amount in respect of the principal or redemption price of or interest on the Bonds or Notes; any notice which is permitted or required to be given to Bondholders under this ordinance; the selection by DTC or any DTC Participant of any person to receive payment in the event of a partial redemption of the Bonds or Notes; or any consent given or other action taken by DTC as Bondholder. The Paying Agent and Registrar shall pay from moneys available hereunder all principal of, and premium, if any, and interest on the Bonds or Notes only to or "upon the order of" DTC (as that term is used in the Uniform Commercial Code as adopted in the State of Ohio), and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to the principal of, and premium, if any, and interest on the Bonds or Notes to the extent of the sum or sums so paid. Except as otherwise provided in Section 14(c) hereof, no person other than DTC shall receive an authenticated Bond certificate for each separate stated maturity evidencing the obligation of the City to make payments of principal of, and premium, if any, and interest pursuant to this ordinance. Upon

delivery by DTC to the Paying Agent and Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of CEDE & Co, and subject to the provisions of this ordinance with respect to transfers of Bonds or Notes, the word "CEDE & Co" in this ordinance shall refer to such new nominee of DTC.

(c) Delivery of Bond Certificates.

In the event the City determines that it is in the best interest of the Beneficial Owners that they be able to obtain Bond certificates, the City may notify DTC and the Paying Agent and Registrar, whereupon DTC will notify the DTC Participants, of the availability through DTC of Bond certificates. In such event, the Paying Agent and Registrar shall issue, transfer and exchange, at the City's expense, Bond certificates as requested by DTC in appropriate amounts. DTC may determine to discontinue providing its services with respect to the Bonds or Notes at any time by giving notice to the City and the Paying Agent and Registrar and discharging its responsibilities with respect thereto under applicable law. Under such circumstances (if there is no successor securities depository), the City and Paying Agent and Registrar shall be obligated to deliver Bond certificates as described in this ordinance, provided that the expense in connection therewith shall be paid by DTC. In the event Bond certificates are issued, the provisions of this ordinance shall apply to, among other things, the transfer and exchange of such certificates and the method of payment of principal of, premium, if any, and interest on such certificates. Whenever DTC requests the City and the Paying Agent and Registrar to do so, the Paying Agent and Registrar and the City will cooperate with DTC in taking appropriate action after reasonable notice (i) to make available one or more separate certificates evidencing the Bonds or Notes to any DTC Participant having Bonds or Notes credited to its DTC account or (ii) to arrange for another securities depository to maintain custody of certificates evidencing the Bonds or Notes.

Section 13. Open Meetings Determination. The Issuing Authority hereby finds and determines that all formal actions relative to the adoption of this Bond Legislation were taken in an open meeting of this Issuing Authority, and that all deliberations of this Issuing Authority and of its committees, if any, which resulted in formal action, were taken in meetings open to the public, in full compliance with applicable legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 14. Effective Date. That this ordinance is 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 that the sale of the Bonds or Notes authorized herein may be required within thirty days of passage of the ordinance in order to advance construction of the Project in accordance

with existing construction schedule requirements and to take advantage of currently favorable interest rates, and therefore, this ordinance shall take effect and be in force immediately upon its passage.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

November 10, 2021

To: Mayor and Members of City Council

From: Paula Boggs Muething, City Manager

202103096

Subject: **JOB CREATION TAX CREDIT FOR DIVISIONS MAINTENANCE GROUP**

Attached is an Emergency Ordinance captioned as follows:

APPROVING AND AUTHORIZING the execution of a Job Creation Tax Credit Agreement with Divisions, Inc., d/b/a Divisions Maintenance Group, pursuant to which the company agrees to create 649 new jobs at its office on the 3rd and 4th floors of the Foundry building (formerly known as Fountain Place) located at 505 Vine Street in Cincinnati's Central Business District and for a period of 10 years, the City agrees to provide an income tax credit equal to 50% of the City income tax revenue from such new jobs.

COMPANY INFORMATION

Divisions Management Group (Divisions) is a full-service facilities maintenance company that provides a managed marketplace for facilities maintenance services to a broad range of clients. Divisions is currently located in Northern Kentucky but is looking to expand in Cincinnati.

PROJECT DESCRIPTION

The Company will be relocating 393 existing employees to the Central Business District and create a minimum of 256 new full-time employees with a total annual payroll of \$44,710,000 within the next three years. Specifically, Divisions will be moving into the Foundry, located at 505 Vine Street (aka 50 W 5th Street), which is an office building that is currently being constructed by Cincinnati Center City Development Corporation (3CDC). The Foundry project is the rehabilitation of the former Macy's department store into 205,000 square feet of office space and 20,000 square feet of commercial space. With Divisions signing their lease with 3CDC, the building's office space will be fully leased. The Company has also committed to investing a minimum of \$4,500,000 into their office space over the next two years

PROPOSED INCENTIVE

The Ordinance provides for a 10-year JCTC whereby the City will agree to provide an income tax credit equal to 50% of City income tax revenue from such new jobs. This credit will be contingent upon the company remaining in the city for another three years after the term of the agreement and the creation of 649 new jobs within the city in the first three years of the term. In a separate ordinance, the City is also recommending Urban Renewal Tax Increment Financing assistance in the amount of \$1.2MM for tenant improvements to 505 Vine Street.

The reason for providing the payroll tax incentive is that the project provides an advantageous return on investment for the City. In addition, the incentive will require the Company to maintain an operation within the City until at least 2034

Estimated Total Term JCTC Value to Company:	\$4,023,900
Estimated Total Term New Payroll Tax Revenue:	\$6,438,240
Incentive Leverage per Dollar of City Investment:	\$1.60

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 Director: Markiea Carter (Ext. 1953)
- Project Attorney: Timothy Lynch (Ext. 4544)

The anticipated council timeline is as follows:

- November 10, 2021: Introduction to City Council
- November 15, 2021: Budget and Finance (#1)
- November 22, 2021: Budget and Finance (#2)
- November 24, 2021: City Council for Final Approval

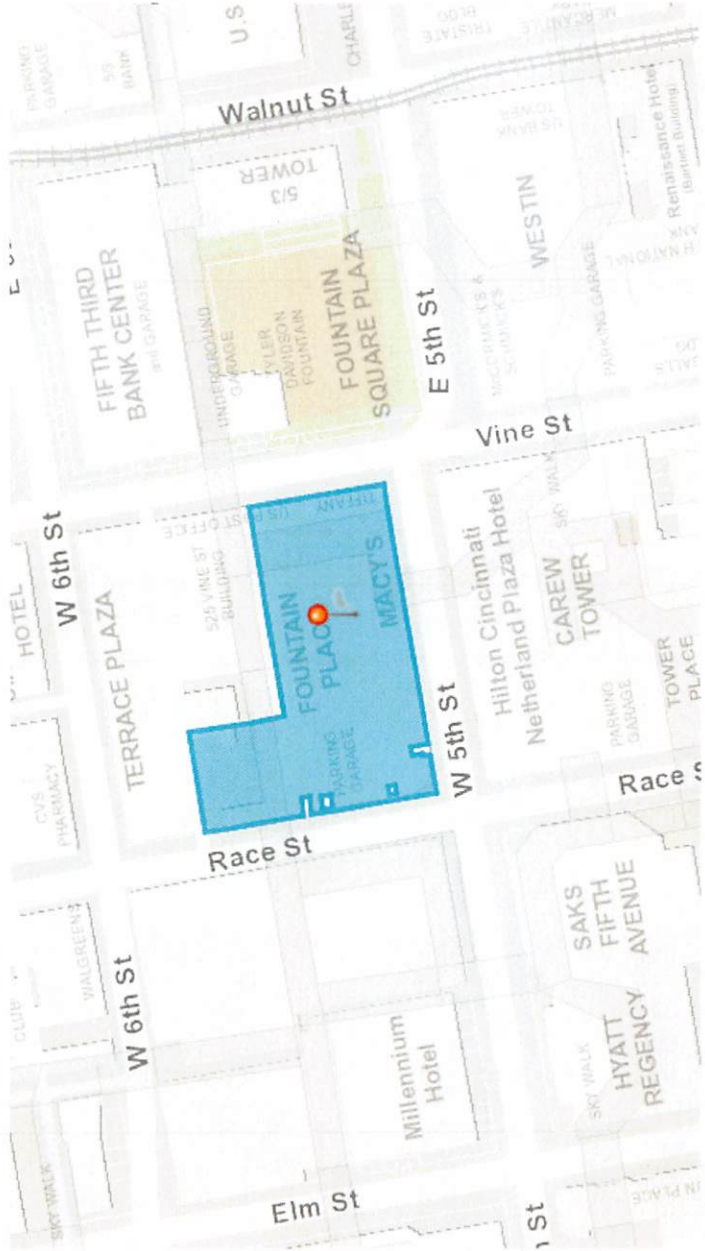
RECOMMENDATION

The Administration recommends approval of this Emergency Ordinance.

Attachment: A. Property location and photographs

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

Attachment A: Location and Photographs



EMERGENCY

City of Cincinnati

TJL

AWB

An Ordinance No. _____

- 2021

APPROVING AND AUTHORIZING the execution of a Job Creation Tax Credit Agreement with Divisions, Inc., d/b/a Divisions Maintenance Group, pursuant to which the company agrees to create 649 new jobs at its office on the 3rd and 4th floors of the Foundry building (formerly known as Fountain Place) located at 505 Vine Street in Cincinnati's Central Business District and, for a period of 10 years, the City agrees to provide an income tax credit equal to 50% 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 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, Divisions, Inc., d/b/a Divisions Maintenance Group ("Employer") intends to construct leasehold improvements to the 3rd and 4th floors of the Foundry building (formerly known as Fountain Place) located at 505 Vine Street (the "Project" and the "Project Site," respectively), which will result in the creation of at least 649 new jobs in the City within three years if certain income tax credit assistance is provided by the City; and

WHEREAS, the Ohio Tax Credit Authority has authorized a State of Ohio Job Creation Tax Credit Agreement with Employer pursuant to ORC Section 122.17; 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 50% of income tax revenue from new jobs created by Employer at the Project Site for a term of 10 years; and

WHEREAS, the Agreement provides that Employer will spend a minimum of \$4,500,000 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 Divisions, Inc., d/b/a Divisions Maintenance Group ("Employer"), in substantially the form attached hereto as Attachment A, in order to assist Employer in constructing leasehold improvements to the 3rd and 4th floors of the Foundry building (formerly known as Fountain Place) located at 505 Vine Street, which provides for a City income tax credit equal to 50% of City income tax revenue from new jobs created by Employer at the project site for a period of 10 years, and the creation of 649 new jobs in the City within three 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 to Ordinance

Job Creation Tax Credit Agreement

SEE ATTACHED



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 DIVISIONS, INC., a Kentucky corporation, d/b/a DIVISIONS MAINTENANCE GROUP ("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 on the 3rd and 4th floors of the Foundry building (formerly known as Fountain Place) located at 505 Vine Street, Cincinnati, Ohio 45202 (the "Project Site"), consisting of the construction of leasehold improvements on the Project Site (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 fifty (50%) City income tax credit applicable to new jobs created by Grantee at the Project Site for a period of 10 years, and thereby create 649 new jobs in the City within 3 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 10-year term of 2022 through 2031.

- (C) **“Determination Date”** means October 1, 2022.
- (D) **“Employment Retention Period”** means a 13-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 \$4,500,000 on or before the date that is eighteen months from the Effective Date to accomplish the Project.
- (C) **Minimum Number of New Employees.** Within 3 years from the Determination Date, the Grantee agrees to employ a Number of New Employees at the Project Site equal to at least 649. The Grantee agrees that the aggregate annual wages of the New Employees will be equal to at least \$44,710,000.

- (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.

- (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 fifty percent (50%) 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, in its sole discretion, require the Grantee to pay to the City all or a 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 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.
- (E) **No City Income Tax Credit if Grantee not in Full Compliance.** Notwithstanding anything to the contrary in this Agreement, 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.

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.
- (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

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.

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. 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.
 13. 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.

14. **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.
15. **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.
16. **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 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:

Divisions, Inc.
 [c/o Divisions Holding Corp.
 1 Riverfront Place, Suite 500
 Attention: J. Alexander Strohm, General Counsel]

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.
17. 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."

DIVISIONS, INC.,
a Kentucky corporation,
d/b/a DIVISIONS MAINTENANCE GROUP,

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 DIVISIONS, INC., a Kentucky corporation, d/b/a DIVISIONS MAINTENANCE GROUP ("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 on the 3rd and 4th floors of the Foundry building (formerly known as Fountain Place) located at 505 Vine Street, Cincinnati, Ohio 45202 (the "Project Site"), consisting of the construction of leasehold improvements on the Project Site (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 fifty (50%) City income tax credit applicable to new jobs created by Grantee at the Project Site for a period of 10 years, and thereby create 649 new jobs in the City within 3 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 10-year term of 2022 through 2031.

- (C) “Determination Date” means October 1, 2022.
- (D) “Employment Retention Period” means a 13-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 \$4,500,000 on or before the date that is eighteen months from the Effective Date to accomplish the Project.
- (C) Minimum Number of New Employees. Within 3 years from the Determination Date, the Grantee agrees to employ a Number of New Employees at the Project Site equal to at least 649. The Grantee agrees that the aggregate annual wages of the New Employees will be equal to at least \$44,710,000.

- (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.

- (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 fifty percent (50%) 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, in its sole discretion, require the Grantee to pay to the City all or a 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 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.
- (E) No City Income Tax Credit if Grantee not in Full Compliance. Notwithstanding anything to the contrary in this Agreement, 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.

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 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.
 - (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.

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.

- (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. 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.
13. 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.

14. 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.
15. 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.
16. 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 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:

Divisions, Inc.
 [c/o Divisions Holding Corp.
 1 Riverfront Place, Suite 500
 Attention: J. Alexander Strohm, General Counsel]

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.
17. 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."

DIVISIONS, INC.,
a Kentucky corporation,
d/b/a DIVISIONS MAINTENANCE GROUP,

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

November 10, 2021

To: Mayor and Members of City Council 202103092
From: Paula Boggs Muething, City Manager
Subject: Emergency Ordinance – Mill Creek Scour Hole Repair

Attached is an Emergency Ordinance captioned:

AUTHORIZING the expenditure of City funds from Stormwater Management Fund non-personnel operating account no. 107x311x4000x7264 for the repair of a scour hole in a portion of the Mill Creek Channel owned by the Millcreek Valley Conservancy District; and **DECLARING** such expenditure to serve a public purpose.

A scour hole has developed in a portion of the Mill Creek in the South Cumminsville neighborhood at the confluence with the City-owned West Fork channel. Unaddressed, the continued expansion of the scour hole threatens to undermine the concrete floor of the West Fork channel. In addition, an accidental drowning occurred at the site in 2019. The Millcreek Valley Conservancy District (MVCD) owns the location where the scour hole is located and has indicated that it is willing to provide the access to the City to repair the hole, but that it does not have funds to contribute to the repair work.

This ordinance is to authorize the use of up to \$100,000 in City stormwater rate funds to backfill the scour hole and to declare the use to be a public purpose to enhance public safety and protect public assets. The funding is available and has been appropriated to non-personnel operating account 107x311x4000x7264.

The Administration recommends passage of this Emergency Ordinance.

cc: Cathy B. Bailey, Executive Director/Greater Cincinnati Water Works 

EMERGENCY

City of Cincinnati

AEY



An Ordinance No. _____

- 2021

AUTHORIZING the expenditure of City resources from Stormwater Management Fund non-personnel operating account no. 107x311x4000x7264 for the repair of a scour hole in a portion of the Mill Creek Channel owned by the Millcreek Valley Conservancy District; and **DECLARING** such expenditure to serve a public purpose.

WHEREAS, the Millcreek Valley Conservancy District (“MVCD”) is a political subdivision of the State of Ohio created as a conservancy district pursuant to Ohio Revised Code Chapter 6101 to prevent and control flooding in the Mill Creek Valley; and

WHEREAS, a deep scour hole has developed in a portion of the Mill Creek channel owned by MVCD at the mouth of the City-owned West Fork channel; and

WHEREAS, City stormwater engineers have determined that continued scouring from the water currents at the confluence of the West Fork channel and the Mill Creek may undermine and cause collapse or damage to the concrete floor of the City-owned West Fork channel; and

WHEREAS, Mill Creek Alliance and the South Cumminsville community have also expressed public safety concerns in connection with a 2019 drowning accident at the location; and

WHEREAS, the City’s Stormwater Management Utility proposes to address these infrastructure and public safety concerns by backfilling the scour hole at an estimated cost of \$100,000 using resources previously appropriated by City Council in the FY 2022 budget for operations and maintenance (Stormwater Management Fund non-personnel operating account no. 107x311x4000x7264), and has obtained approval from the Army Corps of Engineers to perform the work; and

WHEREAS, the MVCD indicated that it would be willing to provide the City and its contractors with access to the scour hole to perform the work, but that it is unable to contribute funding to the project; and

WHEREAS, backfilling of the scour hole serves the public purposes of protecting public safety and preserving the City’s West Fork channel; now, therefore,

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

Section 1. That the City Administration is hereby authorized to expend up to \$100,000 in resources from Stormwater Management Fund account no. 107x311x4000x7264 to backfill the

scour hole in a portion of the Mill Creek owned by the Millcreek Valley Conservancy District (“MVCD”).

Section 2. That backfilling the scour hole in MVCD property is necessary to prevent damage to City-owned stormwater assets and protect public safety and that the expenditure of resources for this work serves a public purpose.

Section 3. That the proper City officials are hereby authorized to take all necessary and proper actions to fulfill the terms of Sections 1 and 2 of this ordinance.

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 for the City to begin backfilling the scour hole to prevent further public safety issues and to protect the City stormwater assets from damage that may be created by continued enlargement of the scour hole.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

November 10, 2021

To: Mayor and Members of City Council 202103073
From: Paula Boggs Muething, City Manager
Subject: Emergency Ordinance – DCED: The Barrister Affordable Housing Project – TIF Project

Attached is an Emergency Ordinance captioned:

AUTHORIZING the establishment of new capital improvement program project account no. 980x162x221604, “Barrister Affordable Housing - TIF,” for the purpose of providing resources for the Barrister Project, an affordable Low-Income Housing Tax Credit housing development located in Downtown Cincinnati; **AUTHORIZING** the transfer and appropriation of \$945,000 from the unappropriated surplus of Downtown/OTR East Equivalent Fund 483 to newly established capital improvement program project account no. 980x162x221604, “Barrister Affordable Housing - TIF,” to provide resources for construction and development costs associated with the Barrister Project housing development; and further **DECLARING** that expenditures from capital improvement program project account no. 980x162x221604, “Barrister Affordable Housing - TIF,” will serve a public purpose because the project will create additional affordable housing in Downtown Cincinnati.

Approval of this Emergency Ordinance authorizes the establishment of new capital improvement program project account no. 980x162x221604, “Barrister Affordable Housing - TIF,” for the purpose of providing resources for the Barrister Project, an affordable Low-Income Housing Tax Credit (LIHTC) housing development located in Downtown Cincinnati. Approval of this Emergency Ordinance also authorizes the transfer and appropriation of \$945,000 from the unappropriated surplus of Downtown/OTR East Equivalent Fund 483 to newly established capital improvement program project account no. 980x162x221604, “Barrister Affordable Housing - TIF,” to provide resources for construction and development costs associated with the Barrister Project housing development. Finally, the Emergency Ordinance will declare that expenditures from capital improvement program project account no. 980x162x221604, “Barrister Affordable Housing - TIF,” will serve a public purpose because the project will create additional affordable housing in Downtown Cincinnati.

Downtown Cincinnati is currently experiencing substantial development activity, creating a significant need for quality affordable housing. The Barrister Project will result in the renovation of two adjacent, historic, vacant buildings located at 214 and 216 East 9th Street. All residential units will serve households earning no more than

sixty percent of the area median income, as established by the United States Department of Housing and Urban Development (HUD). The residential units will include six studios, six one-bedroom units, twenty-four two-bedroom units, and eight three-bedroom units. This project will also result in 2,000 square feet of street level commercial space.

The sum of \$900,000 will be allocated for housing construction costs, and \$45,000 will be allocated for project delivery costs.

The City hosted a Community Engagement Meeting on October 19, 2021, regarding this project. All attendees were given the opportunity to speak and most expressed curiosity and support for the Barrister Project. The developers also engaged the Downtown Residents Council, who provided two letters of support for the use of the Downtown/OTR East Equivalent Fund 483 resources for this project. Both letters are attached.

The creation and funding of capital improvement program project account no. 980x162x221604, “Barrister Affordable Housing Project - TIF” 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 developers, Urban Sites and Over-The-Rhine Community Housing, wish to include this gap financing in their applications for Ohio Housing Finance Agency low-income housing tax credits, which has a deadline of January 2022 for submission of full funding commitment for the credits.

The Barrister Project is 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 application for Ohio Housing Finance Agency low-income housing tax credits, which has a deadline of January 2022 for submission of applications for full funding commitment for the credits.

The Administration recommends passage of this Emergency Ordinance.

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



Attachment

EMERGENCY

CFG

-2021

AUTHORIZING the establishment of new capital improvement program project account no. 980x162x221604, “Barrister Affordable Housing - TIF,” for the purpose of providing resources for the Barrister Project, an affordable Low-Income Housing Tax Credit housing development located in Downtown Cincinnati; **AUTHORIZING** the transfer and appropriation of \$945,000 from the unappropriated surplus of Downtown/OTR East Equivalent Fund 483 to newly established capital improvement program project account no. 980x162x221604, “Barrister Affordable Housing - TIF,” to provide resources for construction and development costs associated with the Barrister Project housing development; and further **DECLARING** that expenditures from capital improvement program project account no. 980x162x221604, “Barrister Affordable Housing - TIF,” will serve a public purpose because the project will create additional affordable housing in Downtown Cincinnati.

WHEREAS, Downtown Cincinnati is currently experiencing substantial development activity, creating a significant need for quality affordable housing; and

WHEREAS, the Barrister Project, located at 214 and 216 East 9th Street, will result in the renovation of two adjacent vacant, historic buildings into a mixed-use development containing approximately 2,000 square feet of street level commercial space and a total of forty-four units of quality affordable housing for 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 residential units will include six studios, six one-bedroom units, twenty-four two-bedroom units, and eight three-bedroom units; and

WHEREAS, the sum of \$900,000 will be allocated for construction costs, and \$45,000 will be allocated for project delivery costs; and

WHEREAS, the developers have secured the support of the Downtown Residents Council for the Barrister Project; and

WHEREAS, the City’s creation and funding of capital improvement program project account no. 980x162x221604, “Barrister Affordable Housing - TIF,” 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 be used for affordable housing; and

WHEREAS, the developers, Urban Sites and Over-The-Rhine Community Housing, wish to include this gap financing in their application for Ohio Housing Finance Agency low-income housing tax credits, which has a deadline of January 2022 for submission of full funding commitment for the credits; and

WHEREAS, the Barrister Project is in accordance with the “Live” goal to “[p]rovide 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. 980x162x221604, “Barrister Affordable Housing - TIF,” is hereby established for the purpose of providing resources for the Barrister Project, an affordable Low-Income Housing Tax Credit housing development located in Downtown Cincinnati.

Section 2. That the transfer and appropriation of the sum of \$945,000 from the unappropriated surplus of Downtown/OTR East Equivalent Fund 483 to newly established capital improvement program project account no. 980x162x221604, “Barrister Affordable Housing - TIF,” to provide resources for construction and development costs associated with the Barrister Project is hereby authorized.

Section 3. That Council hereby declares that the Barrister Project constitutes a “Housing Renovation” (as defined in Section 5709.40(A)(3) of the Ohio Revised Code), that will benefit and/or serve the District 4-Downtown/OTR East TIF 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. 980x162x221604, “Barrister Affordable Housing – TIF,” will serve a public purpose because the development project will create additional affordable housing in Downtown Cincinnati.

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 application for Ohio Housing Finance Agency low-income housing tax credits, which has a deadline of January 2022 for submission of applications for full funding commitment for the credits.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

P.O. Box 868
Cincinnati, Ohio 45201



www.ilivedowntown.com

October 13, 2021

To Whom It May Concern:

The Downtown Residents Council (DRC) is aware of the proposal to finance and renovate the Barrister, a 44-unit adaptive reuse project of the two buildings at 214 and 216 E 9th St. in Cincinnati's Central Business District. The Barrister will provide high-quality affordable housing for individuals and families making less than 60 percent of the area median income. The co-developers for the Barrister are Over-the-Rhine Community Housing (OTRCH) and Urban Sites. OTRCH will be the owner and property manager.

The DRC supports this project. Further, the DRC supports the co-developers' efforts in attracting financing for the project; specifically, the DRC supports the co-developers' conditional award of TIF funds from the City of Cincinnati.

Sincerely,

Alan Bunker

President of the Downtown Residents Council

The Barrister

(VIII) Evidence of Community Engagement

214-216 E 9th Street, Cincinnati OH 45202

2021 Notice of Funds Available (NOFA) Application

To date, we have done a series of engagement with the Downtown Residents Council (DRC). On December 3, 2020 we met with DRC President Alan Bunker. On January 11, 2021 we met with the Board Members. On January 12, 2021, we presented to the full Council. Attached is a letter of support from the Council, which includes their support of Urban Sites and OTRCH submitting this NOFA Application.

P.O. Box 868
Cincinnati, Ohio 45201



www.ilivedowntown.com

January 14, 2021

To Whom It May Concern:

The Downtown Residents Council (DRC) is aware of the proposal to finance and renovate the Barrister, a 44-unit adaptive reuse project of the two buildings at 214 and 216 E 9th St. in Cincinnati's Central Business District. The Barrister will provide high-quality affordable housing for individuals and families making less than 60 percent of the area median income. The co-developers for the Barrister are Over-the-Rhine Community Housing (OTRCH) and Urban Sites. OTRCH will be the owner and property manager.

The developers made presentations about the proposed development to the January meetings of the DRC Board and Membership. As a result, the DRC supports this project. Furthermore, the DRC supports the co-developers' efforts in attracting financing for the project, including applying to the Ohio Housing Finance Agency for tax credits, and to the City of Cincinnati for NOFA funds.

Alan Bunker

President
Downtown Residents Council

November 10, 2021

To: Mayor and Members of City Council 202103075
From: Paula Boggs Muething, City Manager
Subject: **EMERGENCY ORDINANCE – LEED CRA TAX EXEMPTION WITH GRIFFON APARTMENTS 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 Griffon Apartments, LLC, an affiliate of The Model Group, Inc. and Cincinnati Center City Development Corporation (3CDC), thereby authorizing a 15-year tax exemption for 100% of the value of improvements made to real property located at 30 E. 15th Street, 1684 Central Parkway, 1827 Logan Street, and 1617-16119 Race Street in the Over-the-Rhine neighborhood of Cincinnati, in connection with the remodeling of 2 existing buildings and construction of 2 new buildings to create, in aggregate, approximately 861 square feet of commercial space and approximately 30,678 square feet of residential space, consisting of 48 residential rental units, which remodeling and construction 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 and construction cost of approximately \$9,567,187.

BACKGROUND/CURRENT CONDITIONS

Griffon Apartments is the second phase of a mixed-use, mixed-income development project lead by the Model Group and Cincinnati Center City Development Corporation (3CDC) in Over-the-Rhine. This first phase, known as Willkommen, consisted of the renovation of 16 historic buildings and construction of four new buildings in Over-the-Rhine resulting in the creation of 163 new housing units, 56 of which will be affordable to households earning between 50-60% of Area Median Income.

In June of this year, the Department of Community & Economic Development (DCED) recommended that Griffon Apartments receive up to \$1,000,000 in nine percent (9%) Low Income Housing Tax Credits via the FHAct50 Building Opportunity Fund, as reserved and approved by the Ohio Housing Finance Agency (OHFA). The City has also committed \$1,250,000 from the Downtown/OTR West TIF District 3 to support the Griffon Apartments project, as authorized by City Council ordinance 317-2021 on August 4, 2021.

COMPANY INFORMATION

Griffon Apartments, LLC is an affiliate of the Model Group and 3CDC. Model Group has developed more than \$500 million in real estate, including \$65 million in the Findlay Market district of Over-the-Rhine. 3CDC is a private non-profit corporation working to strengthen the core assets of downtown by revitalizing and connecting the Central Business District and Over-the-Rhine.

PROJECT DESCRIPTION

Griffon Apartments is a scattered site affordable housing project in Over-the-Rhine. The project will consist of the renovation of two historic buildings and the construction of two new buildings resulting in the creation of 48 residential units, all of which will be affordable to households earning a total average of 60% of Area Median Income or less, and 1,000 square feet of commercial space. Upon completion, all four buildings will receive LEED Silver certification from the U.S. Green Buildings Council.

The project will support the creation of four (4) permanent FTEs and \$208,000 in annual payroll and 210 temporary construction jobs and \$3,150,000 in payroll over an 18-month construction period.

PROPOSED INCENTIVE

The Emergency Ordinance provides for a 100% (net 52%), 15-year CRA tax exemption for this property. The exemption applies only to the increase in value of the building attributable to the project improvements. Pursuant to the LEED Commercial CRA policy established by City Council, this project is located within the Streetcar VTICA Area and is therefore eligible for a 15-year net 52% CRA Tax Abatement.

SUMMARY	
Forgone Public Benefit if Project Does not Proceed	
CPS PILOT (Forgone New Revenue)	(\$812,178)
VTICA (Forgone New Revenue)	(\$369,172)
Income Tax (Forgone New Revenue)	(\$229,278)
Total Public Benefit Lost	(\$1,410,628)
Incentive Value	
Annual Net Incentive to Developer	\$85,320
Total Term Incentive to Developer	\$1,279,795
City's Portion of Property Taxes Forgone	\$345,868
Public Benefit	
CPS PILOT	
Annual CPS Pilot	\$54,145
Total Term CPS PILOT	\$812,178
VTICA	
Annual VTICA	\$24,611
Total Term VTICA	\$369,172

Income Tax (Max)	\$229,278
Total Public Benefit (CPS PILOT/VTICA /Income Tax)	\$1,410,628
Total Public Benefit ROI*	\$1.10
City's ROI*	\$4.08

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

- Assistant City Manager: Billy Weber (Ext. 3318)
- DCED Director: Markiea Carter (Ext. 1953)
- Project Attorney: Samantha Brandenburg (Ext. 4704)

The anticipated council timeline is as follows:

- November 10, 2021: Introduction to City Council
- November 15, 2021: Budget and Finance (#1)
- November 22, 2021: Budget and Finance (#2, if required)
- November 24, 2021: City Council for Final Approval

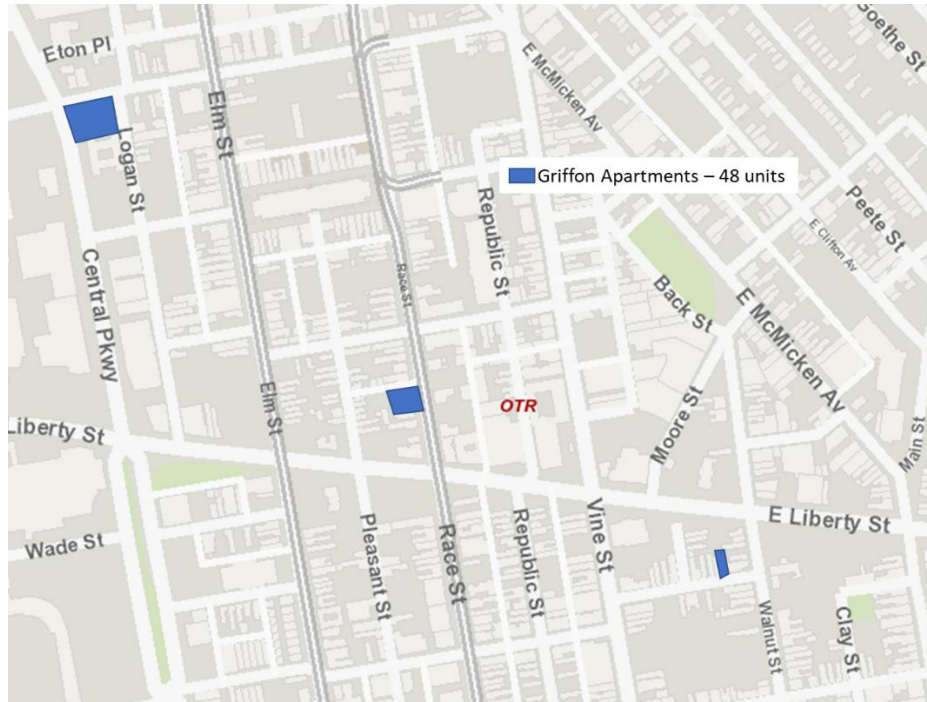
RECOMMENDATION

The Administration recommends approval of this Emergency Ordinance.

Attachment: A. Property location

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

Attachment A: Location



Rendering for proposed infill & historic project at 1617-1619 Race Street

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 (LEED or Living Building Challenge)* with Griffon Apartments, LLC, an affiliate of The Model Group, Inc. and Cincinnati Center City Development Corporation (3CDC), thereby authorizing a 15-year tax exemption for 100% of the value of improvements made to real property located at 30 E. 15th Street, 1684 Central Parkway, 1827 Logan Street, and 1617-1619 Race Street in the Over-the-Rhine neighborhood of Cincinnati, in connection with the remodeling of 2 existing buildings and construction of 2 new buildings to create, in aggregate, approximately 861 square feet of commercial space and approximately 30,678 square feet of residential space, consisting of 48 residential rental units, which remodeling and construction 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 and construction cost of approximately \$9,567,187.

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, Griffon Apartments, LLC (the “Company”) desires to remodel 2 existing buildings and construct 2 new buildings on real property at 30 E. 15th Street, 1684 Central Parkway, 1827 Logan Street, and 1617-1619 Race Street located within the corporate boundaries of the City of Cincinnati, to create, in aggregate, approximately 30,678 square feet of residential space, consisting of 48 residential rental units and approximately 861 square feet of commercial space 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 support the streetcar that specially benefits 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 (LEED or Living Building Challenge)* with Griffon Apartments, 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 30 E. 15th Street, 1684 Central Parkway,

1827 Logan Street, and 1617-1619 Race Street in Cincinnati, as calculated by the Hamilton County Auditor, in connection with the remodeling of 2 existing buildings and construction of 2 new buildings to create, in aggregate, approximately 861 square feet of commercial space and approximately 30,678 square feet of residential space, consisting of 48 residential rental units, 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 and construction cost of approximately \$9,567,187.

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 and 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

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 GRIFFON APARTMENTS, LLC, an Ohio limited liability company (the "Company"), an affiliate of The Model Group, Inc., and of Cincinnati Center City Development Corporation (3CDC).

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 30 E. 15th Street, 1684 Central Parkway, 1827 Logan Street, and 1617-1619 Race Street (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 the 2 existing buildings located on the Property and the construction of 2 new buildings on the Property to LEED Silver standards, as defined by the U.S. Green Building Council, 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. 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 support the streetcar that specially benefits 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.

- Q. The Company acknowledges that the Streetcar 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.
- R. 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.
- S. This Agreement has been authorized by Ordinance No. _____-2021, passed by Cincinnati City Council on _____, 2021.
- T. 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 2 existing buildings and construct 2 new buildings on the Property to create, in aggregate, approximately 30,678 square feet of residential space, consisting of 48 residential rental units and approximately 861 square feet of commercial space (the "Improvements") at an estimated aggregate cost of \$9,567,187 to commence after the execution of this Agreement and to be completed no later than August 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 and construction shall be in compliance with applicable building code and zoning regulations, as well as complying with LBC standards or LEED Silver, Gold or Platinum standards, as defined by the U.S. Green Building Council. The Company hereby represents that either or both of the following clauses (a) and (b) are true: (a) it has registered with the U.S. Green Building Council with intent to certify compliance with LEED Silver, Gold or Platinum standards, or (b) it has registered with the International Living Future Institute and/or the Cascadia Green Building Council with intent to certify compliance with LBC 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 and construction, (B) the cost of remodeling and construction, (C) the facts asserted in the application for exemption, (D) compliance with LBC standards or LEED Silver, Gold or Platinum standards, as defined by the U.S. Green Building Council, 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 2023 nor extend beyond the earlier of (i) tax year 2037 or (ii) the end of the fifteenth (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.

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.

(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) 4 full-time permanent jobs, and (ii) 210 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 construction, and in the case of the other jobs described herein, the job creation period shall begin upon completion of remodeling and construction 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) \$208,000 of additional annual payroll with respect to the full-time permanent jobs, and (ii) \$3,150,000 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 in order to support the streetcar. 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:

Griffon Apartments, LLC
c/o: The Model Group, Inc.
Attention: Jennifer Walke
1826 Race Street,
Cincinnati, Ohio 45202

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

GRIFFON APARTMENTS, 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: 30 E. 15th Street, Cincinnati, Ohio 45202
Parcel ID No.: 080-0001-0056-00

Situate in the City of Cincinnati, Hamilton County, Ohio, and being known, numbered and designated as Lot No. 48, on the Plan of Subdivision of Hugh Moore's Heirs as recorded in Plat Book 2, Page 184, in the Recorder's Office of Hamilton County, Ohio; said premises fronting twenty (20) feet on the north side of East Fifteenth Street (formerly Mary Street) and extending back between parallel lines a depth of fifty (50) feet.

Property Address: 1617-1619 Race Street, Cincinnati, Ohio 45202
Parcel ID No.: 094-0008-0462-00

Situated in Section 13, Town 3, Fractional Range 2, Between the Miamis, Mill Creek Township, The City of Cincinnati, Hamilton County, Ohio and being all of Yukon Investments, LLC as recorded in Official Record 14462, Page 1483 and Official Record 14480, Page 3014 and being part of Lot 6 and all of Lot 7 of Findlay and Garrard's Subdivision, Block E as recorded in Deed Book 75, Page 337 of the Hamilton County Recorder's Office containing 0.1061 acres and being further described as follows:

Begin at the southwest intersection of the south right of way of Levi Alley (12') and the west right of way of ~~Race~~ Street (66'), said corner being referenced by a set cross notch being North 79° 56' 34" East, 3.00 feet, said corner being the True Point of Beginning;

thence, from the True Point of Beginning, departing the south right of way of said Levi Alley and with the west right of way of said ~~Race~~ Street, South 09° 57' 13" East, 55.00 feet to the northeast corner of OTR Revitalization Limited Partnership as recorded in Official Record 9089, Page 878, said corner being referenced by a set cross notch being North 79° 56' 34" East, 3.00 feet,

thence, departing the west right of way of said ~~Race~~ ^{Race} Street and with said OTR Revitalization Limited Partnership, South 79° 56' 34" West, 100.08 feet to the east line of Maurice A. Wagoner as recorded in Official Record 12760, Page 447, said corner being referenced by a set cross notch being North 09° 57' 13" East, 5.00 feet;

thence, departing said OTR Revitalization Limited Partnership, North 09° 57' 13" West, 55.00 feet to a set 5/8" iron pin at the northeast corner of Eric & Christina Steer as recorded in Official Record 13616, Page 1230, said pin being on the south right of way of said Levi Alley;

thence, departing said Eric & Christina Steer and with the south right of way of said Levi Alley, North 79° 56' 34" East, 100.08 feet to the True Point of Beginning containing 0.1264 acres of land.

The above description was prepared from a consolidation plat made on August 1, 2021 under the direction of Jeffrey O. Lambert, Professional Surveyor #7568 in the State of Ohio.

All set iron pins are 5/8" x 30" long with ID cap "Bayer Becker".

Basis of Bearings: NAD83(2011) Ohio State Plane Coordinates, South Zone (3402).

Property Address: 1827 Logan Street & 1684 Central Parkway, Cincinnati, Ohio 45202
Parcel ID No.: 133-0003-0146-00

Situated in Section 13, Town 3, Fractional Range 2, Miami Purchase, City of Cincinnati, Hamilton County, Ohio, being all of Lot 35, 36, 37 of John Mclean's Subdivision of Blocks K and L of Findlay and Ludlow's Subdivision as recorded in D.B. 112 Pg. 42 and as conveyed to Yukon Investments, LLC in O.R. 14488 Pg. 2133 and O. R. 14519 Pg. 2766 of the Hamilton County, Recorder's Office, the boundary of which being more particularly described as follows:

Beginning at a cross notch found at the intersection of the south right of way line of Findlay street and the west right of way line of Logan street;

Thence along said west right of way line, S09°53'43"E a distance of 100.80 feet to a cross notch found in the north line of a parcel of land conveyed to Logan Towers Limited Partnership in O.R. 14016 Pg. 1396;

Thence along said north line, S79°59'17"W a distance of 100.18 feet to a cross notch found in the east right of way line of Central Parkway;

Thence along said east right of way line, N09°53'43"W a distance of 100.80 feet to a cross notch found at the intersection of said east right of way line with the aforementioned south right of way line of Findlay street;

Thence along said south right of way line, N79°59'17"E a distance of 100.18 feet to the Point of Beginning;

Containing 0.232 acres of land more or less, being subject to all easements and restrictions of record.

Bearings are based on Ohio State Plane Coordinates, South Zone, NAD' 83, as derived from the ODOT VRS system.

The above description is based on a field survey performed by The Jennings Group in September 2021 under the direct supervision of Matthew D. Habedank, Ohio Professional Surveyor No. 8611.



Exhibit B to CRA Agreement
APPLICATION FOR TAX EXEMPTION

TO BE 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 GRIFFON APARTMENTS, LLC, an Ohio limited liability company (the “Company”), an affiliate of The Model Group, Inc., and of Cincinnati Center City Development Corporation (3CDC).

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 30 E. 15th Street, 1684 Central Parkway, 1827 Logan Street, and 1617-1619 Race Street (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 the 2 existing buildings located on the Property and the construction of 2 new buildings on the Property to LEED Silver standards, as defined by the U.S. Green Building Council, 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. 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 support the streetcar that specially benefits 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.

- Q. The Company acknowledges that the Streetcar 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.
- R. 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.
- S. This Agreement has been authorized by Ordinance No. _____-2021, passed by Cincinnati City Council on _____, 2021.
- T. 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 2 existing buildings and construct 2 new buildings on the Property to create, in aggregate, approximately 30,678 square feet of residential space, consisting of 48 residential rental units and approximately 861 square feet of commercial space (the "Improvements") at an estimated aggregate cost of \$9,567,187 to commence after the execution of this Agreement and to be completed no later than August 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 and construction shall be in compliance with applicable building code and zoning regulations, as well as complying with LBC standards or LEED Silver, Gold or Platinum standards, as defined by the U.S. Green Building Council. The Company hereby represents that either or both of the following clauses (a) and (b) are true: (a) it has registered with the U.S. Green Building Council with intent to certify compliance with LEED Silver, Gold or Platinum standards, or (b) it has registered with the International Living Future Institute and/or the Cascadia Green Building Council with intent to certify compliance with LBC 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 and construction, (B) the cost of remodeling and construction, (C) the facts asserted in the application for exemption, (D) compliance with LBC standards or LEED Silver, Gold or Platinum standards, as defined by the U.S. Green Building Council, 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 2023 nor extend beyond the earlier of (i) tax year 2037 or (ii) the end of the fifteenth (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.

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.

(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) 4 full-time permanent jobs, and (ii) 210 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 construction, and in the case of the other jobs described herein, the job creation period shall begin upon completion of remodeling and construction 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) \$208,000 of additional annual payroll with respect to the full-time permanent jobs, and (ii) \$3,150,000 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 in order to support the streetcar. 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:

Griffon Apartments, LLC
c/o: The Model Group, Inc.
Attention: Jennifer Walke
1826 Race Street,
Cincinnati, Ohio 45202

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

GRIFFON APARTMENTS, 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: 30 E. 15th Street, Cincinnati, Ohio 45202
Parcel ID No.: 080-0001-0056-00

Situate in the City of Cincinnati, Hamilton County, Ohio, and being known, numbered and designated as Lot No. 48, on the Plan of Subdivision of Hugh Moore's Heirs as recorded in Plat Book 2, Page 184, in the Recorder's Office of Hamilton County, Ohio; said premises fronting twenty (20) feet on the north side of East Fifteenth Street (formerly Mary Street) and extending back between parallel lines a depth of fifty (50) feet.

Property Address: 1617-1619 Race Street, Cincinnati, Ohio 45202
Parcel ID No.: 094-0008-0462-00

Situated in Section 13, Town 3, Fractional Range 2, Between the Miamis, Mill Creek Township, The City of Cincinnati, Hamilton County, Ohio and being all of Yukon Investments, LLC as recorded in Official Record 14462, Page 1483 and Official Record 14480, Page 3014 and being part of Lot 6 and all of Lot 7 of Findlay and Garrard's Subdivision, Block E as recorded in Deed Book 75, Page 337 of the Hamilton County Recorder's Office containing 0.1061 acres and being further described as follows:

Begin at the southwest intersection of the south right of way of Levi Alley (12') and the west right of way of ~~Race~~ Street (66'), said corner being referenced by a set cross notch being North 79° 56' 34" East, 3.00 feet, said corner being the True Point of Beginning;

thence, from the True Point of Beginning, departing the south right of way of said Levi Alley and with the west right of way of said ~~Race~~ Street, South 09° 57' 13" East, 55.00 feet to the northeast corner of OTR Revitalization Limited Partnership as recorded in Official Record 9089, Page 878, said corner being referenced by a set cross notch being North 79° 56' 34" East, 3.00 feet,

thence, departing the west right of way of said ~~Race~~ Street and with said OTR Revitalization Limited Partnership, South 79° 56' 34" West, 100.08 feet to the east line of Maurice A. Wagoner as recorded in Official Record 12760, Page 447, said corner being referenced by a set cross notch being North 09° 57' 13" East, 5.00 feet;

thence, departing said OTR Revitalization Limited Partnership, North 09° 57' 13" West, 55.00 feet to a set 5/8" iron pin at the northeast corner of Eric & Christina Steer as recorded in Official Record 13616, Page 1230, said pin being on the south right of way of said Levi Alley;

thence, departing said Eric & Christina Steer and with the south right of way of said Levi Alley, North 79° 56' 34" East, 100.08 feet to the True Point of Beginning containing 0.1264 acres of land.

The above description was prepared from a consolidation plat made on August 1, 2021 under the direction of Jeffrey O. Lambert, Professional Surveyor #7568 in the State of Ohio.

All set iron pins are 5/8" x 30" long with ID cap "Bayer Becker".

Basis of Bearings: NAD83(2011) Ohio State Plane Coordinates, South Zone (3402).

Property Address: 1827 Logan Street & 1684 Central Parkway, Cincinnati, Ohio 45202
Parcel ID No.: 133-0003-0146-00

Situated in Section 13, Town 3, Fractional Range 2, Miami Purchase, City of Cincinnati, Hamilton County, Ohio, being all of Lot 35, 36, 37 of John Mclean's Subdivision of Blocks K and L of Findlay and Ludlow's Subdivision as recorded in D.B. 112 Pg. 42 and as conveyed to Yukon Investments, LLC in O.R. 14488 Pg. 2133 and O. R. 14519 Pg. 2766 of the Hamilton County, Recorder's Office, the boundary of which being more particularly described as follows:

Beginning at a cross notch found at the intersection of the south right of way line of Findlay street and the west right of way line of Logan street;

Thence along said west right of way line, S09°53'43"E a distance of 100.80 feet to a cross notch found in the north line of a parcel of land conveyed to Logan Towers Limited Partnership in O.R. 14016 Pg. 1396;

Thence along said north line, S79°59'17"W a distance of 100.18 feet to a cross notch found in the east right of way line of Central Parkway;

Thence along said east right of way line, N09°53'43"W a distance of 100.80 feet to a cross notch found at the intersection of said east right of way line with the aforementioned south right of way line of Findlay street;

Thence along said south right of way line, N79°59'17"E a distance of 100.18 feet to the Point of Beginning;

Containing 0.232 acres of land more or less, being subject to all easements and restrictions of record.

Bearings are based on Ohio State Plane Coordinates, South Zone, NAD' 83, as derived from the ODOT VRS system.

The above description is based on a field survey performed by the Kleingers Group in September 2021 under the direct supervision of Matthew D. Habedank, Ohio Professional Surveyor No. 8611.



Exhibit B to CRA Agreement
APPLICATION FOR TAX EXEMPTION

TO BE ATTACHED

November 10, 2021

To: Mayor and Members of City Council 202103077
From: Paula Boggs Muething, City Manager
Subject: **Emergency Ordinance – Human Resources: William J. Miller, Jr.
Labor Arbitration Moral Obligation**

Attached is an Emergency Ordinance captioned:

AUTHORIZING the payment of \$3,600 from the Human Resources Department General Fund non-personnel operating budget account no. 050x121x2000x7281 as a moral obligation to William J. Miller, Jr. for payment of outstanding charges for labor arbitration services provided on May 21, 2021.

Approval of this Emergency Ordinance authorizes a payment of \$3,600 from the Human Resources Department's General Fund non-personnel operating budget account no. 050x121x2000x7281 as a moral obligation to William J. Miller, Jr. for payment of outstanding charges for labor arbitration services provided on May 21, 2021.

Union contracts establish the labor arbitrator selection process. The Human Resources Department is not involved in the process, and it was not provided a copy of the service agreement or quotes for arbitration services in advance of services being rendered. As a result, the Human Resources Department was unable to certify funds before arbitration services were rendered.

The reason for the emergency is the immediate need to pay the impacted vendor for his 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

KKF

- 2021

AUTHORIZING the payment of \$3,600 from the Human Resources Department General Fund non-personnel operating budget account no. 050x121x2000x7281 as a moral obligation to William J. Miller, Jr. for payment of outstanding charges for labor arbitration services provided on May 21, 2021.

WHEREAS, union contracts establish the labor arbitrator selection process; and

WHEREAS, the Human Resources Department is not involved in the arbitrator selection process, and it was not provided a copy of the service agreement or quotes for arbitration services in advance of services being rendered; and

WHEREAS, the Human Resources Department was unable to certify funds before arbitration services were rendered; and

WHEREAS, City Council wishes to provide payment to William J. Miller, Jr. as a moral obligation for services in a total amount of \$3,600; 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 \$3,600 from the Human Resources Department General Fund non-personnel operating budget account no. 050x121x2000x7281 as a moral obligation to William J. Miller, Jr. for payment of outstanding charges for labor arbitration services provided on May 21, 2021.

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

November 15, 2021

To: Mayor and Members of City Council 202103104
From: Paula Boggs Muething, City Manager
Subject: Emergency Ordinance – Bond Fund 887

Attached is an Emergency Ordinance captioned:

ESTABLISHING new bond fund, Fund No. 887, “Water Works Capital Improvements 2021”; and **AUTHORIZING** receipt and deposit of resources in an amount of up to \$70,000,000.00 from bond sale proceeds to the newly established Fund No. 887 for the purpose of providing resources for Water Works capital improvement projects.

City Council approved Ordinance No. 257-2021 on June 23, 2021 to issue bonds in the amount of up to \$70,000,000 to fund Greater Cincinnati Water Works (GCWW) system capital improvements, including new and replacement water mains, distribution system assets, and treatment system improvements. This ordinance establishes and authorizes the deposit of the bond sale proceeds to Fund No. 887 “Water Works Capital Improvements 2021”.

The Administration recommends passage of this Emergency Ordinance.

cc: Cathy B. Bailey, Executive Director/Greater Cincinnati Water Works

EMERGENCY

City of Cincinnati

AEY

AWB

An Ordinance No. _____

- 2021

ESTABLISHING new bond fund, Fund No. 887, “Water Works Capital Improvements 2021”; and **AUTHORIZING** receipt and deposit of resources in an amount of up to \$70,000,000 from bond sale proceeds to newly established Fund No. 887 for the purpose of providing resources for Water Works capital improvement projects.

WHEREAS, on June 19, 2021, City Council passed Ordinance No. 0257-2021, which approved the issuance of Water System Revenue Bonds to acquire, construct, renovate, and install improvements to the utility including water main replacements and improvements to the treatment system and distribution system; and

WHEREAS, proceeds of the Water System Revenue Bond sale need to be deposited into a new bond fund; now, therefore,

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

Section 1. That the Director of Finance is hereby authorized to establish a new bond fund to be known as Fund No. 887, “Water Works Capital Improvements 2021.”

Section 2. That the receipt and disbursement of bond sale proceeds in the amount of up to \$70,000,000 to the newly established Fund No. 887, “Water Works Capital Improvements 2021,” is hereby authorized for the purpose of providing resources for Water Works capital improvement projects.

Section 3. That the proper City officials are authorized to do all things necessary and proper to carry out the provisions of Sections 1 and 2 hereof, including contracting for the expenditure of the funds transferred 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 immediate need to receipt the bond proceeds and proceed with necessary Water Works capital improvements at the earliest possible time.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk