



City of Cincinnati

801 Plum Street
Cincinnati, OH 45202

Agenda

Budget and Finance Committee

*Chairperson Jeff Cramerding
Councilmember Mark Jeffreys
Councilmember Scotty Johnson
Vice Mayor Jan-Michele Kearney
Councilmember Anna Albi
Councilmember Meeka Owens
Councilmember Seth Walsh
President Pro Tem Victoria Parks
Councilmember Evan Nolan*

Monday, December 2, 2024

1:00 PM

Council Chambers, Room 300

AGENDA

MOTIONS

1. [202402426](#) **MOTION**, submitted by Councilmember Walsh, **WE MOVE** that the \$1,782,421 returned to the City of Cincinnati from the Hamilton County Auditor from the Real Estate Assessment Fund be directed to the Capital Project Reserve. **WE FURTHER MOVE** that the attached policy go in place with the allocation of the fund. (STATEMENT ATTACHED)

Sponsors: Walsh

Attachments: [202402426](#)

2. [202402435](#) **MOTION**, submitted by Councilmembers Albi, Parks, Owens and Vice Mayor Kearney, **WE MOVE** that the administration to provide a report within sixty (60) days on the current availability and quality of lactation rooms in City-owned or City-maintained properties. (BALANCE ON FILE IN THE CLERK'S OFFICE) (STATEMENT ATTACHED)

Sponsors: Albi, Parks, Owens and Kearney

Attachments: [Motion](#)

GRANTS AND DONATIONS

3. [202402390](#) **ORDINANCE** submitted by Sheryl M. M. Long, City Manager, on 11/20/2024, **AUTHORIZING** the City Manager to apply for, accept, and appropriate a grant of up to \$199,691.96 from the National Association of County and City Health Officials Adaptation of Project Firstline Tools and Resources program to develop tools and resources related to infection prevention and control activities and to promote them to community healthcare facility partners; and **AUTHORIZING** the Director of Finance to deposit the grant funds into Public Health Research Fund revenue account no. 350x8571.

Sponsors: City Manager

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

4. [202402395](#) **ORDINANCE** submitted by Sheryl M. M. Long, City Manager, on 11/20/2024, **AUTHORIZING** the City Manager to apply for, accept, and appropriate a grant of up to \$25,569 from the Cincinnati Police Department Community Preventive Education Grant Program to operate the Cincinnati Recreation Commission's Queen City Safety While Integrating Skills and Hoops (SWISH) Program; and **AUTHORIZING** the Director of Finance to deposit the grant funds into Fund 319, "Contributions for Recreation Purposes," revenue account no. 319x8571.

Sponsors: City Manager

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

5. [202402397](#) **ORDINANCE** submitted by Sheryl M. M. Long, City Manager, on 11/20/2024, **AUTHORIZING** the City Manager to apply for, accept, and appropriate a grant of up to \$10,000 from the FC Cincinnati Foundation to support the City's Rec@Nite program at the Lincoln Recreation Center in the West End neighborhood; and **AUTHORIZING** the Director of Finance to deposit the grant funds into Fund 319, "Contributions for Recreation Purposes," revenue account no. 319x8571.

Sponsors: City Manager

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

6. [202402398](#) **ORDINANCE (EMERGENCY)** submitted by Sheryl M. M. Long, City Manager, on 11/20/2024, **AMENDING** Ordinance No. 31-2023, which authorized the City Manager to accept and appropriate a grant of up to \$6,000,000 from the Congestion Mitigation/Air Quality program awarded through the Ohio-Kentucky-Indiana Regional Council of Governments (OKI) (ALN 20.205) to provide resources to upgrade and install a fiber optic Coordinated Traffic Control System in the Over-the-Rhine neighborhood, to increase the grant resource value to up to \$6,600,000.

Sponsors: City Manager

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

7. [202402396](#) **ORDINANCE** submitted by Sheryl M. M. Long, City Manager, on 11/20/2024, **ESTABLISHING** new capital improvement program project account no. 980x199x251924, "Hartwell Field - FCC Donation," to provide resources for the installation of a turf field at the Hartwell Recreation Complex; **AUTHORIZING** the City Manager to accept and appropriate a donation of \$30,000 from FC Cincinnati into newly established capital improvement program project account no. 980x199x251924, "Hartwell Field - FCC Donation," to provide resources for the installation of a turf field at the Hartwell Recreation Complex; and **AUTHORIZING** the Director of Finance to deposit \$30,000 from FC Cincinnati into capital improvement program project account no. 980x199x251924, "Hartwell Field - FCC Donation."

Sponsors: City Manager

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

LEASE AGREEMENT

8. [202402392](#) **ORDINANCE (EMERGENCY)** submitted by Sheryl M. M. Long, City Manager, on 11/20/2024, **AUTHORIZING** the City Manager to execute a Lease Agreement with 39th Parallel Leasing, LLC., pursuant to which the City will enter into a new lease for the use and occupancy of Lunken Airport Lease Areas 11, 28, and 29 for up to twenty years.

Sponsors: City Manager

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

COMMUNITY REINVESTMENT AREA AGREEMENTS

9. [202402454](#) **ORDINANCE (EMERGENCY)** submitted by Sheryl M. M. Long, City Manager, on 12/2/2024, **APPROVING AND AUTHORIZING** the City Manager to execute a First Amendment to Community Reinvestment Area Tax Exemption Agreement (LEED or Living Building Challenge) with Jobs Cafe, LLC, an affiliate of The Model Group, thereby authorizing a ten-year extension to an existing tax exemption for 100 percent of the value of improvements made to real property located at 1731, 1807-1809, 1811-1817, and 1819 Elm Street, 1834 Race Street, and 30-34 Findlay Street in the Over-the-Rhine neighborhood of Cincinnati.

Sponsors: City Manager

Attachments: [Transmittals](#)
[Ordinance](#)
[Attachment](#)

10. [202402455](#) **ORDINANCE (EMERGENCY)** submitted by Sheryl M. M. Long, City Manager, on 12/2/2024, **APPROVING AND AUTHORIZING** the City Manager to execute a First Amendment to Community Reinvestment Area Tax Exemption Agreement (LEED or Living Building Challenge) with Broadway Square II, LLC, an affiliate of The Model Group, thereby authorizing a ten-year extension to an existing tax exemption for 100 percent of the value of improvements made to real property located at 1126, 1201-1203, 1211, and 1218 Broadway, 412 E. 12th Street, and 331 E. 13th Street in the Pendleton neighborhood of Cincinnati.

Sponsors: City Manager

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

11. [202402458](#) **ORDINANCE** submitted by Sheryl M. M. Long, City Manager, on 12/2/2024, **APPROVING AND AUTHORIZING** the City Manager to execute a First Amendment to Community Reinvestment Area Tax Exemption Agreement (LEED or Living Building Challenge) with Paramount Square, LLC, an affiliate of The Model Group, and the Port of Greater Cincinnati Development Authority, thereby authorizing a ten-year extension to an existing tax exemption for 100 percent of the value of improvements made to real property located at 900 E. McMillan Street in the Walnut Hills neighborhood of Cincinnati.

Sponsors: City Manager

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

12. [202402459](#) **ORDINANCE (EMERGENCY)** submitted by Sheryl M. M. Long, City Manager, on 12/2/2024, **APPROVING AND AUTHORIZING** the City Manager to execute a First Amendment to Community Reinvestment Area LEED Tax Exemption Agreement with Market Square I, LLC and 1826 Race Street, LLC, affiliates of The Model Group, thereby authorizing a ten-year extension to an existing tax exemption for 100 percent of the value of improvements made to real property at 24 W. Elder Street, 1804-1814 Race Street, 1818 Race Street, and adjoining properties in the Over-the-Rhine neighborhood of Cincinnati.

Sponsors: City Manager

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

REPORT

13. [202402399](#) **REPORT**, dated 11/20/2024, submitted Sheryl M. M. Long, City Manager, regarding road closure policy update. (See Ref. Doc. 202401922)

Sponsors: City Manager

Attachments: [Report](#)

ADJOURNMENT



20240226

Seth Walsh
Councilmember

11/18/24

MOTION

To Direct Returned Funding from the Hamilton County Auditor

WE MOVE that the \$1,782,421 returned to the City of Cincinnati from the Hamilton County Auditor from the Real Estate Assessment Fund be directed to the Capital Project Reserve.

WE FURTHER MOVE that the attached policy go in place with the allocation of the fund.

STATEMENT

The Capital Project Reserve was created in Motion #202402266. In that motion, \$1,359,008 was set aside with the following parameters:

“This funding is to be set aside for one-time capital use. We ask that the Administration review any of these potential projects and provide their professional input, including listing any past or current city funding involved in the project. These would then be voted on by the Council no sooner than January 1, 2025 and would be capped at \$500,000 per allocation.”

The usage of this fund should be to allow the Council to address priorities and needs that arise outside of the Budget and Close Out process. This funding can only be used at the discretion of Cincinnati City Council and is intended to be used before the start of FY26. Allocations may only be made at the initiation of a member of City Council.

The Administration review should be conducted within two weeks of the request being made by motion by a member of Council for review. The report should be brief, including a summary of the project, past asks and funding of the project by the City of Cincinnati, any pertinent information from the Administration on the project, and a final recommendation by the Administration as to whether the Administration recommends funding or not funding the project.

By adding the \$1,782,421 to this fund, that brings the total to \$3,141,429 that will be not accessible until January 1, 2025.

The initial allocation of \$1,359,008 was set aside exclusively for capital projects. All new funding into this account will be split 85% for capital projects and 15% for operating expenses.

| Account | Initial Amount | Capital | Operating |
|--------------------|----------------|----------------|--------------|
| Motion #2024002266 | \$1,359,008 | \$1,359,008 | \$0 |
| Today | \$1,782,421 | \$1,515,057.85 | \$267,363.15 |
| | | | |
| Total | \$3,141,429 | \$2,874,065.85 | \$267,363.15 |



Councilmember Seth Walsh



702402435

Anna Albi
Councilmember

November 18, 2024

MOTION

WE MOVE that the administration to provide a report within sixty (60) days on the current availability and quality of lactation rooms in City-owned or City-maintained properties. The report should include the following items:

1. A list of all City-owned or City-maintained buildings that include a designated lactation room, including:
 - The total number of lactation rooms at each site
 - Information on whether each room includes a refrigerator suitable for milk storage
 - The date each lactation room was installed
2. An estimate of the costs associated with creating a lactation room, including the installation of a small refrigerator, as a template for any site that might not have a designated location room.
3. A list of potential funding sources to make these improvement updates.

STATEMENT

The Hamilton County Commission on Women and Girls' (HCCWG) Pay Equity Committee is gathering information about lactation accommodations for working mothers throughout Hamilton County. This effort aligns with the City of Cincinnati's commitment to Pay Equity, as established in our signing of the Pay Equity Commitment from the HCCWG in 2022.

This request reflects the federal and state guidelines mandating that employers provide private, non-bathroom spaces for breastfeeding employees, as outlined in the Fair Labor Standards Act (FLSA) and Ohio state law. Federal requirements include ensuring break time and access to a lactation space for one year after a child's birth, and the FLSA mandates that spaces must be shielded from view and free from intrusion. However, it does not require that employers provide a lactation room, as opposed to a 'designated space'.

Anna Albi
Councilmember Anna Albi

Victoria York

Mark P. Orr

Jan-Michael Lemoine

STATEMENT

The County of Franklin, Ohio, is a member of the Ohio Council of Governments (OCOG). The OCOG is a voluntary association of local governments in Ohio that work together to address common issues and provide services to their members. The OCOG is committed to providing a high level of service to its members and to promoting the economic development of the state of Ohio.

The OCOG is a non-profit organization and is not subject to the provisions of the Ohio Revised Code that apply to public entities. The OCOG is not a public entity and is not subject to the provisions of the Ohio Revised Code that apply to public entities. The OCOG is not a public entity and is not subject to the provisions of the Ohio Revised Code that apply to public entities.

November 20, 2024

To: Mayor and Members of City Council

202402390

From: Sheryl M. M. Long, City Manager

Subject: Ordinance – Health: National Association of County and City Health Officials (NACCHO) Adaptation of Project Firstline Tools and Resources Grant

Attached is an Ordinance captioned:

AUTHORIZING the City Manager to apply for, accept, and appropriate a grant of up to \$199,691.96 from the National Association of County and City Health Officials Adaptation of Project Firstline Tools and Resources program to develop tools and resources related to infection prevention and control activities and to promote them to community healthcare facility partners; and **AUTHORIZING** the Director of Finance to deposit the grant funds into Public Health Research Fund revenue account no. 350x8571.

This Ordinance authorizes the City Manager to apply for, accept, and appropriate a grant of up to \$199,691.96 from the National Association of County and City Health Officials (NACCHO) Adaptation of Project Firstline Tools and Resources program to develop tools and resources related to infection prevention and control activities and to promote them to community healthcare facility partners. This Ordinance further authorizes the Finance Director to deposit the grant funds into Public Health Research Fund revenue account no. 350x8571.

There are no new FTEs/full time equivalents associated with this grant and no local match is required.

The Cincinnati Health Department applied for the grant on October 18, 2024, and received notice of award on November 1, 2024. However, no grant funds will be accepted prior to authorization from the City Council.

Acceptance of the NACCHO grant is in accordance with the “Sustain” goal to “[b]ecome a healthier Cincinnati” as described on pages 181-192 of Plan Cincinnati (2012).

The Administration recommends passage of this Ordinance.

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

Attachment



AUTHORIZING the City Manager to apply for, accept, and appropriate a grant of up to \$199,691.96 from the National Association of County and City Health Officials Adaptation of Project Firstline Tools and Resources program to develop tools and resources related to infection prevention and control activities and to promote them to community healthcare facility partners; and **AUTHORIZING** the Director of Finance to deposit the grant funds into Public Health Research Fund revenue account no. 350x8571.

WHEREAS, a grant is available from the National Association of County and City Health Officials (“NACCHO”) Adaptation of Project Firstline Tools and Resources program to develop tools and resources related to infection prevention and control activities and to promote such tools and resources to community healthcare facility partners; and

WHEREAS, these resources would allow the Cincinnati Health Department to build capacity to deliver this important training and education to its community healthcare facility partners in support of the Centers for Disease Control and Prevention’s (CDC’s) Project Firstline; and

WHEREAS, this grant requires no matching funds, and no additional FTEs/full time equivalents are associated with this grant; and

WHEREAS, the grant application deadline was October 18, 2024, and the City has already applied for the grant, but no grant funds will be accepted without approval by Council; and

WHEREAS, acceptance of this grant is in accordance with the “Sustain” goal to “[b]ecome a healthier Cincinnati” as described on pages 181-192 of Plan Cincinnati (2012); now, therefore,

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

Section 1. That the City Manager is authorized to apply for, accept, and appropriate a grant of up to \$199,691.96 from the National Association of County and City Health Officials Adaptation of Project Firstline Tools and Resources program to develop tools and resources related to infection prevention and control activities and to promote them to community healthcare facility partners.

Section 2. That the Director of Finance is authorized to deposit the grant funds into Public Health Research Fund revenue account no. 350x8571.

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

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

Passed: _____, 2024

Aftab Pureval, Mayor

Attest: _____
Clerk



November 20, 2024

To: Mayor and Members of City Council

202402395

From: Sheryl M. M. Long, City Manager

Subject: Ordinance – Cincinnati Recreation Commission: Queen City Safety While Integrating Skills and Hoops (“SWISH”) Program Grant

Attached is an Ordinance captioned:

AUTHORIZING the City Manager to apply for, accept, and appropriate a grant of up to \$25,569 from the Cincinnati Police Department Community Preventive Education Grant Program to operate the Cincinnati Recreation Commission’s Queen City Safety While Integrating Skills and Hoops (SWISH) Program; and **AUTHORIZING** the Director of Finance to deposit the grant funds into Fund 319, “Contributions for Recreation Purposes,” revenue account no. 319x8571.

Approval of this Ordinance would authorize the City Manager to apply for, accept, and appropriate a grant in the amount of up to \$25,569 from the Cincinnati Police Department (CPD) Community Preventive Education Grant Program to operate the Cincinnati Recreation Commission (CRC) Queen City Safety While Integrating Skills and Hoops (SWISH) Program. This Ordinance also authorizes the Finance Director to deposit the grant funds into Contributions for Recreation Purposes Fund revenue account no. 319x8571.

CPD provides grants for community-based drug and alcohol prevention programs from its State Asset Forfeiture Funds as stipulated in Ohio Revised Code (ORC) Section 2981.13. CRC will use the grant resources to operate the Queen City Safety While Integrating Skills and Hoops (SWISH) Program, which provides high-level educational, recreational, and mentoring opportunities for Cincinnati teens between the ages of 12 and 17. Through the game of basketball, program attendees will learn valuable life skills to prepare them for the game of life. Participants will engage in fun, positive activities centered around learning life skills, competition, and drug prevention in cooperation with CPD and the Cincinnati Fire Department (CFD).

There are no new FTEs/full time equivalents or matching funds associated with the grant. The City already applied for the grant application to meet the deadline of October 30, 2024. However, no grant funds will be accepted without approval by the City Council.

Acceptance of this grant is in accordance with the “Collaborate” goal to “[w]ork in synergy with the Cincinnati community” as well as the strategy to “[u]nite our communities” as described on pages 210 - 212 of Plan Cincinnati (2012).

The Administration recommends passage of this Ordinance.

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



Attachment

AUTHORIZING the City Manager to apply for, accept, and appropriate a grant of up to \$25,569 from the Cincinnati Police Department Community Preventive Education Grant Program to operate the Cincinnati Recreation Commission’s Queen City Safety While Integrating Skills and Hoops (SWISH) Program; and **AUTHORIZING** the Director of Finance to deposit the grant funds into Fund 319, “Contributions for Recreation Purposes,” revenue account no. 319x8571.

WHEREAS, the Cincinnati Police Department (“CPD”) provides grants for community-based drug and alcohol prevention programs from its State Asset Forfeiture Funds as stipulated in Ohio Revised Code Section 2981.13; and

WHEREAS, the Cincinnati Recreation Commission will use the grant resources to operate the Queen City Safety While Integrating Skills and Hoops (SWISH) Program, which provides high-level educational, recreational, and mentoring opportunities for Cincinnati teens between the ages of twelve and seventeen; and

WHEREAS, through the game of basketball, program attendees will learn valuable life skills to prepare them for the game of life; and

WHEREAS, participants will engage in fun, positive activities centered around learning life skills, competition, and drug prevention in cooperation with CPD and the Cincinnati Fire Department; and

WHEREAS, the grant application deadline was October 30, 2024, and the City has already applied for the grant, but no grant funds will be accepted without approval by Council; and

WHEREAS, this grant does not require matching funds, and there are no new FTEs/full time equivalents associated with this grant; and

WHEREAS, acceptance of this grant is in accordance with the “Collaborate” goal to “[w]ork in synergy with the Cincinnati community” as well as the strategy to “[u]nite our communities” as described on pages 210 - 212 of Plan Cincinnati (2012); now, therefore,

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

Section 1. That the City Manager is authorized to apply for, accept, and appropriate a grant of up to \$25,569 from the Cincinnati Police Department Community Preventive Education Grant Program to operate the Cincinnati Recreation Commission’s Queen City Safety While Integrating Skills and Hoops (SWISH) Program.

Section 2. That the Director of Finance is authorized to deposit the grant funds into Fund 319, "Contributions for Recreation Purposes," revenue account no. 319x8571.

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

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

Passed: _____, 2024

Aftab Pureval, Mayor

Attest: _____
Clerk

November 20, 2024

To: Mayor and Members of City Council 202402397

From: Sheryl M. M. Long, City Manager

Subject: **Ordinance – Cincinnati Recreation Commission: FC Cincinnati Foundation Grant for Lincoln Recreation Center Rec@Nite**

Attached is an Ordinance captioned:

AUTHORIZING the City Manager to apply for, accept, and appropriate a grant of up to \$10,000 from the FC Cincinnati Foundation to support the City’s Rec@Nite program at the Lincoln Recreation Center in the West End neighborhood; and **AUTHORIZING** the Director of Finance to deposit the grant funds into Fund 319, “Contributions for Recreation Purposes,” revenue account no. 319x8571.

Approval of this Ordinance would authorize the City Manager to accept and appropriate a grant in the amount of up to \$10,000 from the FC Cincinnati Foundation to support the City’s Rec@Nite program at the Lincoln Recreation Center in the West End neighborhood. This Ordinance further authorizes the Finance Director to deposit the grant funds into Contributions for Recreation Purposes Fund revenue account no. 319x8571.

A grant of up to \$10,000 is available from the FC Cincinnati Foundation to support the City’s Rec@Nite program at Lincoln Recreation Center in the West End neighborhood. The City’s Rec@Nite program is focused on creating a safe, welcoming, and fun place for teens to spend time and participate in activities like silent disco nights, DJ sets, art creation, barbers and nail techs, sports, open swims, and more.

There are no new FTEs/full time equivalents or matching funds associated with the grant. The City already applied for the grant, but no grant funds will be accepted without approval by the City Council.

Acceptance of this grant to provide programming for youth is in accordance with the “Collaborate” goal to “[w]ork in synergy with the Cincinnati community” and strategy to “[u]nite our communities” as described on pages 207-212 of Plan Cincinnati (2012).

The Administration recommends passage of this Ordinance.

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

Attachment



AUTHORIZING the City Manager to apply for, accept, and appropriate a grant of up to \$10,000 from the FC Cincinnati Foundation to support the City’s Rec@Nite program at the Lincoln Recreation Center in the West End neighborhood; and **AUTHORIZING** the Director of Finance to deposit the grant funds into Fund 319, “Contributions for Recreation Purposes,” revenue account no. 319x8571.

WHEREAS, the FC Cincinnati Foundation provides annual grants to invest towards community building initiatives in the City’s West End community; and

WHEREAS, a grant of up to \$10,000 is available to support the City’s Rec@Nite program at Lincoln Recreation Center in the West End neighborhood; and

WHEREAS, the City’s Rec@Nite program is focused on creating a safe, welcoming, and fun place for teens to spend time and participate in activities like silent disco nights, DJ sets, art creation, barbers and nail techs, sports, open swims, and more; and

WHEREAS, acceptance of this grant requires no matching funds, and no new permanent FTEs/full time equivalents are associated with acceptance of this grant; and

WHEREAS, the City already applied for the grant, but no grant funds will be accepted without approval by Council; and

WHEREAS, acceptance of this grant to provide programming for youth is in accordance with the “Collaborate” goal to “[w]ork in synergy with the Cincinnati community” and strategy to “[u]nite our communities” as described on pages 207-212 of Plan Cincinnati (2012); now, therefore,

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

Section 1. That the City Manager is authorized to apply for, accept, and appropriate a grant of up to \$10,000 from the FC Cincinnati Foundation to support the City’s Rec@Nite program at Lincoln Recreation Center in the West End neighborhood.

Section 2. That the Director of Finance is authorized to deposit the grant funds into Fund 319, “Contributions for Recreation Purposes,” revenue account no. 319x8571.

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

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

Passed: _____, 2024

Aftab Pureval, Mayor

Attest: _____
Clerk

November 20, 2024

To: Mayor and Members of City Council

202402398

From: Sheryl M. M. Long, City Manager

Subject: Emergency Ordinance – DOTE: Accept Additional OKI Grant Resources for Coordinated Traffic Control System (CTCS)

Attached is an Emergency Ordinance captioned:

AMENDING Ordinance No. 31-2023, which authorized the City Manager to accept and appropriate a grant of up to \$6,000,000 from the Congestion Mitigation/Air Quality program awarded through the Ohio-Kentucky-Indiana Regional Council of Governments (OKI) (ALN 20.205) to provide resources to upgrade and install a fiber optic Coordinated Traffic Control System in the Over-the-Rhine neighborhood, to increase the grant resource value to up to \$6,600,000.

This Emergency Ordinance amends Ordinance No. 0031-2023, which authorized the City Manager to accept and appropriate a grant of up to \$6,000,000 from the Congestion Mitigation/Air Quality (CMAQ) program awarded through the Ohio-Kentucky-Indiana Regional Council of Governments (OKI) (ALN 20.205) to provide resources to upgrade and install a fiber optic Coordinated Traffic Control System in the Over-the-Rhine (OTR) neighborhood, to increase the grant resource value to up to \$6,600,000.

On February 1, 2023, the City Council passed Ordinance No. 0031-2023, which established new capital improvement program project account no. 980x239x232370, “CTCS OTR Fiber OKI Grant,” to provide grant resources to upgrade and install a fiber optic Coordinated Traffic Control System in the Over-the-Rhine neighborhood. Ordinance No. 0031-2023 also authorized the City Manager to accept and appropriate a grant of up to \$6,000,000 from the Congestion Mitigation/Air Quality program awarded through OKI (ALN 20.205) to capital improvement program project account no. 980x239x232370, “CTCS OTR Fiber OKI Grant.”

The bids for the CTCS OTR Fiber OKI project exceeded the grant funding of \$6,000,000, and the City requested and was awarded an additional \$600,000 in grant funding from OKI.

Acceptance of the increased grant award does not require additional matching funds or new FTEs/full time equivalents.

The reason for the emergency is the immediate need to accept and appropriate additional grant resources to ensure uninterrupted progress of the CTCS OTR Fiber OKI Grant project.

The Administration recommends passage of this Emergency Ordinance.

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



Attachment

EMERGENCY

CNS

-2024

AMENDING Ordinance No. 31-2023, which authorized the City Manager to accept and appropriate a grant of up to \$6,000,000 from the Congestion Mitigation/Air Quality program awarded through the Ohio-Kentucky-Indiana Regional Council of Governments (OKI) (ALN 20.205) to provide resources to upgrade and install a fiber optic Coordinated Traffic Control System in the Over-the-Rhine neighborhood, to increase the grant resource value to up to \$6,600,000.

WHEREAS, on February 1, 2023, Council passed Ordinance No. 31-2023, which established new capital improvement program project account no. 980x239x232370, “CTCS OTR Fiber OKI Grant,” to provide grant resources to upgrade and install a fiber optic Coordinated Traffic Control System (“CTCS”) in the Over-the-Rhine (“OTR”) neighborhood (HAM VAR CTCS OTR West End PID 115277); and

WHEREAS, Ordinance No. 31-2023 also authorized the City Manager to accept and appropriate a grant of up to \$6,000,000 from the Congestion Mitigation/Air Quality program awarded through the Ohio-Kentucky-Indiana Regional Council of Governments (“OKI”) (ALN 20.205) to capital improvement program project account no. 980x239x232370, “CTCS OTR Fiber OKI Grant”; and

WHEREAS, the bids for the CTCS OTR Fiber OKI project exceeded the grant funding of \$6,000,000, and the City requested and was awarded an additional \$600,000 in grant funding from OKI; and

WHEREAS, acceptance of the increased grant award does not require additional matching funds or new FTEs/full time equivalents; and

WHEREAS, Ordinance No. 31-2023 must be amended to allow the City to accept and appropriate the grant award now valued at up to \$6,600,000 to the CTCS OTR Fiber OKI grant project; now, therefore,

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

Section 1. That Section 2 and Section 4 of Ordinance No. 31-2023, approved by Council on February 1, 2023, are amended as follows:

Section 2. That the City Manager is hereby authorized to accept and appropriate a Congestion Mitigation/Air Quality grant of up to \$6,600,000, awarded by the Ohio-Kentucky-Indiana Regional Council of Governments (ALN 20.205), ~~in an amount up to \$6,000,000~~ to newly established capital

improvement program project account no. 980x239x232370, “CTCS OTR Fiber OKI Grant,” for the purpose of providing grant resources to upgrade and install a fiber optic CTCS in the OTR neighborhood.

Section 4. That the Director of Finance is authorized to deposit up to \$6,600,000 of grant resources ~~in an amount up to \$6,000,000~~ into newly established capital improvement program project account no. 980x239x232370, “CTCS OTR Fiber OKI Grant.”

Section 2. That all terms of Ordinance No. 31-2023 not amended in this ordinance remain in full force and effect.

Section 3. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to accept and appropriate additional grant resources to ensure uninterrupted progress of the CTCS OTR Fiber OKI Grant project.

Passed: _____, 2024

Aftab Pureval, Mayor

Attest: _____
Clerk

New language underlined. Deletions struck through.

November 20, 2024

To: Mayor and Members of City Council

202402396

From: Sheryl M. M. Long, City Manager

Subject: Ordinance – Cincinnati Recreation Commission: Hartwell Recreation Field Donation from FC Cincinnati

Attached is an Ordinance captioned:

ESTABLISHING new capital improvement program project account no. 980x199x251924, “Hartwell Field - FCC Donation,” to provide resources for the installation of a turf field at the Hartwell Recreation Complex; **AUTHORIZING** the City Manager to accept and appropriate a donation of \$30,000 from FC Cincinnati into newly established capital improvement program project account no. 980x199x251924, “Hartwell Field - FCC Donation,” to provide resources for the installation of a turf field at the Hartwell Recreation Complex; and **AUTHORIZING** the Director of Finance to deposit \$30,000 from FC Cincinnati into capital improvement program project account no. 980x199x251924, “Hartwell Field - FCC Donation.”

Approval of this Ordinance would authorize the City Manager to accept and appropriate a donation of \$30,000 from FC Cincinnati into newly established capital improvement program project account no. 980x199x251924, “Hartwell Field - FCC Donation,” to provide resources for the installation of a turf field at the Hartwell Recreation Complex. FC Cincinnati generously offered to donate \$30,000 to support the installation of a turf field at the Hartwell Recreation Complex. As a condition for the cash donation, FC Cincinnati requires that The Motz Group perform the work for the installation of the turf infield due to its expertise with such work.

The donation requires \$30,000 in matching funds which will come from existing Cincinnati Recreation Commission (CRC) capital improvement program resources. There are no new FTEs/full time equivalents associated with the acceptance of this donation.

Accepting this donation to support the Hartwell turf field installation is in accordance with the “Live” goal to “[b]uild a robust public life” and the strategy to “[d]evelop and maintain inviting and engaging public spaces to encourage social interaction between different types of people,” as described on pages 147-152 of Plan Cincinnati (2012).

The Administration recommends passage of this Ordinance.

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



Attachment

ESTABLISHING new capital improvement program project account no. 980x199x251924, “Hartwell Field - FCC Donation,” to provide resources for the installation of a turf field at the Hartwell Recreation Complex; **AUTHORIZING** the City Manager to accept and appropriate a donation of \$30,000 from FC Cincinnati into newly established capital improvement program project account no. 980x199x251924, “Hartwell Field - FCC Donation,” to provide resources for the installation of a turf field at the Hartwell Recreation Complex; and **AUTHORIZING** the Director of Finance to deposit \$30,000 from FC Cincinnati into capital improvement program project account no. 980x199x251924, “Hartwell Field - FCC Donation.”

WHEREAS, FC Cincinnati has generously offered to donate \$30,000 to support the installation of a turf field at the Hartwell Recreation Complex; and

WHEREAS, as a condition for the cash donation, FC Cincinnati requires that The Motz Group perform the work for the installation of the turf infield at Hartwell Recreation Complex due to its expertise with such work; and

WHEREAS, the donation requires \$30,000 in matching funds which will come from existing Cincinnati Recreation Commission capital resources; and

WHEREAS, there are no new FTE/full time equivalents associated with this donation; and

WHEREAS, accepting this donation to support the Hartwell turf field installation is in accordance with the “Live” goal to “[b]uild a robust public life” and the strategy to “[d]evelop and maintain inviting and engaging public spaces to encourage social interaction between different types of people” as described on pages 147-152 of Plan Cincinnati (2012); now, therefore,

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

Section 1. That the Director of Finance is authorized to establish new capital improvement program project account no. 980x199x251924, “Hartwell Field - FCC Donation,” to provide resources for the installation of a turf field at the Hartwell Recreation Complex (“Project”).

Section 2. That the City Manager is authorized to accept and appropriate a donation of \$30,000 from FC Cincinnati into newly established capital improvement program project account no. 980x199x251924, “Hartwell Field - FCC Donation,” to provide resources for the Project.

Section 3. That the Director of Finance is authorized to deposit \$30,000 from FC Cincinnati into capital improvement program project account no. 980x199x251924, “Hartwell Field - FCC Donation,” to provide resources for the Project.

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

Section 5. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed: _____, 2024

Aftab Pureval, Mayor

Attest: _____
Clerk

Date: November 20, 2024

To: Mayor and Members of City Council 202402392
From: Sheryl M. M. Long, City Manager
Subject: EMERGENCY ORDINANCE – Lunken Airport Lease Areas 11, 28, and 29 (39th Parallel Leasing, LLC)

Attached is an emergency ordinance captioned as follows:

AUTHORIZING the City Manager to execute a Lease Agreement with 39th Parallel Leasing, LLC., pursuant to which the City will enter into a new lease for the use and occupancy of Lunken Airport Lease Areas 11, 28, and 29 for up to twenty years.

39th Parallel Leasing, LLC, has leased this area at Lunken Airport since 2007, the current lease expired, and they now wish to continue occupying the leased area with a new lease for 20 years to continue to operate their business.

39th Parallel Leasing, LLC is a tenant in good standing and has made several facility improvements through the years with plans to do more in the future as part of this lease. They are a long tenured entity with diverse business operations in both hangars. They operate the largest flight school at Lunken Airport by aircraft number, number of instructors and students. They also have a Maintenance, Repair and Overhaul business which focuses on popular General Aviation aircraft while providing co-op opportunities for students at local colleges. The hangars also serve as venues for weddings and non-profit events, which is great non-aeronautical exposure for Lunken Airport, while adding to their business diversity. 39th Parallel Leasing, LLC plans to continue to grow its fleet which will increase their revenue, thereby increasing revenue at Lunken Airport.

The initial term is 5 years, based upon fair market rate appraisal by the City's Real Estate Services Division and five 3-year renewal with CPI adjustments over the term of the lease.

The City Planning Commission approved the lease at its meeting on November 1, 2024.

The reason for the emergency is the immediate need to execute the Lease Agreement so the new Lease Agreement and rent amounts can begin as soon as possible to enable the Airport to receive the benefit at the earliest possible time.

The Administration recommends passage of the attached ordinance.

Attachment I – Lunken Airport Lease

cc: John S. Brazina, Director, Transportation and Engineering

EMERGENCY

JRS

- 2024

AUTHORIZING the City Manager to execute a Lease Agreement with 39th Parallel Leasing, LLC., pursuant to which the City will enter into a new lease for the use and occupancy of Lunken Airport Lease Areas 11, 28, and 29 for up to twenty years.

WHEREAS, the City of Cincinnati (“City”) owns Lunken Airport (“Airport”) in the East End and Linwood neighborhoods, which is under the management of the City’s Department of Transportation and Engineering (“DOTE”); and

WHEREAS, the City and 39th Parallel Leasing, LLC., an Ohio limited liability company, as successor in interest, (“Lessee”), are parties to (i) that certain Lunken Airport Lease Agreement, dated June 6, 2007, and as amended, by and between the City and LBK Hangar LLC, for Lease Area 29, (ii) that certain Lunken Airport Lease Agreement, dated June 6, 2007, by and between the City and LBK Hangar LLC, for Lease Area 11, and (iii) that certain Lunken Airport Lease Agreement, dated January 29, 2007, by and between the City and Avionics, LLC, for Lease Area 28 (collectively, the “Existing Lease”); and

WHEREAS, the term of the Existing Lease expired and Lessee is holding over and Lessee desires to continue occupying Airport Lease Areas 11, 28, and 29 (collectively, the “Leased Premises”) to operate its business and has requested a new lease with a term of up to twenty years, as more particularly set forth in the Lease Agreement attached to this ordinance as Attachment A and incorporated herein by reference (“New Lease”); and

WHEREAS, the City Manager, in consultation with DOTE, has determined that (i) the Leased Premises is not needed for a municipal purpose for the duration of the New Lease, and (ii) leasing the Leased Premises to Lessee is not adverse to the City’s retained interest in the Leased Premises or the Airport; and

WHEREAS, the City’s Real Estate Services Division, in consultation with the City’s Airport Manager after considering airport industry standards and FAA requirements, has determined by a professional appraisal that the fair market rental value of the Leased Premises is approximately \$90,927 per year, subject to the base rent escalation provisions set forth on Attachment A; and

WHEREAS, pursuant to Section 331-5, Cincinnati Municipal Code, Council may authorize the lease of City-owned property without competitive bidding in those cases in which it determines that it is in the best interest of the City; and

WHEREAS, City Planning Commission, having the authority to approve the change in the use of City-owned property, approved the New Lease at its meeting on November 1, 2024; now, therefore,

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

Section 1. That the City Manager is hereby authorized to execute a Lease Agreement with 39th Parallel Leasing, LLC., an Ohio limited liability company, (“Lessee”), in substantially the form attached as Attachment A to this ordinance and incorporated herein by reference, pursuant to which the City of Cincinnati will enter into a new lease with Lessee for Lunken Airport (“Airport”) Lease Areas 11, 28, and 29 (“Leased Premises”) for up to twenty years, as more particularly described on Attachment A.

Section 2. That (i) the Leased Premises is not needed for a municipal purpose for the duration of the lease, and (ii) leasing the Leased Premises to Lessee is not adverse to the City’s retained interest in the Leased Premises or the Airport.

Section 3. That the rent set forth in the Lease Agreement reflects the fair market rental value of the Leased Premises, as determined by appraisal by the City’s Real Estate Services Division in consultation with the City’s Airport Manager after considering airport industry standards and FAA requirements.

Section 4. That eliminating competitive bidding in connection with the City’s lease of the Leased Premises is in the best interest of the City because Lessee has been a good and responsible tenant at the Airport and the City desires to retain Lessee as a tenant.

Section 5. That the proper City officials are hereby authorized to take all necessary and proper actions to carry out the provisions and intent of this ordinance and the Lease Agreement, including, without limitation, executing any and all ancillary documents associated with the Lease Agreement, such as amendments or supplements to the Lease Agreement deemed by the City Manager to be in the vital and best interests of the City.

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 execute the Lease Agreement so the new Lease Agreement and rent amounts can begin as soon as possible to enable the Airport to receive the benefit at the earliest possible time.

Passed: _____, 2024

Aftab Pureval, Mayor

Attest: _____
Clerk

Contract No. _____

Property: Lunken Airport – Lease Area No. 11, 28, 29
Hangars 1 and 2

LUNKEN AIRPORT LEASE AGREEMENT

THIS LEASE AGREEMENT (this “**Lease**”) is made and entered into on the Effective Date (as defined on the signature page hereof) by and between the **CITY OF CINCINNATI**, an Ohio municipal corporation, the address of which is 801 Plum Street, Cincinnati, OH 45202 (the “**City**”), and **39th Parallel Leasing, LLC.**, an Ohio limited liability company, the address of which is 1 East 4th Street, Ste. 1400, Cincinnati, Ohio 45202 (“**Lessee**”).

Recitals:

A. The City owns certain real property known as Lunken Airport (the “**Airport**”), which is under the management and control of the City’s Department of Transportation and Engineering (“**DOT**”).

B. The City and Lessee, as successor in interest, are parties to (i) that certain *Lunken Airport Lease Agreement*, dated June 6, 2007, and as amended, by and between the City and LBK Hangar LLC, for Lease Area 29, (ii) that certain *Lunken Airport Lease Agreement*, dated June 6, 2007, by and between the City and LBK Hangar LLC, for Lease Area 11, and (iii) that certain *Lunken Airport Lease Agreement*, dated January 29, 2007, by and between the City and Avionics, LLC, for Lease Area 28 (collectively, the “**Existing Lease**”), pursuant to which the City leases Lessee a portion of the Airport designated as Lease Area No. 11, 28, and 29 containing approximately 206,305 square feet, as generally depicted on Exhibit A (Site Map), and more particularly described on Exhibit B (Legal Description) hereto (the “**Leased Premises**”). Under the terms of the Existing Lease, Lessee made certain improvements to the Leasehold Improvements located thereon to facilitate Lessee’s parking, storage, maintenance and, repair of airplanes and accessories for the conduct of activities incident thereto and for other general aeronautical purposes (the “**Permitted Use**”).

C. The term of the Existing Lease expired and Lessee is holding over and Lessee desires to continue occupying the Leased Premises to operate its business. Lessee desires to enter into a new lease pursuant to which the City will lease the Leased Premises to Lessee for a period expiring on **October 31, 2044** (an initial term ending on October 31, 2029, with five 3-year renewal options). As used in this Lease, the term “**Leasehold Improvements**” shall be inclusive of [x] any and all buildings, facilities, and improvements, including without limitation to ordinary and trade fixtures, located on or within the Leased Premises; [y] any and all additions, buildings, facilities, and improvements, including without limitation to ordinary and trade fixtures, constructed, placed, or otherwise installed on or within the Leased Premises pursuant to the terms of the Existing Lease; and [z] any and all future additions, buildings, facilities, and improvements, including without limitation to ordinary and trade fixtures, approved by DOT and constructed, placed, or otherwise installed by Lessee on or within the Leased Premises during the term of this Lease. The City is agreeable to enter into a new lease on the terms and conditions set forth herein.

D. The rent set forth in this Lease reflects the fair market rental value of the Leased Premises, as determined by analysis by the City’s Real Estate Services Division and the Airport Manager, considering airport industry standards and FAA requirements.

E. City Planning Commission, having the authority to approve the change in the use of City-owned property, approved the City’s lease of the Leased Premises to Lessee at its meeting on _____.

F. Execution of this Lease was authorized by Ordinance No. _____, passed by Cincinnati City Council on _____.

NOW, THEREFORE, the parties hereby agree as follows:

1. Leased Premises; Termination of Existing Lease.

(A) Grant. The City hereby leases the Leased Premises to Lessee, and Lessee hereby leases the Leased Premises from the City on the terms and conditions set forth herein. The City makes no representations or warranties to Lessee regarding the physical condition of the Airport or Leased Premises, and Lessee accepts the Leased Premises in “as is” condition. The rights herein granted to Lessee are subject and subordinate to any and all existing covenants, easements, restrictions, and other matters of record affecting the Leased Premises and to any and all existing agreements between the City and the federal government pertaining to the Airport. Throughout the Term of this Lease, Lessee shall have the non-exclusive right to use Airport Road for ingress/egress, subject to the City’s rules and regulations governing the rights of tenants and others to use Airport Road. Title and ownership to the Leasehold Improvements vested with the City upon expiration of the Existing Lease.

(B) City’s Right to Enter. The City’s employees, agents, and contractors shall have the right to enter upon the Leased Premises at any reasonable time and from time to time to examine the condition of the Leased Premises, determine Lessee’s compliance with the provisions of this Lease, access any public utility installations as shown on drawings at the office of the Airport Manager, and for any other proper purpose. The City shall use reasonable efforts to avoid disrupting Lessee’s business operations and promptly repair any damage to the Leased Premises caused by the City’s entry. The City shall use reasonable efforts to notify Lessee prior to entering upon the Leased Premises, except that no notice shall be required in the event of an emergency.

(C) Termination of Existing Lease. The Existing Lease shall automatically terminate on the Commencement Date set forth in Section 2 below, provided, however, that any and all obligations of Lessee under the Existing Lease that have accrued but have not been fully performed as of such date (for example, Lessee’s obligation to pay rent through the termination date) shall survive such termination until fully performed.

2. Term; Renewal Periods.

(A) Initial Term. The initial term of this Lease (“**Initial Term**”) shall commence on November 1, 2024 (the “**Commencement Date**”) and, unless extended or sooner terminated as herein provided, shall expire on **October 31, 2029**. As used herein, a “**Lease Year**” shall mean each 12-month period from November 1 to October 31.

(B) Renewal Periods (five 3-year automatic renewal periods unless Lessee provides Notice of Non-Renewal). Provided that (i) on the commencement date of each renewal period, Lessee is not in default under this Lease beyond any applicable notice and cure period provided for herein, (ii) the Lease has not been terminated as herein provided, and (iii) Lessee shall not have notified the City in writing that Lessee does NOT wish to extend the Term (a “**Notice of Non-Renewal**”), the Initial Term of this Lease shall automatically be extended for five (5) renewal periods of three (3) years each (each, a “**Renewal Period**”). Each renewal shall be on the same terms and conditions as set forth herein (except that, after the 5th Renewal Period, there shall be no additional renewal options unless agreed to by the parties in a written amendment to this Lease). As used herein, the “**Term**” of this Lease means the Initial Term and, if applicable, the Renewal Periods.

3. Rent.

(A) Base Rent. Beginning on the Commencement Date, Lessee shall pay annual base rent in equal monthly installments, in advance, on the first business day of each month, in the amounts calculated in this paragraph. The monthly rent installment for any partial calendar month at the beginning or end of the Term shall be prorated on a per diem basis. Notwithstanding the rent adjustments provided for herein, in

no event shall annual base rent decrease.

(i) Initial Term (the Commencement Date – October 31, 2029) (fixed). From the Commencement Date through October 31, 2029, annual base rent shall be equal to the following amount:

| Annual Amount | Monthly Installment |
|---------------|---------------------|
| \$90,927.00 | \$7,577.25 |

(ii) Renewal Periods (CPI adjustment every 3 years). Effective as of the first day of Lease Years 6, 9, 12, 15, and 18 (i.e., every 3 years), the annual base rent shall increase to an amount that is equal to the product of multiplying the annual base rent payable during the term then just ended by a fraction, the numerator of which is the CPI most recently published 60 days prior to the rent adjustment date, and the denominator of which is the CPI most recently published 60 days prior to the commencement of the term then just ended. “CPI” means the Consumer Price Index, All Urban Consumers, U. S. City Average (1982-1984=100) published from time to time by the United States Bureau of Labor Statistics. Lessee shall make all CPI rent adjustment computations under this section 3(A) and shall send written notice of each CPI-based rent adjustment, together with Lessee’s computations (“**Lessee’s Rent Adjustment Notice**”), to DOTE (to the two addresses set forth in section 12 below) and to the City’s Real Estate Services Division (801 Plum Street, Room 122, Cincinnati, OH 45202) no less than 30 days prior to each rent adjustment date.

(B) Place of Payment. As used herein, “rent” shall mean base rent and all other amounts payable by Lessee to the City under this Lease. Rent shall be payable to “Treasurer – City of Cincinnati” and mailed or delivered to: City of Cincinnati, 465 Wilmer Ave, Cincinnati, OH 45226, Attn: Lunken Airport Manager, or to such other address as the City may from time to time specify in writing.

(C) Late Payments. If any payment of rent is not paid when due, a late charge of 5% of the amount past due shall automatically become due and payable. If rent is outstanding for longer than 30 days, such past due amount shall bear interest at the rate of 10% per annum until paid.

(D) Operating Fees; Gross Revenue Statements (§402-23, Cincinnati Municipal Code). Throughout the Term, Lessee shall (i) provide the City, on a semi-annual basis, with complete and accurate sworn statements of gross revenue received from operations (the “**Semi-Annual Gross Revenue Statements**”), and (ii) pay the City a percentage of gross revenue (currently, one percent (**1.0%**), but subject to change) (“**Operating Fees**”), all as required under Section 402-23, CMC, as the same may be modified from time to time. Lessee acknowledges that the City administration has no control over the Operating Fees established by Cincinnati City Council or when the new rates go into effect. (The parties acknowledge that, under Section 402-23, as currently written, Lessee is not required to pay the 1% fee on revenue derived from the carrying of United States mail, passengers or cargo on scheduled air routes, the sale of airplanes, the sale of gasoline, or revenue received for storage of aircraft in City-owned hangars; and that, where an operator provides more than one type of service licensed under Section 402-22, CMC, the minimum operating fee is \$500/year.) Lessee acknowledges that the City administration has no control over the Operating Fees established by Cincinnati City Council or when the new rates go into effect.

4. Permitted Use. Provided Lessee has obtained all valid permits from the City and any and all other required permits. Lessee shall use the Leased Premises for the storage, maintenance and repair of airplanes, flight school operations, as long as the annual permit is obtained, and other general aeronautical purposes (the “**Permitted Use**”) and for no other activities whatsoever without the City’s prior written consent. Lessee shall not deviate from the Permitted Use without the City’s prior written approval (and if required, as determined by the City, without the prior written approval of the FAA)

5. Utilities; Real Estate Taxes; Other Expenses. This is a “triple net” lease for the City, and during the Term of this Lease, Lessee shall pay (i) any and all utility charges associated with the Leased Premises, (ii) all real estate taxes and assessments levied (including the two semi-annual tax bills issued

by the Hamilton County Treasurer following the expiration or termination of the Term, payable in arrears), and (iii) any and all other expenses associated with the Leased Premises, including without limitation any and all other fees required to be paid under Chapter 402 (*Airport*) of the CMC. *Lessee acknowledges and agrees that the City shall not be liable for any expenses associated with the Leased Premises during the Term of this Lease.* Lessee shall have the right to contest the amount or validity of real estate taxes and assessments by appropriate legal proceedings in its own name. The City shall have the right to participate in such legal proceedings at the City's election. Lessee shall pay all costs and expenses arising from such legal proceedings. If the Leasehold Improvements are not separately taxed for real estate tax purposes, the City shall calculate Lessee's share of each tax bill based upon the Hamilton County Auditor's respective values of the land and Leasehold Improvements, and Lessee shall pay its allocated share of the bill within 15 days after receiving written notice from the City of the amount due.

6. Project; Maintenance and Repairs; Other Operating Requirements.

(A) Project. As the Leasehold Improvements are owned by the City, Lessee shall complete any approved project in accordance with Exhibit C (Construction Requirements) hereto and plans and specifications must be submitted, reviewed, and approved in writing by DOTE, including without limitation the design, location of proposed additions, and all other material aspects thereof (as approved by DOTE, the "**Final Plans**"). Licensed architects or engineers shall prepare all plans and specifications for any project. Lessee shall bear all costs associated with any project. Once approved by DOTE, Lessee shall not make any modifications to the Final Plans without the prior written approval of DOTE. Upon commencement of on-site work, Lessee shall thereafter diligently pursue the same to completion. Upon completion of construction, Lessee shall provide DOTE with a copy of the "as built" plans.

(B) Maintenance and Repairs/ 3-Year Facility Audit. Lessee shall maintain the Leased Premises in good, clean, and safe condition and repair, shall not permit any waste or nuisance on the Leased Premises, shall not permit any debris or rubbish to accumulate in open space, and shall keep the Leased Premises free from unreasonable accumulations of snow and ice and other obstructions. Without limitation of the foregoing, Lessee shall replace all light bulbs and filters, provide water sprinkler system inspection and repair, provide trash removal, window washing, grass cutting, and proper maintenance of landscaped areas, and maintain and keep in good condition and repair the exterior and interior structural portions and roof of any and all buildings, structures, hangars, fences, fixtures, pavement, HVAC, electrical, plumbing and mechanical fixtures, fuel farm, and any and all other improvements located on the Leased Premises, reasonable wear and tear excepted, and in compliance with all applicable building and fire codes, airport regulations and other laws (collectively, "**Applicable Laws**"). At the beginning of every Renewal Period, Lessee shall provide the Airport Manager with a comprehensible leasehold facility audit report which will include a list of preventative maintenance actions completed during the prior period and any ongoing facility maintenance needs.

(C) Lessee's Right to Grant Leasehold Mortgage.

(i) Right to Grant Leasehold Mortgage. The City acknowledges and agrees that [x] Lessee shall have the right to grant a leasehold mortgage to the construction lender who will be providing financing to Lessee for approved projects for the Leasehold Improvements (a "**Permitted Leasehold Mortgage**", and the "**Permitted Leasehold Mortgagee**", as applicable), and [y] if Lessee defaults under the Permitted Leasehold Mortgage, the Permitted Leasehold Mortgagee shall be permitted, by written notice to the City, to assume Lessee's leasehold interests under this Lease by foreclosure of the Permitted Leasehold Mortgage or otherwise and on the terms and conditions set forth therein.

(ii) Delivery of Default Notices to Permitted Leasehold Mortgagee. Provided Lessee or the Permitted Leasehold Mortgagee shall have given the City a recorded copy of the Permitted Leasehold Mortgage and notified the City in writing of the Permitted Leasehold Mortgagee's mailing address for purposes of notices under this Lease, then, if, while the Permitted Leasehold Mortgage remains in effect, the City gives a written notice of default to Lessee under this Lease, which default, if uncured, would entitle the City to terminate this Lease under section 9 hereof (a "**Default Notice**"), the City shall send a copy of

the Default Notice to the Permitted Leasehold Mortgagee. Notwithstanding the City's termination rights under section 9 hereof, the City agrees that it shall not exercise its right to terminate this Lease upon Lessee's default until the City has given the Permitted Leasehold Mortgagee at least sixty (60) days (following the City's delivery of the Default Notice to the Permitted Leasehold Mortgagee) to cure such default. The foregoing shall not be construed as requiring the Permitted Leasehold Mortgagee to cure Lessee's default. If neither Lessee nor the Permitted Leasehold Mortgagee cures Lessee's default within the applicable time periods specified in this paragraph (B)(ii) and section 9, the City shall be free to exercise its right to terminate this Lease and thereby extinguish the Permitted Leasehold Mortgage (and whereupon, if the City requires Lessee to surrender the Leasehold Improvements to the City under section 12 hereof, Lessee shall take all steps necessary to ensure that the Leasehold Improvements are transferred to the City free and clear of all monetary liens and encumbrances as required under section 12.

(D) Taxiway. Lessee acknowledges that the FAA requires an obstacle-free area on Taxiway "C" of 131 feet and that any modifications to the leasehold terrain/taxilane onto and/or adjacent to Taxiway "C" needs to be compliant with FAA taxiway design standards. Lessee shall bear all costs associated with any modifications.

(E) Soil and Environmental Conditions. Lessee acknowledges that it is familiar with and has had an opportunity to investigate the soil and environmental conditions at the Leased Premises. The City shall have no responsibility or liability in the event that the existing conditions do not support Lessee's proposed Leasehold Improvements.

(F) Protection from Aircraft Engine Blasts. Lessee shall provide an approved means of protection for persons and property from jet aircraft engine blasts or exhaust emissions at any time jet aircraft is operated on the Leased Premises.

(G) Parking. Lessee shall provide within the limits of the Leased Premises, at its own cost, a parking area for motor vehicles sufficient for vehicle parking needs of Lessee, its agents, employees, and customers.

(H) Permits. Lessee shall obtain all required permits and shall pay all required permit fees associated with Lessee's activities at the Leased Premises.

(I) Changes to Land Grade or Level. Lessee shall not make any changes in the land grade or level of the Leased Premises that might affect the abutting properties without the prior written consent of DOTE.

(J) Compliance with Federal Air Regulations. Lessee shall comply with Federal Air Regulations Part 77 and shall not penetrate any designated runway clear zone.

(K) Flood Plain. Lessee acknowledges that (i) the Leased Premises are located in a flood plain, (ii) FEMA requires that all improvements constructed within a flood plain comply with precise, rigorous construction standards, (iii) City building officials will not issue construction permits if the plans are not in compliance with the FEMA standards specific to flood plains, and (iv) compliance may add significant additional time and costs to the design and construction of the Leasehold Improvements.

(L) Alterations and Future Improvements. Once installed, Lessee shall not alter or remove any Leasehold Improvements except in accordance with section 12 below. Any and all alterations to the Leased Premises shall require the prior written consent of DOTE and shall comply with the minimum aesthetic and architectural standards and requirements adopted by the City (if any) that are applicable to the exterior of all other buildings and structures at the Airport.

(M) Determinations by DOTE. All determinations of the City, including determinations by the DOTE Director, with respect to the construction, alteration, maintenance, repair, restoration or removal of improvements at the Leased Premises shall be based upon confirmation that the improvements (i) are

structurally sound, (ii) comply with the safety standards and requirements applicable to all other buildings and structures at the Airport, (iii) are consistent with the quality and appearance of Airport facilities adjacent to Wilmer Avenue and/or Airport Road, and (iv) comply with all other requirements under this Lease applicable to the Leasehold Improvements.

(N) Potential Access Roads. The City may elect to develop or lease additional lease areas in the areas surrounding the Lease Premises. If the City develops or leases such areas, then the City or other persons may construct access roads or improve the pavements to create access roads to the surrounding areas. The access roads may be placed near or along the border of the Leased Premise. After creation of the access roads, Lessee shall at all times keep such access roads open and not impede or place anything on the access roads. The creation of the access roads will not reduce Lessee's rents or reduce any amounts owed to the City under this Lease. Lessee shall be responsible for its share of the costs to maintain and improve the access roads if Lessee uses the access roads.

7. Insurance.

(A) Insurance. Throughout the Term, Lessee shall maintain the following insurance:

(i) special peril (formerly known as "all-risk") full replacement cost insurance on the Leasehold Improvements, naming the City and Lessee as their interests may appear;

(ii) property insurance on any and all personal property of Lessee from time to time located at the Leased Premises in the amount of the full replacement cost thereof;

(iii) Commercial General Liability insurance of at least Three Million Dollars (\$3,000,000) per occurrence, combined single limit, naming the City as an additional insured, or such additional amounts as the City or its insurance or risk advisors may determine from time to time to be customary for similar-sized airport facilities;

(iv) automobile liability insurance in the amount of \$1,000,000 per occurrence, naming the City as an additional insured; and

(v) workers compensation insurance as required by law.

(B) Policy Requirements. Lessee's insurance policies shall (i) be written in standard form by insurance companies authorized to do business in Ohio and having an A.M. Best rating of A VII or better, (ii) provide that they may not be canceled or modified without at least thirty (30) days prior written notice to the City, and (iii) be primary and non-contributory with respect to insurance maintained by the City. No later than the Commencement Date, and annually thereafter, Lessee shall provide the City with a certificate of insurance evidencing the insurance required to be maintained by Lessee hereunder.

(C) Waiver of Subrogation. Lessee hereby waives all claims and rights of recovery, and on behalf of Lessee's insurers, rights of subrogation, against the City, its employees, agents, contractors and subcontractors with respect to any and all damage to or loss of property that is covered or that would ordinarily be covered by the insurance required under this Lease to be maintained by Lessee, even if such loss or damage arises from the negligence of the City, its employees, agents, contractors or subcontractors; it being the agreement of the parties that Lessee shall at all times protect itself against such loss or damage by maintaining adequate insurance. Lessee shall cause its property insurance policies to include a waiver of subrogation provision consistent with the foregoing waiver.

(D) Indemnity. The City assumes no responsibility for any acts, errors or omissions of Lessee or any employee, agent, contractor, subcontractor, representative or any other person acting or purporting to act for or on behalf of Lessee. Lessee shall defend, indemnify and hold the City, its employees, agents, contractors and subcontractors ("**Indemnified Parties**") harmless from and against all costs (including without limitation legal costs), losses, claims, demands, actions, suits, judgments, claims for relief, damages

and liability suffered or incurred by or asserted against the Indemnified Parties or any one or more of them as a result of or arising from the acts of Lessee, its employees, agents, licensees, invitees, contractors, subcontractors or anyone else acting at the request of Lessee in connection with Lessee's activities at or with respect to the Leased Premises or in connection with any breach by Lessee under this Lease.

8. Casualty; Eminent Domain.

(A) Casualty. If the Leased Premises are damaged or destroyed by fire or other casualty, Lessee shall repair and restore the Leased Premises (or, in the event of a partial taking, the remaining portion thereof), as expeditiously as possible, and to the extent practicable, to substantially the same condition in which they were in immediately prior to such occurrence. The City and Lessee shall jointly participate in filing claims and taking such other actions pertaining to the payment of proceeds resulting from such occurrence. All insurance proceeds shall be deposited with an insurance trustee appointed by both the City and Lessee, and such insurance proceeds shall be disbursed to Lessee for purposes of paying costs associated with restoration, repair, stabilization, or demolition, as necessary to meet the provisions set forth herein. If the insurance proceeds are insufficient to fully repair and restore the Leasehold Improvements, Lessee shall make up for the deficiency. Lessee shall not be relieved of any obligations, financial or otherwise, under this Lease during any period in which the Leased Premises are being repaired or restored (it being the agreement of the parties that Lessee shall purchase business interruption insurance, if it so chooses, to alleviate such financial burden). Lessee shall oversee all construction in accordance with the applicable requirements set forth herein. Notwithstanding anything herein to the contrary, Lessee shall have the right, but not the obligation to repair and restore the Leased Premises and Leasehold Improvements, *provided, however*, in the event that Lessee elects not to restore or repair the Leasehold Improvements, Lessee shall provide written notice to the City within thirty days after such damage or casualty event to terminate this Lease. If notice of termination is timely provided, this Lease shall terminate on the date specified in the notice. Upon termination of this Lease following a casualty event, the insurance proceeds shall be allocated as follows: (i) first to Lessee to perform any and all work necessary for the Leased Premises to be surrendered to the City in a safe and proper condition (i.e., to cause any and all remaining improvements to comply with all applicable laws, including the City's building code or to otherwise demolish the Leasehold Improvements); and (ii) second to any Permitted Leasehold Mortgagee to satisfy any outstanding principal, interest or any other amounts owed to such Permitted Leasehold Mortgagee. Upon such termination, Lessee shall satisfy and cause to be released any mortgages, liens, or other encumbrances placed upon or permitted to be placed upon the Leased Premises.

(B) Eminent Domain. If any portion of the Leased Premises is taken by exercise of eminent domain (federal, state, or local), Lessee shall repair and restore the Leased Premises (or, in the event of a partial taking, the remaining portion thereof), as expeditiously as possible, and to the extent practicable, to substantially the same condition in which they were in immediately prior to such occurrence. Notwithstanding the foregoing, if (i) the entire Leased Premises are taken by eminent domain, this Lease shall automatically terminate on the date on which Lessee is required to surrender possession, and (ii) if a substantial portion of the Leased Premises is taken by eminent domain such that the remainder is not usable for the Permitted Use as determined by Lessee, Lessee shall have the right to terminate this Lease by giving written notice thereof to the City on or before the date on which Lessee is required to surrender possession of such portion. Upon such termination of this Lease, the eminent domain proceeds shall be allocated as follows: (i) in the case of a taking by the state or federal government, to the City, to compensate the City for the value of the land taken (and, in the event of a partial taking, for the cost of clearing and otherwise restoring the remaining portion of the Leased Premises); and (ii) to Lessee, to compensate Lessee for the value of the Leasehold Improvements; provided, however, following title and ownership of the Leasehold Improvements vesting with the City, all such value shall be allocated to the City.

9. Default; Remedies.

(A) Default. Each of the following shall constitute an event of default by Lessee under this Lease:

(i) If Lessee fails to pay rent or any other sum payable to the City hereunder when due, and such failure to pay continues for longer than ten (10) days after Lessee receives written notice thereof from the City;

(ii) If Lessee fails to perform or observe any of the other covenants, terms or conditions contained in this Lease, and such failure continues for longer than twenty (20) days after Lessee receives written notice thereof from the City; provided, however, that if such failure is not reasonably susceptible of being cured within such 20-day period, an event of default shall not be deemed to have occurred if Lessee commences to cure such failure within such 20-day period and thereafter diligently pursues such cure to completion and, in fact, cures such failure within ninety (90) days after Lessee receives written notice of the default from the City. The foregoing notwithstanding, if the failure creates a dangerous condition or otherwise constitutes an emergency as determined by the City, an event of default shall be deemed to have occurred if Lessee fails to promptly take corrective action upon discovering such dangerous condition or emergency (and in any event within no later than 24 hours, depending upon the nature of the emergency and the steps needed to address it); and

(iii) The commencement of levy, execution or attachment proceedings against Lessee, any principal (which shall be defined as any individual or entity having an ownership interest in Lessee of more than 25%) or partner of Lessee, or any of the assets of Lessee, or the application for or appointment of a liquidator, receiver, custodian, sequester, conservator, trustee, or other similar judicial officer; or the insolvency in the bankruptcy or equity sense, of Lessee or any principal or partner of Lessee; or the assignment for the benefit of creditors, or the admission in writing of an inability to pay debts generally as they become due, or the ordering of the winding-up or liquidation of the affairs of Lessee or any principal or partner of Lessee; or the commencement of a case by or against Lessee or any principal or partner of Lessee under any insolvency, bankruptcy, creditor adjustment, debtor rehabilitation or similar laws, state or federal, or the determination by any of them to request relief under any insolvency, bankruptcy, creditor adjustment, debtor rehabilitation or similar proceeding, state or federal, including, without limitation, the consent by any of them to the appointment of or taking possession by a receiver, liquidator, assignee, trustee, custodian, sequester or similar official for it or for any of its respective property or assets (unless, in the case of involuntary proceedings, the same shall be dismissed within ninety (90) days after institution).

(B) **Remedies.** Upon the occurrence of an event of default that continues beyond the applicable notice and cure period (if any) provided for under paragraph (A) above, the City shall be entitled to (i) terminate this Lease by giving Lessee written notice thereof, (ii) take such actions in the way of "self-help" as the City determines to be reasonably necessary or appropriate to cure or lessen the impact of such default, all at the expense of Lessee, and (iii) exercise any and all other rights and remedies under this Lease or available at law or in equity, including without limitation pursuing an action for specific performance; all such rights and remedies being cumulative. Lessee shall be liable for all costs and damages, including without limitation legal fees, suffered or incurred by the City as a result of a default of Lessee under this Lease or the City's enforcement or termination of this Lease. Lessee shall pay all such costs and damages within thirty (30) days after receiving documentation from the City of the amount due. The failure of the City to insist upon the strict performance of any covenant or duty or to pursue any remedy under this Lease shall not constitute a waiver of the breach of such covenant or of such remedy. Nothing contained in this Lease shall limit or prejudice the right of a party to prove for and obtain as damages incident to a termination of this Lease in any bankruptcy, reorganization or other court proceedings, the maximum amount allowed by any statute or rule of law in effect when such damages are to be proved.

10. Assignment and Subletting. Lessee acknowledges that the City is entering into this transaction because of the City's confidence that Lessee has the financial means and business experience that are necessary to carry out the construction of the Leasehold Improvements and to successfully operate Lessee's business in accordance with the provisions of this Lease. Lessee acknowledges that the City shall not be expected to consent to a proposed assignment or sublease by Lessee of its interests under this Lease to any person or entity in whom the City does not have similar confidence. Any attempt by Lessee

to assign or otherwise transfer its interests under this Lease to a third party without the City's prior written consent shall be null and void and shall, at the option of the City, constitute a default of Lessee under this Lease. The foregoing notwithstanding, if Lessee transfers its interests under this Lease to an affiliate of Lessee (including without limitation a sublease of a portion of the Leased Premises to Lessee's affiliate), or to the surviving entity in a merger involving Lessee, or to the purchaser of all or substantially all of Lessee's assets or ownership interests, such transfer shall not constitute a prohibited assignment for purposes of this section provided that Lessee provides the City with no less than 30 days prior written notice thereof, accompanied by the relevant supporting documentation. As used in the preceding sentence, an "affiliate" of Lessee means an entity that controls, or is controlled by, or is under common control with, Lessee. For purposes hereof "control" shall mean the power, exercisable jointly or severally, to manage and direct the business and affairs of a party through the ownership of more than fifty percent (50%) of membership or partnership interests, corporate stock and/or voting rights. No assignment or sublease by Lessee of its rights or obligations under this Lease to an affiliate or any other third party shall relieve Lessee from any liability to the City under this Lease. All compensation received by Lessee in connection with a subletting relating to or otherwise allocable to this Lease in respect of the interval in question that exceeds the base rent ("Excess Compensation") for the same interval shall be payable as follows:

- (1) first, to Lessee until Lessee has received an amount equal to all actual, third-party, out-of-pocket costs incurred by Lessee in connection with such transfer (including brokerage commissions, attorneys' fees and expenses, Lessee finish-work, and other Lessee inducements); an
- (2) thereafter, 50% to City and 50% to Lessee.

(a) If an event of default occurs, all such Excess Compensation accruing thereafter shall be payable to City. Lessee shall hold all amounts it receives which are payable to City in trust and shall deliver all such amounts to City within ten business days after Lessee's receipt thereof.

11. Notices. All notices given by the parties hereunder shall be deemed given if personally delivered, or delivered by Federal Express, UPS, or other recognized overnight courier, or mailed by U.S. registered or certified mail, postage prepaid, return receipt requested, addressed to the parties at their addresses below or at such other addresses as either party may designate by notice to the other party given in the manner prescribed herein. Notices shall be deemed given on the date of receipt.

To the City:

City of Cincinnati
Dept of Transportation & Engineering
801 Plum Street, Suite 450
Cincinnati, OH 45202

To Lessee:

Jay Schmalfuss, Member
4510 Airport Rd.
Cincinnati, OH 45226
513-321-1200 ext. 806
jay@flightlogix.com

with a copy to:

City of Cincinnati
Attn: Airport Manager
465 Wilmer Ave, Cincinnati, OH 45226

If Lessee sends a notice to the City alleging that the City is in default under this Lease, it shall simultaneously send a copy of such notice by U.S. certified mail to: City Solicitor, City of Cincinnati, 801 Plum Street, Room 214, Cincinnati, OH 45202.

12. Surrender; Holdover.

(A) Surrender. At the end of the Term, Lessee shall peaceably surrender the Leased Premises to the City, free and clear of all leasehold mortgages and other liens (except those, if any, created by the

City); provided, however, that, notwithstanding any other provision of this Lease to the contrary, no less than 90 days prior to the end of the Term, Lessee shall notify DOTE in writing of the existence of any fuel tanks at the Leased Premises (“**Fuel Tanks**”), whereupon DOTE shall notify Lessee as to whether or not the City requires the removal of the Fuel Tanks. If the City requires Lessee to remove the Fuel Tanks, Lessee shall remove the same and repair any and all damage to the Leased Premises caused thereby no later than the end of the Term. As provided in paragraph 6(L) above, Lessee shall not be permitted to remove any other improvements and acknowledges that the City would not enter into this Lease on the terms and conditions set forth herein but for Lessee’s obligation to surrender all improvements to the City, free and clear of all liens, at the end of the Term.

(B) Lessee’s Right to Remove Items of Personal Property. No later than the last day of the Term, Lessee shall remove all of Lessee’s personal property at the Leased Premises (excluding trade fixtures, which shall not be removed unless otherwise directed by the City under paragraph 12(A) above)) shall repair any and all damage to the Leased Premises caused by the installation or removal thereof and otherwise restore the Leased Premises to a safe, clean, and satisfactory condition.

(C) Holdover. If Lessee fails to surrender possession of the Leased Premises to the City at the end of the Term, such holdover shall be deemed as creating a tenancy-at-will on all of the same terms and conditions as set forth herein (except for the duration of the Term and except that base rent payable during the holdover period shall be equal to two hundred percent of the base rent in effect at the end of the Term), terminable by either party at any time by giving written notice thereof to the other party. Lessee shall be liable for all costs and damages suffered or incurred by the City as a result of Lessee’s failure to surrender possession at the end of the Term, including without limitation costs and damages suffered or incurred by the City during the holdover period.

(D) Documents to be Delivered to City. At the end of the Term, Lessee shall deliver to the City originals or copies of all books and records, operating manuals, contracts with third parties (but only if the City has expressly agreed to accept an assignment of such contracts), warranty information, and all other written materials and documents that are in Lessee’s possession or under Lessee’s control and that are reasonably needed in order for there to be a seamless transition with respect to the operation and maintenance of the Leased Premises for the Permitted Use.

13. Compliance with Laws.

(A) Compliance with Laws. Lessee shall comply with all federal, state, and local laws, ordinances, rules, and regulations, including without limitation all applicable building and zoning codes of the City of Cincinnati pertaining to the Airport, all applicable requirements set forth in Chapter 402 (*Airport*) of the CMC, and all requirements under Title 49 of the Code of Federal Regulations, as the same may be enacted or modified from time to time.

(B) Non-Discrimination. In all its activities, the Lessee agrees to comply with pertinent statutes, Executive Orders, and such rules as identified in Title VI List of Pertinent Nondiscrimination Acts and Authorities to ensure that no person shall, on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964 which Lessee shall comply with. If the Lessee transfers its obligation to another, the transferee is obligated in the same manner as the Lessee. In the event of breach of any of the above Nondiscrimination covenants, the City will have the right to terminate the Lease and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the Lease had never been made or issued. With reference to 49 CFR Subtitle A, Part 21, “Nondiscrimination in Federally-Assisted Programs of the Department of Transportation”, the purpose of which “is to effectuate the provisions of Title VI of the Civil Rights Act of 1964 . . . to the end that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance from the Department of Transportation”, Lessee shall include the

foregoing provision in every agreement or concession pursuant to which any person or persons, other than Lessee, operates any facility at the Leased Premises providing services to the public and shall include therein a provision granting the City the right to take such action as the United States may direct to enforce such covenant. Lessee shall defend, indemnify, and hold harmless the City from any and all claims and demands of third persons, including the United States of America, resulting from Lessee's noncompliance with any of the provisions of this section and shall reimburse the City for any and all losses or expenses incurred by reason of such noncompliance.

14. Coordinated Report Conditions (CR #40-2024). All conditions set forth in the City's Coordinated Report #40-2024 shall apply (summarized generally as follows):

(A) Metropolitan Sewer District of Greater Cincinnati and Stormwater Management Utility. Lessee shall comply with all requirements of the Metropolitan Sewer District of Greater Cincinnati ("MSD"), the City's Stormwater Management Utility (SMU), and the Ohio EPA with respect to sewer service, storm water, detention, and flood plain requirements.

(B) Greater Cincinnati Water Works. Lessee must conform to Greater Cincinnati Water Works' requirements for water service, including backflow prevention requirements, entirely at their cost." GCWW records show that this site does not have backflow prevention devices installed as required for commercial accounts. To bring this service into compliance, backflow prevention devices will need to be installed. Test results will be required to be submitted to GCWW upon initial installation and annually thereafter. Lessee must contact GCWW Field Services at 513-591-7825 for more information or to schedule an inspection. The Lessee is advised that the Lease Area is served by 1.5 inch copper service. The Lease Area contains two public fire hydrants which must be kept clear and accessible and otherwise maintain the integrity of the fire hydrants.

No building, structure or improvement of any kind shall be made in the lease area which will interfere with access to or operation of the existing water main. The City of Cincinnati, Ohio shall not be responsible to any present or future owners of said property or present or future owners of property with rights of ingress and egress over said property for reason of entering for constructing, maintaining or replacing the water mains. Further, the City of Cincinnati, Ohio shall not be responsible to any present or future owners of said property or future owners of property with rights of ingress and egress over said property for any damages which result from disruption or denial of said rights of ingress and egress or other rights of access by reason of entering for constructing, maintaining, or replacing the water main. No grade changes of any kind over any part of the full width profile of this lease area are permitted at any time so not to impact any present or future Water Works operations. The full width lease area must be accessible to the Water Works at all times for future maintenance and operation purposes

(C) Duke Energy. Lessee shall not do anything to interfere with Duke Energy's right to access, use, maintain, repair, or replace its existing electric or gas facilities at the site, if any. Any and all damage to the electric and gas facilities caused by Lessee, its employees, agents, contractors, licensees, or invitees shall be repaired at Lessee's expense. If required by Duke, Lessee shall grant Duke a recordable utility easement for Duke's existing gas facilities (such easement to encumber only Lessee's leasehold interest in the Leased Premises, and not the City's fee interest; the parties acknowledging that any such easement from the City would require approval by City Planning Commission and City Council).

(D) Altafiber. The existing facilities must remain in place, in service and able to be accessed. Any damage done to the facilities, or any work required to relocate the facilities as a result of this request will be handled entirely at the property owner's expense.

(E) Buildings & Inspections. If the Leased Premises do not constitute a separate tax parcel on the Hamilton County Auditor's tax maps, Lessee shall take all steps to accomplish the same, in cooperation with DOTE and the City's Real Estate Services Division.

15. General Provisions.

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

(B) Amendments. This Lease may be amended only by a written amendment signed by both parties.

(C) Governing Law. This Lease shall be governed by and construed in accordance with the laws of the City of Cincinnati and the State of Ohio. All actions regarding this Lease shall be brought in the Hamilton County Court of Common Pleas, and Lessee agrees that venue in such court is proper. Lessee hereby waives trial by jury with respect to any and all disputes arising under this Lease.

(D) Binding Effect. This Lease shall be binding upon and shall inure to the benefit of and be enforceable by and against the parties and their respective successors and permitted assigns.

(E) Captions. The captions of the various sections and paragraphs of this Lease are not part of the context hereof and are only guides to assist in locating such sections and paragraphs and shall be ignored in construing this Lease.

(F) Severability. If any part of this Lease is held to be void, illegal or unenforceable by a court of law, such part shall be deemed severed from this Lease, and the balance of this Lease shall remain in full force and effect.

(G) No Recording. This Lease shall not be recorded in the Hamilton County Recorder's office.

(H) Time. Time is of the essence with respect to the performance by Lessee of its obligations under this Lease.

(I) No Third Party Beneficiaries. The parties hereby agree that no third party beneficiary rights are intended to be created by this Lease.

(J) No Brokers. Lessee represents that it has not dealt with a real estate broker, salesperson or other person who might claim entitlement to a fee or other compensation as a result of the parties' execution of this Lease.

(K) Official Capacity. All representations, warranties, covenants, agreements, and obligations of the City under this Lease shall be effective to the extent authorized and permitted by applicable law. None of those representations, warranties, covenants, agreements, or obligations shall be deemed to be a representation, warranty, covenant, agreement, or obligation of any present or future member, officer, agent, or employee of the City in other than his or her official capacity. No official executing or approving the City's participation in this Lease shall be personally liable under this Lease.

(L) Representation as to Authority. Lessee represents that it has the power and authority to enter into and perform its obligations under this Lease without the consent of anyone who is not a party to this Lease and that the execution and performance of this Lease has been duly authorized by all necessary actions on Lessee's part.

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

Exhibit A - *Site Map*

Exhibit B - *Legal Description*

Exhibit C - *Construction Requirements*

[SIGNATURE PAGES FOLLOW]

This Lease is executed by the parties on the dates of acknowledgement indicated below, effective as of the later of such dates (the "Effective Date").

39th Parallel Leasing, LLC., an Ohio limited liability company

By: _____

Printed name: _____

Title: _____

STATE OF OHIO)
) ss:
COUNTY OF HAMILTON)

The foregoing instrument was acknowledged before me this ____ day of _____, 2024 by _____, the _____ of **39th Parallel Leasing, LLC.**, an Ohio limited liability company, on behalf of the company.

Notary Public
My commission expires: _____

[City Signature Page Follows]

CITY OF CINCINNATI

By: _____

Printed Name: _____

Title: _____

STATE OF OHIO)
) ss:
COUNTY OF HAMILTON)

The foregoing instrument was acknowledged before me this ____ day of _____, 2024, by _____, the _____ of the **CITY OF CINCINNATI**, an Ohio municipal corporation, on behalf of the corporation.

Notary Public
My commission expires: _____

Recommended by:

John Brazina, Director
Department of Transportation and Engineering

Jaime Edrosa, Lunken Airport

Approved as to Form:

Assistant City Solicitor

NO CERTIFICATION OF FUND REQUIRED

By: _____
Karen Alder, City Finance Director

EXHIBIT A
to Lease
Site Map

Figure 1
Lunken Airport LA 11, 28, 29 Combined Area, approximately 4.5 acres.



EXHIBIT B
to Lease
Legal Description

City of Cincinnati
Department of Transportation and Engineering
August 2024

Lunken Airport
Consolidation of Lease Areas 11, 28, and 29

Situated in Sections 24 and 30, Town 5, F.R. 1, Spencer Township, Hamilton County, Ohio, and being part of certain lots of the M.S. Wade Estate and parts of certain lots of Mary W. Lockett's Estate and more particularly described as follows:

Ohio State Coordinates (South Zone 3402)

E 1421258.67 N 406963.17
E 1421591.78 N 407130.83
E 1421826.80 N 406633.45
E 1421487.84 N 406473.32
E 1421326.79 N 406817.57
E 1421298.78 N 406804.34
E 1421266.01 N 406874.38
E 1421294.02 N 406887.61

Area 206,305.52 +/- SF

Coordinates Based On NAD-83 (1986)
Corpscon

EXHIBIT C
to Lease
Construction Requirements

As the Leasehold Improvements are owned by the City, Lessee shall comply with all applicable City requirements for construction, improvement, or repairs to the Leasehold Improvements and facilities.

1. **Design & Construction.** In accordance with Section 6 of the Lease, prior to commencing construction, Lessee shall provide DOTE with plans and specifications for the Project for DOTE's review and approval. All construction shall be performed in a good and workmanlike manner and in accordance with all legal requirements. All materials and workmanship shall be of good quality, and upon completion of construction, all improvements will be structurally safe and sound, and all parts therefor and all mechanical equipment therein and all utilities serving the improvements will be in good working order and will have been properly installed, tested, and paid for.

2. **Construction Schedule.**

(A) **Construction Completion.** Lessee shall request approvals from DOTE prior to commencement of construction or modifications to the Leasehold Improvements. Lessee shall diligently work to complete any project and shall not leave any project uncompleted.

(B) **Notice of Commencement and Completion.** Lessee shall provide DOTE written notice within 10 business days upon commencing any project and shall provide DOTE written notice within 10 business days following the date on which Lessee completes any project. The City shall inspect the project upon completion and notify Lessee of any observable deficiencies.

3. **City's Approval of General Contractor and Subcontractors.** Lessee shall not hire any contractor or subcontractor who is listed on the Federal Debarred List or State Debarred List, or any contractor or subcontractor who is identified as being debarred on the City's Vendor's Performance list (as identified on the applicable federal, state, and local government websites).

4. **Monthly Project Reports.** On a calendar month basis, and until such time as a project has been completed, Lessee shall submit a monthly progress report to DOTE so that the City can be kept up-to-date on all matters pertaining to the project.

5. **Inspections.** The City shall have the right to periodically inspect the project. If the City discovers any defects in the project or deviation from the Final Plans, Lessee shall promptly correct the same upon receipt of written notice from the City. The City shall use reasonable efforts to verbally notify Lessee prior to each inspection (except that no prior notice shall be needed in the event of inspections by the City's Building Department or Health Department) and shall use reasonable efforts not to disrupt construction.

6. **No Liens.** Lessee shall not permit any mechanics' liens to attach to the Leased Premises in connection with the project. If any such liens attach, Lessee shall cause them to be released within thirty (30) days after receiving notification of the filing thereof.

7. **Prevailing Wage.** Lessee shall comply with applicable prevailing wages for the project as determined by state and local law. Lessee acknowledges and agrees that it has not and shall not rely upon determinations or representations made by the City, its employees, or agents regarding applicability of state and local prevailing wage laws and that Lessee's decisions regarding applicability of and compliance with such laws shall be based upon its own and its counsel's investigations, determinations, and opinions.

Without limitation of other rights and remedies available to the City under this Lease or under state or local laws, Lessee shall defend, indemnify, and hold the City harmless from and against all costs (including without limitation legal costs), losses, claims, demands, actions, suits, judgments, claims for relief, damages and liability suffered or incurred by or asserted against them as a result of or arising from Lessee's failure to comply with applicable prevailing wage laws.

8. Punch-List Work. Promptly after delivering the Notice of Completion to DOTE under Section 1 above, Lessee shall create a punch-list of unfinished work and shall promptly thereafter complete such work (but in any event within 90 days after the date of the Notice of Completion).

9. Correction of Defects During Warranty Period. If any defect should appear that, in the reasonable opinion of the City, is due to defective materials or workmanship, Lessee shall remedy such defect within the applicable warranty period under Lessee's contract with its general contractor.

* * *

December 2, 2024

To: Member of the Budget and Finance Committee

From: Sheryl M.M. Long, City Manager

202402454

Subject: Emergency Ordinance – Approving and Authorizing a Historic CRA Extension with Jobs Cafe, LLC

Attached is an Emergency Ordinance captioned:

APPROVING AND AUTHORIZING the City Manager to execute a First Amendment to Community Reinvestment Area Tax Exemption Agreement (LEED or Living Building Challenge) with Jobs Cafe, LLC, an affiliate of The Model Group, thereby authorizing a ten-year extension to an existing tax exemption for 100 percent of the value of improvements made to real property located at 1731,1807-1809, 1811-1817, and 1819 Elm Street, 1834 Race Street, and 30-34 Findlay Street in the Over-the-Rhine neighborhood of Cincinnati.

BACKGROUND/CURRENT CONDITIONS

Jobs Cafe is a mixed use commercial and residential development, with sixty-eight (68) residential units, located at 1731, 1807-1809, 1811-1817 and 1819 Elm Street, 1834 Race Street and 30-34 Findlay Street in the Over-the-Rhine neighborhood of Cincinnati. It was renovated in 2017 and received a 12-year CRA property tax abatement, effective through 2028. These buildings are of historic significance, and are, therefore, eligible to have the abatement extended up to an additional ten years under Ohio Revised Code (ORC) Section 3736.36(D)(1). The attached ordinance extends the abatement for an additional ten years, the maximum allowed under the above cited section of the ORC. The property does not presently have any income restrictions for its rental units.

AFFORDABILITY COMMITMENT

The Administration was approached by the property owner, who requested a ten-year extension based on historic requirements. As a condition of the extension, the property owner has committed to holding forty percent (40%) of the development's rental units, totaling twenty-eight units, at rates affordable to households earning 80% AMI.

RECOMMENDATION

The Administration recommends approval of this Emergency Ordinance, based on the property owner's affordability commitment.

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

EMERGENCY

EVK

- 2024

APPROVING AND AUTHORIZING the City Manager to execute a First Amendment to Community Reinvestment Area Tax Exemption Agreement (LEED or Living Building Challenge) with Jobs Cafe, LLC, an affiliate of The Model Group, thereby authorizing a ten-year extension to an existing tax exemption for 100 percent of the value of improvements made to real property located at 1731, 1807-1809, 1811-1817, and 1819 Elm Street, 1834 Race Street, and 30-34 Findlay Street in the Over-the-Rhine neighborhood of Cincinnati.

WHEREAS, pursuant to Ordinance No. 114-2017, passed by Council on May 24, 2017, the City entered into a certain Community Reinvestment Area Tax Exemption Agreement (LEED or Living Building Challenge) with Jobs Cafe, LLC (together with its successors and assigns, the “Company”), dated July 27, 2017 (the “Agreement”), which provides for a 100 percent real property tax exemption for the value of improvements to real property located at 1731, 1807-1809, 1811-1817, and 1819 Elm Street, 1834 Race Street, and 30-34 Findlay Street, all in the Over-the-Rhine neighborhood of Cincinnati, as more particularly described in the Agreement, for twelve years (the “Original Term”); and

WHEREAS, pursuant to Ohio Revised Code (“R.C.”) Section 3735.67(D)(1), the City may extend a period of exemption from real property taxation for up to ten years (an “Historic Extension”) if the property is a structure of historical or architectural significance, is a certified historic structure that has been subject to federal tax treatment under 26 U.S.C. 47 and 170(h), and the residential units within the structure have been leased to individual tenants for at least five consecutive years (the “Extension Requirements”); and

WHEREAS, the Company has represented to the City that the Property satisfies the Extension Requirements and is eligible for an Historic Extension, and has requested that the City grant an extension of the real property tax exemption, for a total exemption term not to exceed 22 years; and

WHEREAS, the Company has committed to lease and make available forty percent of the residential units on the Property to families at or below eighty percent of the Area Median Income, as established by the U.S. Department of Housing and Urban Development, and as may be updated from time to time (the “Affordability Requirements”), upon the terms and conditions more particularly described in the draft First Amendment to Community Reinvestment Area Tax Exemption Agreement (LEED or Living Building Challenge) attached as Attachment A hereto (the “Amendment”); and

WHEREAS, in consideration of the Company’s agreement to comply with the Affordability Requirements, and provided that the Company satisfies the Extension Requirements and the other terms of the Agreement, as amended by the Amendment, the City desires to provide for an Historic Extension of up to ten years; and

WHEREAS, the Property is located within the Cincinnati City School District and, as required by the Agreement, the Company entered into a certain Payment in Lieu of Taxes Agreement dated October 25, 2017, pursuant to which the Company agreed to pay the Board of Education of the Cincinnati City School District (the “Board of Education”), amounts equal to 25 percent of the exempt real property taxes during the Original Term; and

WHEREAS, the Board of Education, pursuant to that certain Tax Incentive Agreement with the City effective as of April 28, 2020 (as may be amended, the “2020 Board of Education Agreement”), has approved exemptions of up to 100 percent of Community Reinvestment Area projects authorized by Council beginning in 2020, 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 2020 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 percent of the exempt real property taxes during the term of the Historic Extension; and

WHEREAS, the City’s Department of Community and Economic Development estimates that, during the Historic Extension, the real property tax exemption for the Improvements will provide an annual net benefit to the Company in the amount of approximately \$36,538; now, therefore,

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

Section 1. That Council authorizes the City Manager:

- (a) to execute an amendment to a certain Community Reinvestment Area Tax Exemption Agreement (LEED or Living Building Challenge) between the City of Cincinnati (the “City”) and Jobs Cafe, LLC (together with its successors and assigns, the “Company”), dated July 17, 2017 (the “Agreement”), in substantially the form of Attachment A to this ordinance (the “Amendment”), authorizing the extension of the real property tax exemption provided by the Agreement by up to ten additional years, relating to real property located 1731, 1807-1809, 1811-1817, and 1819 Elm Street, 1834 Race Street, and 30-34 Findlay Street, all in the Over-the-Rhine neighborhood of Cincinnati, which property is more particularly described in the Agreement, provided the Company satisfies certain conditions as described in the Agreement, as amended by the Amendment, including compliance with all statutory requirements;
- (b) to submit on behalf of Council annual reports on the Agreement to the Director of the Ohio Department of Development, in accordance with Ohio Revised Code Section 3735.672, and to the Board of Education of the Cincinnati City School District, as necessary; and
- (c) to take all necessary and proper actions to fulfill the City’s obligations under the Agreement, as amended by the Amendment.

Section 2. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is to enable the parties to execute the Amendment as soon as possible to facilitate the Company's imminent financial closing.

Passed: _____, 2024

Aftab Pureval, Mayor

Attest: _____
Clerk

FIRST AMENDMENT
to
Community Reinvestment Area Tax Exemption Agreement
(LEED or Living Building Challenge)

THIS FIRST AMENDMENT TO COMMUNITY REINVESTMENT AREA TAX EXEMPTION AGREEMENT (this "Amendment") is made and entered into on the Effective Date (as defined on the signature page hereof) by and among the **CITY OF CINCINNATI**, an Ohio municipal corporation (the "City"), and **JOBS CAFE, LLC**, an Ohio limited liability company (the "Company").

Recitals:

A. The City and the Company are parties to a *Community Reinvestment Area Tax Exemption Agreement* dated July 27, 2017, (the "Agreement"), pertaining to the remodeling of existing buildings at 1731 Elm Street, 1807-1819 Elm Street, 1810 Campbell Street, 30-34 Findlay Street, 1834 Race Street, 1800 Logan Street, and 1656 Central Parkway in the Over-the-Rhine neighborhood (collectively, the "Property"), into approximately 13,852 square feet of commercial space, approximately 8,835 square feet of office space, and approximately 45,932 square feet of residential rental space, containing approximately 68 apartment units, all as more particularly described therein (the "Project"), which Project was to be completed no later than December 31, 2018. Capitalized terms used herein but not defined herein shall have the meanings ascribed to them in the Agreement.

B. The Company completed the Improvements to the Property as required by the terms of the Agreement.

C. Pursuant to the Statute, and more particularly Ohio Revised Code ("ORC") Section 3735.67(D)(1), a legislative authority may extend a period of exemption from real property taxation for up to 10 years if the property is a structure of historical or architectural significance, is a certified historic structure that has been subject to federal tax treatment under 26 U.S.C. 47 and 170(h), and the residential units within the structure have been leased to individual tenants for 5 consecutive years.

D. The Company has represented to the City that the Property satisfies the aforementioned criteria and is eligible for an extension of real property tax exemption under ORC Section 3735.67(D)(1), and has requested the City grant an extension of the real property tax exemption, which was initially for a period of 12 years.

E. The City, upon the recommendation of the Department of Community and Economic Development, is willing to amend the Agreement to extend the real property tax exemption provided under the Agreement for a period of 10 years in consideration of the Company's commitment to lease and make available 40% of the residential units on the Property to families at or below 80% Area Median Income ("AMI") for Cincinnati, as established by the U.S. Department of Housing and Urban Development, and as may be updated from time to time, all as further described herein. The City is agreeable to doing so on and subject to the terms and conditions of this Amendment.

F. Following the execution of the Agreement, the City and the Board of Education entered into that certain *Tax Incentive Agreement*, executed on April 28, 2020, pursuant to which the Board of Education approved exemptions of up to 100% of Community Reinvestment Area projects on and after April 28, 2020, waived advance notice and right to review such projects, and waived sharing or allocation of municipal income taxes in connection with such projects.

G. The Company has conveyed two parcels included in the Property, being 1800 Logan Street (Auditor's Parcel No. 133-3-149) and 1656 Central Parkway (Auditor's Parcel No. 133-3-149) to the Board of County Commissioners of Hamilton County, and the properties are no longer in need of the tax abatement and shall be removed from the Agreement.

H. Execution of this Amendment was authorized by Ordinance No. ____-____, passed by City Council on _____, ____.

NOW, THEREFORE, the parties agree as follows:

1. Amendment to Property Description. The definition of the “Property” for purposes of the Agreement shall mean all of the properties listed below and further described in Exhibit A-2 (Amended Legal Description of Property) hereto:

- a. 1807-1809 Elm Street (Parcel ID No. 133-3-136);
- b. 1811-1817 Elm Street (Parcel ID No. 133-3-137);
- c. 1819 Elm Street (Parcel ID No. 133-3-142);
- d. 1731 Elm Street (Parcel ID No. 133-3-366);
- e. 1834 Race Street (Parcel ID No. 94-8-324); and
- f. 30-34 Findlay Street (Parcel ID No. 96-6-115 thru 116).

Notwithstanding anything in the Agreement to the contrary, and as of the Effective Date, parcels 1800 Logan Street (Auditor’s Parcel No. 133-3-149) and 1656 Central Parkway (Auditor’s Parcel No. 133-3-149) are hereby terminated from the Agreement and neither the City nor the Company shall have any further rights, responsibilities, or obligations thereunder relating to the parcels.

2. Board of Education of the Cincinnati School District. Recital L. and Recital M. are hereby deleted and replaced with the following:

- L. The Board of Education of the Cincinnati School District (the “Board of Education”), pursuant to an agreement with the City entered into on July 2, 1999 (as amended), and that certain *Tax Incentive Agreement*, effective as of April 28, 2020, has approved exemptions of up to 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.
- M. The Company has entered into an agreement with the Board of Education for the Initial Term (as defined below), which requires the Company to pay the Board of Education amounts equal to 25% 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 “1999 Board of Education Agreement”). The Company will enter into an agreement with the Board of Education for the term of the Historic Extension (as defined below), which will require the Company to pay the Board of Education amounts equal to 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 “2020 Board of Education Agreement”). The 1999 Board of Education Agreement and the 2020 Board of Education Agreement are collectively referred to herein as the “Board of Education Agreement”.

3. Reporting. Section 17 of the Agreement is hereby deleted in its entirety and replaced with the following:

Section 17. Annual Review and Report; Affordability Reporting Requirements.

A. 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.

B. Affordability Reporting Requirements. In addition to the Annual Review and Report, commencing on March 1, 2026, and continuing each year thereafter, the Company shall verify its continued compliance with the affordability terms contained in Exhibit C (Affordability Requirements) hereto, by certifying project rents and verifying tenant eligibility by submitting to the City a *Tenant Profile Income Verification Form* for all households occupying Affordable Units. The *Tenant Profile Income Verification Form* must be signed by and certified by each tenant and indicate that the information is complete and accurate.

4. Affordability Requirements. The following new Section 38 shall be added and incorporated into the Agreement:

Section 38. Affordability Requirements. The Company shall lease and make available at least 28 residential units on the Property (the “Affordable Units”) to qualifying households with a household income that is at or below 80% AMI for comparably sized households (the “Affordability Requirements”) for a period beginning on January 1, 2025, and continuing through the end of the abatement period provided pursuant to this Agreement, including the term of the Historic Extension (the “Affordability Period”). During the Affordability Period, the Company shall: (i) maintain the Affordable Units and the Property as decent, safe, and sanitary housing in good repair and in compliance with all City of Cincinnati Building Code requirements, (ii) lease the Affordable Units to qualifying households at affordable rents in accordance with those requirements set forth in Exhibit C, and (iii) comply with all other Affordability Requirements set forth in Exhibit C. The Company shall execute an affidavit of facts relating to title memorializing the Company’s commitment to abide by the Affordability Requirements in the form of Exhibit D (Form of Affidavit) hereto (the “Affordability Affidavit”), or in such other form as may be required by the City. The Affordability Affidavit shall be recorded at the Company’s sole expense with a copy delivered to the City within 3 days of recording.

5. Historic Extension. The following new Section 39 shall be added and incorporated into the Agreement:

Section 39. Historic Extension. The parties acknowledge that the Company is eligible for an extension of the abatement term because of the historical significance of the Property for up to ten years pursuant to the Statute, as may be amended from time to time, based upon the Company’s representations that the Property (a) is a structure of historical or architectural significance, (b) is a certified historic structure that has been subject to federal tax treatment under 26 U.S.C. 47 and 170(h), and (c) has residential units within the structure located thereon that have been leased to individual tenants for at least 5 consecutive years. Based upon the Company’s aforementioned representations and the City’s review of documentation evidencing compliance with the Statute, following the end of the initial abatement term provided pursuant to this Agreement (the “Initial Term”), the City approves the 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 an additional period of 10 years (the “Historic Extension”), provided that the Company has entered into the 2020 Board of Education Agreement. Notwithstanding the last sentence of Section 2 hereof, no exemption shall extend beyond the earlier of (i) tax year 2040 or (ii) the end of the 22nd year of exemption (being the 10th year of the Historic Extension).

6. General Indemnity. The following new Section 40 shall be added and incorporated into the Agreement:

Section 40. General Indemnity. Notwithstanding anything in this Agreement to the contrary, as a material inducement to the City to enter into this Agreement, the Company shall defend, indemnify, and hold the City, its officers, council members, employees, and agents (collectively, the "Indemnified Parties") harmless from and against any and all actions, suits, claims, losses, costs (including, without limitation, attorneys' fees), demands, judgments, liability, and damages (collectively, "Claims") suffered or incurred by or asserted against the Indemnified Parties as a result of or arising from the acts of the Company, its agents, employees, contractors, subcontractors, licensees, invitees, or anyone else acting at the request of the Company in connection with the Project. The Company's indemnification obligations under this paragraph shall survive the termination or expiration of this Agreement with respect to Claims arising prior thereto.

7. Exhibits. Exhibit C (Affordability Requirements) and Exhibit D (Form of Affidavit) attached hereto, are hereby incorporated into and made a part of the Agreement and, on and after the Effective Date hereof, shall be deemed to be Exhibit C and Exhibit D for all purposes of the Agreement.

8. General Provisions.

(A) Release. In consideration of the City's execution of this Amendment, the Company hereby waives any and all defaults or failures to observe or perform any of the City's obligations under the Agreement and any other liability of any kind on the part of the City to the extent any such default, failure or liability occurred or arose before the Effective Date of this Amendment.

(B) Ratification. All terms of the Agreement not amended hereby or not inconsistent herewith shall remain in full force and effect, and the Agreement, as amended hereby, is hereby ratified and reaffirmed by the parties.

(C) 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.

(D) Counterparts; Electronic Signatures. This Amendment 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 Amendment may be executed and delivered by electronic signature.

[Signature Page Follows]

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

CITY OF CINCINNATI

JOBS CAFE, LLC,
an Ohio limited liability company

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

Date: _____, 2024

By: _____

Name: _____

Title: _____

Date: _____, 2024

Approved as to Form:

Assistant City Solicitor

Certified Date: _____

Fund/Code: _____

Amount: _____

By: _____
Karen Alder, City Finance Director

Exhibit A-2

Amended Legal Description of Property

TRACT XI – Auditor’s Parcel No. 094-0008-0324:
PRIOR REGISTERED LAND

Address: 1834 Race Street

Situate in the City of Cincinnati, and being more particularly described as follows:

Beginning at a point in the southeast corner of Race and Findlay Street; Thence in the East line of Race Street South 16°00' East 20.30 feet to a point; thence North 74°16' East 113.12 feet to an alley; thence in the West line of said alley, North 16°00' West 20.30 feet to Findlay Street; Thence in the South line of Findlay Street, South 74°16' West 113.12 feet to the place of beginning.

TRACT X – Auditor’s Parcel No. 096-0006-0115 and 096-0006-0116:

Address: 34, 30 Findlay Street

Situated in the City of Cincinnati, County of Hamilton and State of Ohio, and being all of Lot No. 9 as described in a plat of subdivision of George Fox’s Heirs, as recorded in Plat Book 2, Page 89 of the Records of Hamilton County, Ohio, said lot being 37.83 feet in front on the north side of Findlay Street, and running back northwardly, the same width in rear as in front, 100 feet to Addy Alley. ALSO all that certain lot or parcel of land situated in the City of Cincinnati, Hamilton County, Ohio, as shown and designated on the plat of subdivision of real estate of George Fox, deceased, as made by the Commissioners in Case of Richard Fox against Thomas Fox, et al, numbered 11749, Superior Court of Cincinnati, as Lot No. 10 recorded in Plat Book No. 2, Page 89, of the Hamilton County, Ohio, records, the said Lot No. 10 fronting 45 feet on the north side of Findlay Street, and extending back northwardly the same width in rear as in front, and along the east side of Race Street, 100 feet to Addy Alley.

TRACT I – Auditor’s Parcel No. 133-0003-0066: ST

Address: 1731 Elm Street

Situate in the City of Cincinnati, County of Hamilton, State of Ohio and being all of Lot No. 16 in McLean’s Subdivision of Block “K” of Findlay and Gerrard’s Subdivision, recorded in Plat Book 112, Page 42 of the Hamilton County, Ohio Records; said lot being 25 feet front on the west side of Elm Street South of Elder Street and running back between parallel line 111.06 feet to Campbell Street.

TRACT II & III – Auditor’s Parcel No. 133-0003-0136: ST

Address: 1807-1809 Elm Street

Situated in Section 13, Town 3, Fractional Range 2 Between the Miamis, The City of Cincinnati, Hamilton County, Ohio being part of lot 22 and all of Lot 23 of John McLean's Subdivision of Block L of Findlay and Garrard's northern liberties in D.Bk. 112, Pg. 144 and being part of Northside Revitalization, LLC (Tracts 1, 2 & 3) as recorded in Official Record 13100, Page 475 of the Hamilton County Recorder's Office containing 0.1152 acres and being further described as follows:

Begin at the northwest intersection of the north right of way of Elder Street and the west right of way of Elm Street being the southeast corner of Globe Building LLC as recorded in Official Record 12709, Page 2076 and in Plat Book 443, Page 85; thence, departing said north right of way of Elder Street, with said west right of way of Elm Street and said Globe Building LLC, North 09° 51' 33" West, 50.00 feet to the northeast corner of said Globe Building LLC, said corner being referenced by a set cross notch being North 80° 02' 27" East, 3.00 feet, said corner being the True Point of Beginning;

thence, from the True Point of Beginning thus found, departing said west right of way of Elm Street and with said Globe Building LLC, South 80° 02' 27" West, 111.50 feet to the east right of way of Campbell Alley and the northwest corner of said Globe Building LLC, said corner being referenced by a set cross notch on the curb being South 80° 02' 27" West, 2.75 feet;

thence, departing said Globe Building LLC and with said east right of way of Campbell Alley, North 09° 51' 33" West, 45.00 feet to the southwest corner of the same Northside Revitalization, LLC as recorded in Official Record 13280, Page 2146, said corner being referenced by a set cross notch on the curb being South 80° 02' 27" West, 2.75 feet;

thence, departing said east right of way of Campbell Alley, North 80° 02' 27" East, 111.50 feet to said west right of way of Elm Street, being referenced by a set cross notch being North 80° 02' 27" East, 3.00 feet;

thence, with said west right of way of Elm Street, South 09° 51' 33" East, 45.00 feet to the True Point of Beginning containing 0.1152 acres of land, more or less.

The above description was prepared from a consolidation plat made on June 9, 2017 under the direction of Jeffrey O. Lambert, Professional Surveyor #7568 in the State of Ohio.

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

TRACT IV & V - Auditor's Parcel No. 133-0003-0137: ST

Address: 1811-1817 Elm Street

Situated in Section 13, Town 3, Fractional Range 2 Between the Miamis, The City of Cincinnati, Hamilton County, Ohio being part of Lots 24, 25, 26 and 27 of John McLean's Subdivision of Block L of Findlay and Garrard's northern liberties in D.Bk. 112, Pg. 144 and being all of Cincinnati Housing Limited Partnership II as recorded in Official Record 7691, Page 2185 and Official Record 13436, Page 2675 of the Hamilton County Recorder's Office containing 0.1777 acres and being further described as follows:

Begin at the northwest intersection of the north right of way of Elder Street and the west right of way of Elm Street being the southeast corner of Globe Building LLC as recorded in Official Record 12709, Page 2076 and in Plat Book 443, Page 85; thence, departing said north right of way of Elder Street, with said west right of way of Elm Street, North $09^{\circ} 51' 33''$ West, 95.00 feet and being referenced by a set cross notch being North $80^{\circ} 02' 27''$ East, 3.00 feet, said corner being the True Point of Beginning;

thence, from the True Point of Beginning thus found, departing said west right of way of Elm Street North, South $80^{\circ} 02' 27''$ West, 81.50 feet to the southeast corner of Northside Revitalization, LLC as recorded in Official Record 13280, Page 2146, said corner being referenced by a set cross notch being North $09^{\circ} 51' 33''$ West, 3.00 feet;

thence, with the east line of said Northside Revitalization, LLC as recorded in Official Record 13280, Page 2146, North $09^{\circ} 51' 33''$ West, 95.00 feet to the south line of Tract 6 of the same Northside Revitalization, LLC as recorded in Official Record 13100, Page 475, said corner being referenced by a set cross notch South $09^{\circ} 51' 33''$ East, 3.00 feet;

thence, departing said east line of said Northside Revitalization, LLC as recorded in Official Record 13280, Page 2146, with said Tract 6, North $80^{\circ} 02' 27''$ East, 81.50 feet to the southeast corner of said Tract 6 on said west right of way of Elm Street, said corner being referenced by a set cross notch being North $80^{\circ} 02' 27''$ East, 3.00 feet;

thence, departing said Tract 6, with said west right of way of Elm Street, South $09^{\circ} 51' 33''$ East, 95.00 feet to the True Point of Beginning containing 0.1777 acres of land, more or less.

The above description was prepared from a consolidation plat made on June 9, 2017 under the direction of Jeffrey O. Lambert, Professional Surveyor #7568 in the State of Ohio.

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

TRACT VI – Auditor’s Parcel No. 133-0003-0142:

Address: 1819 Elm Street

Situated in Section 13, Town 3, Fractional Range 2 Between the Miamis, The City of Cincinnati, Hamilton County, Ohio being part of lots 24, 25, 26 and 27 and all of Lot 28 of John McLean's Subdivision of Block L of Findlay and Garrard's northern liberties in D.Bk. 112, Pg. 144 and being part of Port of Greater Cincinnati Development Authority as recorded in Official Record 13451, Page 2322 of the Hamilton County Recorder's Office containing 0.1422 acres and being further described as follows:

Begin at the northwest intersection of the north right of way of Elder Street and the west right of way of Elm Street being the southeast corner of Globe Building LLC as recorded in Official Record 12709, Page 2076 and

in Plat Book 443, Page 85; thence, departing said north right of way of Elder Street, with said west right of way of Elm Street, North 09° 51' 33" West, 190.00 feet to the northeast corner of Port of Greater Cincinnati Development Authority area recorded in Official Record 13451, Page 2319, said corner being referenced by a found cross notch being North 80° 02' 27" East, 3.00 feet, said corner being the True Point of Beginning;

thence, from the True Point of Beginning thus found, departing said west right of way of Elm Street and with said Port of Greater Cincinnati Development Authority as recorded in Official Record 13451, Page 2319 the following two courses: South 80° 02' 27" West, 81.50 feet being referenced by a found cross notch being South 09° 51' 33" East, 3.00 feet;

thence, South 09° 51' 33" East, 95.00 feet to a north line of said Port of Greater Cincinnati Development Authority as recorded in Official Record 13451, Page 2322 being referenced by a found cross notch being North 09° 51' 33" West, 3.00 feet;

thence, departing said Port of Greater Cincinnati Development Authority area recorded in Official Record 13451, Page 2319, with said Port of Greater Cincinnati Development Authority as recorded in Official Record 13451, Page 2322, South 80° 02' 27" West, 30.00 feet to the east right of way of Campbell Alley and being referenced by a found cross notch on the curb being South 80° 02' 27" West, 2.75 feet;

thence, departing said Port of Greater Cincinnati Development Authority as recorded in Official Record 13451, Page 2322 and with said east right of way of Campbell Alley North 09° 51' 33" West, 125.00 feet to the southwest corner of Global Wineskin Ministries as recorded in Official Record 11991, Page 672, said corner being referenced by a set cross notch on the curb being South 80° 02' 27" West, 2.75 feet;

thence, departing said east right of way of Campbell Alley, with said Global Wineskin Ministries, North 80° 02' 27" East, 111.50 feet to said west right of way of Elm Street being referenced by a set cross notch being North 80° 02' 27" East, 3.00 feet;

thence, departing said Global Wineskin Ministries with said west right of way of Elm Street, South 09° 51' 33" East, 30.00 feet to the True Point of Beginning containing 0.1422 acres of land, more or less.

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

The above description was prepared from a consolidation plat
Made on August 14, 2017 under the direction of Jeffrey O. Lambert,
Professional Surveyor #7568 in the State of Ohio.

Exhibit C

Affordability Requirements

The Company shall abide by the following requirements during the Affordability Period:

1. Maintenance. Throughout the Affordability Period, the Company shall maintain the Property as decent, safe and sanitary housing in good repair in compliance with the ongoing property condition standards of the Cincinnati Building Code, and any other applicable laws, as demonstrated by an on-site inspection which shall occur upon written request by the City and shall keep all dwelling units available for rent during that period. The Company shall give special attention to preventive maintenance of the Property and purchase the materials, equipment, tools, appliances, supplies and services necessary to maintain the Property in good and safe condition and repair. The Company shall receive and investigate systematically and promptly all service requests from tenants and City officials, take action as may be justified, and keep records of the same.

2. Reserved.

3. Leasing of Affordable Units to Qualifying Households. Throughout the Affordability Period, the Company shall ensure that all the completed Affordable Units at the Property are leased to households with an annual household income (as defined in 24 CFR 5.609) that is equal to or below the applicable area median income limits set forth in Section 38 of this Agreement.

4. Income Recertification.

(A) Verification Procedure. The Company shall verify an occupant's income (i) annually (including, without limitation, at the time of lease renewal or changes in income) through a statement and certification from the occupant, and (ii) at least once every 6 years during the Affordability Period using third party source documentation supplied by the occupant. On an annual basis, the Company shall verify its continued compliance with the affordability terms of this Exhibit by certifying project rents and verifying tenant eligibility by submitting to the City a *Tenant Profile Income Verification Form* for all households occupying Affordable Units. The *Tenant Profile Income Verification Form* must be signed by and certified by each tenant and indicate that the information is complete and accurate.

(B) Changes in Income and Over-income Households. In the event that a tenant's household income exceeds the applicable income limits during a tenancy, the tenant who becomes over income after initial income certification will be allowed to stay in the unit. Such change in annual income shall not prohibit an extension to the original lease term with the same occupant, so long as the occupant complied with the household income requirements at the execution of the initial lease agreement. A qualifying or low-income household that is not low-income at the time of income recertification (i.e., whose income is above 80% AMI must pay as rent the lesser of the amount payable by the tenant under State or local law or 30% of the family's adjusted income. If a household's current annual income exceeds the eligibility limit, the unit continues to qualify as an Affordable Unit as long as the Company fills the next available unit with an eligible, qualifying household. The next available unit would be one of similar or larger size than the one occupied by the over-income tenant. The Company shall collect such compliance documentation in such form as required by DCED and which form may be updated from time to time throughout the Affordability Period. Throughout the Affordability Period, the Company shall comply with, and shall cause each tenant to comply with, all other City verification and compliance reporting requirements.

5. Terms for Tenancies; Tenant Protections.

(A) Written Rental Agreement. The Company shall rent all dwelling units pursuant to a written rental agreement approved by the City for compliance with Chapter 5321 of the Ohio Revised Code and Chapter 871 of the Cincinnati Municipal Code and shall submit its form of written rental agreement to the City on an annual basis, in accordance with its reporting requirements under this Agreement. The written rental agreement shall not contain any of the prohibited lease terms specified in Section 5321.13 of the Ohio Revised Code. The Company shall ensure that a copy of the written rental agreement must be signed by both the tenant and the Company (or the Company's property management entity); maintained in the Company's files and submitted to the City along with the *Tenant Profile Income Verification Form*.

(B) Limited Termination; Notice Requirements. The Company may not terminate the tenancy or refuse to renew the lease of a tenant except for serious or repeated violation of the terms and conditions of the rental agreement. The Company must give the tenant written notice of the termination, specifying the grounds therefor, no less than 30 days prior to the effective date of the termination. Nothing in this paragraph shall prevent the Company from terminating the tenancy of a tenant for nonpayment of rent (if applicable), provided that the Company has complied with the rent limitations of Section 7. To terminate or refuse to renew tenancy for any household occupying an Affordable Unit, the Company must serve written notice upon the tenant at least 30 days prior to terminating the tenancy, specifying the grounds for the termination or nonrenewal.

6. Documentation. At the time of executing an initial lease agreement with a tenant of an Affordable Unit, the Company shall collect documentation of family size and household income from tenants of all of the Affordable Units in order to document compliance with the affordability requirements herein. The Company shall collect such compliance documentation in such form as required by DCED and which form may be updated from time to time. The Company is also responsible for ensuring that the lease terms for Affordable Units at all times comply with the Affordability Requirements. The Company shall provide documentation to the City demonstrating compliance with the Affordability Requirements in accordance with this Agreement.

7. Rent Limitation. The Company shall not charge rent to any tenant occupying an Affordable Unit that exceeds 30% of the annual income of a family whose annual income equals 80% of the median income for the Cincinnati metropolitan area, as determined and established by the U.S. Department of Housing and Urban Development, with adjustments for the number of bedrooms in the unit.

8. Project Occupancy. The Company shall use its best efforts to ensure all Affordable Units are occupied by eligible, qualifying households on or before the commencement of the Affordability Period and submit information to the City on its efforts to fill such units for qualifying households.

9. Condominium Conversion. During the Affordability Period, the Company shall not convert any dwelling units in the Project to condominium ownership or to any form of cooperative ownership.

10. Third-Party Beneficiaries. The Company and the City acknowledge that the tenants of the Affordable Units are intended third-party beneficiaries of the Affordability Requirements, and such tenants shall have the ability, but not the obligation, to enforce the terms of the Affordability Requirements against the Company; *provided however*, nothing herein shall permit the City and the Company from amending the terms of the Agreement, including the Affordability Requirements, in their sole discretion and without consent of the tenants of Affordable Units and no City liability or obligations to tenants of Affordable Units is intended to be created by this section. The Company shall be liable for all costs and damages, including without limitation attorneys' fees, suffered or incurred by a tenant of an Affordable Unit in connection with enforcement of the Affordability Requirements.

Exhibit D

Form of Affidavit

SEE ATTACHED

_____ space above for Recorder's office _____

AFFIDAVIT OF FACTS RELATING TO TITLE

(memorializing the Affordability Requirements contained in a Community Reinvestment Area Tax Exemption Agreement among the City of Cincinnati and Jobs Café, LLC

STATE OF OHIO)
) SS:
COUNTY OF HAMILTON)

The undersigned affiant, _____, the _____ of Jobs Cafe, LLC (the "**Company**"), and on behalf of the Company, being first duly cautioned and sworn, deposes and says that:

1. The Company has entered into that certain *Community Reinvestment Area Tax Exemption Agreement* with the City of Cincinnati (the "**City**") dated _____, 20____ (as the same may hereafter be amended, restated, or replaced from time to time, the "**Agreement**"), pertaining to the remodeling of the property described on Exhibit A (Legal Description) hereto (the "**Property**").

2. Pursuant to the terms of the Agreement, the Company agreed to hold the Property upon the following terms for a period beginning on January 1, 2025, and continuing until the end of the term of the Agreement and corresponding abatement period, with occupancy of the residential units to decent, safe, and sanitary occupancy standards, as more particularly described on Exhibit B (Affordability Requirements) hereto (the "**Affordability Restrictions**").

3. The Company executes this Affidavit for the purpose of memorializing the existence of the Agreement and providing notice that successors in interest to the Property may be subject to the Affordability Restrictions while the abatement provided for pursuant to the Agreement remains in place.

SIGNATURE PAGE FOLLOWS

Executed on the dates of acknowledgment set forth below.

COMPANY:

JOBS CAFE, LLC,
an Ohio limited liability company

By: _____
Name: _____
Title: _____

STATE OF OHIO,
COUNTY OF HAMILTON, SS:

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by _____, the _____ of Jobs Cafe, LLC, an Ohio limited liability company, on behalf of the company.

Notary Public
My Commission Expires: _____

Exhibit A
to Affidavit of Facts Relating to Title
Legal Description

TRACT XI – Auditor’s Parcel No. 094-0008-0324:
PRIOR REGISTERED LAND

Address: 1834 Race Street

Situate in the City of Cincinnati, and being more particularly described as follows:

Beginning at a point in the southeast corner of Race and Findlay Street; Thence in the East line of Race Street South 16°00' East 20.30 feet to a point; thence North 74°16' East 113.12 feet to an alley; thence in the West line of said alley, North 16°00' West 20.30 feet to Findlay Street; Thence in the South line of Findlay Street, South 74°16' West 113.12 feet to the place of beginning.

TRACT X – Auditor’s Parcel No. 096-0006-0115 and 096-0006-0116:

Address: 34, 30 Findlay Street

Situated in the City of Cincinnati, County of Hamilton and State of Ohio, and being all of Lot No. 9 as described in a plat of subdivision of George Fox’s Heirs, as recorded in Plat Book 2, Page 89 of the Records of Hamilton County, Ohio, said lot being 37.83 feet in front on the north side of Findlay Street, and running back northwardly, the same width in rear as in front, 100 feet to Addy Alley. ALSO all that certain lot or parcel of land situated in the City of Cincinnati, Hamilton County, Ohio, as shown and designated on the plat of subdivision of real estate of George Fox, deceased, as made by the Commissioners in Case of Richard Fox against Thomas Fox, et al, numbered 11749, Superior Court of Cincinnati, as Lot No. 10 recorded in Plat Book No. 2, Page 89, of the Hamilton County, Ohio, records, the said Lot No. 10 fronting 45 feet on the north side of Findlay Street, and extending back northwardly the same width in rear as in front, and along the east side of Race Street, 100 feet to Addy Alley.

TRACT I – Auditor’s Parcel No. 133-0003-0066: ST

Address: 1731 Elm Street

Situate in the City of Cincinnati, County of Hamilton, State of Ohio and being all of Lot No. 16 in McLean’s Subdivision of Block “K” of Findlay and Gerrard’s Subdivision, recorded in Plat Book 112, Page 42 of the Hamilton County, Ohio Records; said lot being 25 feet front on the west side of Elm Street South of Elder Street and running back between parallel line 111.06 feet to Campbell Street.

TRACT II & III – Auditor’s Parcel No. 133-0003-0136: ST

Address: 1807-1809 Elm Street

Situated in Section 13, Town 3, Fractional Range 2 Between the Miamis, The City of Cincinnati, Hamilton County, Ohio being part of lot 22 and all of Lot 23 of John McLean's Subdivision of Block L of Findlay and Garrard's northern liberties in D.Bk. 112, Pg. 144 and being part of Northside Revitalization, LLC (Tracts 1, 2 & 3) as recorded in Official Record 13100, Page 475 of the Hamilton County Recorder's Office containing 0.1152 acres and being further described as follows:

Begin at the northwest intersection of the north right of way of Elder Street and the west right of way of Elm Street being the southeast corner of Globe Building LLC as recorded in Official Record 12709, Page 2076 and in Plat Book 443, Page 85; thence, departing said north right of way of Elder Street, with said west right of way of Elm Street and said Globe Building LLC, North 09° 51' 33" West, 50.00 feet to the northeast corner of said Globe Building LLC, said corner being referenced by a set cross notch being North 80° 02' 27" East, 3.00 feet, said corner being the True Point of Beginning;

thence, from the True Point of Beginning thus found, departing said west right of way of Elm Street and with said Globe Building LLC, South 80° 02' 27" West, 111.50 feet to the east right of way of Campbell Alley and the northwest corner of said Globe Building LLC, said corner being referenced by a set cross notch on the curb being South 80° 02' 27" West, 2.75 feet;

thence, departing said Globe Building LLC and with said east right of way of Campbell Alley, North 09° 51' 33" West, 45.00 feet to the southwest corner of the same Northside Revitalization, LLC as recorded in Official Record 13280, Page 2146, said corner being referenced by a set cross notch on the curb being South 80° 02' 27" West, 2.75 feet;

thence, departing said east right of way of Campbell Alley, North 80° 02' 27" East, 111.50 feet to said west right of way of Elm Street, being referenced by a set cross notch being North 80° 02' 27" East, 3.00 feet;

thence, with said west right of way of Elm Street, South 09° 51' 33" East, 45.00 feet to the True Point of Beginning containing 0.1152 acres of land, more or less.

The above description was prepared from a consolidation plat made on June 9, 2017 under the direction of Jeffrey O. Lambert, Professional Surveyor #7568 in the State of Ohio.

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

TRACT IV & V - Auditor's Parcel No. 133-0003-0137: ST

Address: 1811-1817 Elm Street

Situated in Section 13, Town 3, Fractional Range 2 Between the Miamis, The City of Cincinnati, Hamilton County, Ohio being part of Lots 24, 25, 26 and 27 of John McLean's Subdivision of Block L of Findlay and Garrard's northern liberties in D.Bk. 112, Pg. 144 and being all of Cincinnati Housing Limited Partnership II as recorded in Official Record 7691, Page 2185 and Official Record 13436, Page 2675 of the Hamilton County Recorder's Office containing 0.1777 acres and being further described as follows:

Begin at the northwest intersection of the north right of way of Elder Street and the west right of way of Elm Street being the southeast corner of Globe Building LLC as recorded in Official Record 12709, Page 2076 and in Plat Book 443, Page 85; thence, departing said north right of way of Elder Street, with said west right of way of Elm Street, North $09^{\circ} 51' 33''$ West, 95.00 feet and being referenced by a set cross notch being North $80^{\circ} 02' 27''$ East, 3.00 feet, said corner being the True Point of Beginning;

thence, from the True Point of Beginning thus found, departing said west right of way of Elm Street North, South $80^{\circ} 02' 27''$ West, 81.50 feet to the southeast corner of Northside Revitalization, LLC as recorded in Official Record 13280, Page 2146, said corner being referenced by a set cross notch being North $09^{\circ} 51' 33''$ West, 3.00 feet;

thence, with the east line of said Northside Revitalization, LLC as recorded in Official Record 13280, Page 2146, North $09^{\circ} 51' 33''$ West, 95.00 feet to the south line of Tract 6 of the same Northside Revitalization, LLC as recorded in Official Record 13100, Page 475, said corner being referenced by a set cross notch South $09^{\circ} 51' 33''$ East, 3.00 feet;

thence, departing said east line of said Northside Revitalization, LLC as recorded in Official Record 13280, Page 2146, with said Tract 6, North $80^{\circ} 02' 27''$ East, 81.50 feet to the southeast corner of said Tract 6 on said west right of way of Elm Street, said corner being referenced by a set cross notch being North $80^{\circ} 02' 27''$ East, 3.00 feet;

thence, departing said Tract 6, with said west right of way of Elm Street, South $09^{\circ} 51' 33''$ East, 95.00 feet to the True Point of Beginning containing 0.1777 acres of land, more or less.

The above description was prepared from a consolidation plat made on June 9, 2017 under the direction of Jeffrey O. Lambert, Professional Surveyor #7568 in the State of Ohio.

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

TRACT VI – Auditor’s Parcel No. 133-0003-0142:

Address: 1819 Elm Street

Situated in Section 13, Town 3, Fractional Range 2 Between the Miamis, The City of Cincinnati, Hamilton County, Ohio being part of lots 24, 25, 26 and 27 and all of Lot 28 of John McLean's Subdivision of Block L of Findlay and Garrard's northern liberties in D.Bk. 112, Pg. 144 and being part of Port of Greater Cincinnati Development Authority as recorded in Official Record 13451, Page 2322 of the Hamilton County Recorder's Office containing 0.1422 acres and being further described as follows:

Begin at the northwest intersection of the north right of way of Elder Street and the west right of way of Elm Street being the southeast corner of Globe Building LLC as recorded in Official Record 12709, Page 2076 and

in Plat Book 443, Page 86; thence, departing said north right of way of Elder Street, with said west right of way of Elm Street, North 09° 51' 33" West, 190.00 feet to the northeast corner of Port of Greater Cincinnati Development Authority area recorded in Official Record 13451, Page 2319, said corner being referenced by a found cross notch being North 80° 02' 27" East, 3.00 feet, said corner being the True Point of Beginning;

thence, from the True Point of Beginning thus found, departing said west right of way of Elm Street and with said Port of Greater Cincinnati Development Authority as recorded in Official Record 13451, Page 2319 the following two courses: South 80° 02' 27" West, 81.50 feet being referenced by a found cross notch being South 09° 51' 33" East, 3.00 feet;

thence, South 09° 51' 33" East, 95.00 feet to a north line of said Port of Greater Cincinnati Development Authority as recorded in Official Record 13451, Page 2322 being referenced by a found cross notch being North 09° 51' 33" West, 3.00 feet;

thence, departing said Port of Greater Cincinnati Development Authority area recorded in Official Record 13451, Page 2319, with said Port of Greater Cincinnati Development Authority as recorded in Official Record 13451, Page 2322, South 80° 02' 27" West, 30.00 feet to the east right of way of Campbell Alley and being referenced by a found cross notch on the curb being South 80° 02' 27" West, 2.75 feet;

thence, departing said Port of Greater Cincinnati Development Authority as recorded in Official Record 13451, Page 2322 and with said east right of way of Campbell Alley North 09° 51' 33" West, 125.00 feet to the southwest corner of Global Wineskin Ministries as recorded in Official Record 11991, Page 672, said corner being referenced by a set cross notch on the curb being South 80° 02' 27" West, 2.75 feet;

thence, departing said east right of way of Campbell Alley, with said Global Wineskin Ministries, North 80° 02' 27" East, 111.50 feet to said west right of way of Elm Street being referenced by a set cross notch being North 80° 02' 27" East, 3.00 feet;

thence, departing said Global Wineskin Ministries with said west right of way of Elm Street, South 09° 51' 33" East, 30.00 feet to the True Point of Beginning containing 0.1422 acres of land, more or less.

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

The above description was prepared from a consolidation plat
Made on August 14, 2017 under the direction of Jeffrey O. Lambert,
Professional Surveyor #7568 in the State of Ohio.

Exhibit B
to Affidavit of Facts Relating to Title
Affordability Requirements

TO BE ATTACHED TO EXECUTION VERSION

December 2, 2024

To: Members of the Budget and Finance Committee

From: Sheryl M.M. Long, City Manager

202402455

Subject: Emergency Ordinance – Approving and Authorizing a Historic CRA Extension with Broadway Square II, LLC

Attached is an Emergency Ordinance captioned:

APPROVING AND AUTHORIZING the City Manager to execute a First Amendment to Community Reinvestment Area Tax Exemption Agreement (LEED or Living Building Challenge) with Broadway Square II, LLC, an affiliate of The Model Group, thereby authorizing a ten-year extension to an existing tax exemption for 100 percent of the value of improvements made to real property located at 1126, 1201-1203, 1211, and 1218 Broadway, 412 E. 12th Street, and 331 E. 13th Street in the Pendleton neighborhood of Cincinnati.

BACKGROUND/CURRENT CONDITIONS

Jobs Cafe is a mixed use commercial and residential development, with thirty-four (34) residential units, located at 1126, 1201-1203, 1211, and 1218 Broadway, 412 E. 12th Street and 331 E. 13th Street in the Pendleton neighborhood of Cincinnati. It was renovated in 2016 and received a 12-year CRA property tax abatement, effective through 2028. These buildings are of historic significance, and are, therefore, eligible to have the abatement extended up to an additional ten years under Ohio Revised Code (ORC) Section 3736.36(D)(1). The attached ordinance extends the abatement for an additional ten years, the maximum allowed under the above cited section of the ORC. The property does not presently have any income restrictions for its rental units.

AFFORDABILITY COMMITMENT

The Administration was approached by the property owner, who requested a ten-year extension based on historic requirements. As a condition of the extension, the property owner has committed to holding forty percent (40%) of the development's rental units, totaling fourteen units, at rates affordable to households earning 80% AMI.

RECOMMENDATION

The Administration recommends approval of this Emergency Ordinance, based on the property owner's affordability commitment.

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

EMERGENCY

TJL

- 2024

APPROVING AND AUTHORIZING the City Manager to execute a First Amendment to Community Reinvestment Area Tax Exemption Agreement (LEED or Living Building Challenge) with Broadway Square II, LLC, an affiliate of The Model Group, thereby authorizing a ten-year extension to an existing tax exemption for 100 percent of the value of improvements made to real property located at 1126, 1201-1203, 1211, and 1218 Broadway, 412 E. 12th Street, and 331 E. 13th Street in the Pendleton neighborhood of Cincinnati.

WHEREAS, pursuant to Ordinance No. 77-2016, passed by Council on March 30, 2016, the City entered into a certain Community Reinvestment Area Tax Exemption Agreement (LEED or Living Building Challenge) with Broadway Square II, LLC (together with its successors and assigns, the “Company”), dated June 16, 2016 (the “Agreement”), which provides for a 100 percent real property tax exemption for the value of improvements to real property located 1126, 1201-1203, 1211, and 1218 Broadway, 412 E. 12th Street, and 331 E. 13th Street, all in the Pendleton neighborhood of Cincinnati, as more particularly described in the Agreement, for twelve years (the “Original Term”); and

WHEREAS, pursuant to Ohio Revised Code (“R.C”) Section 3735.67(D)(1), the City may extend a period of exemption from real property taxation for up to ten years (an “Historic Extension”) if the property is a structure of historical or architectural significance, is a certified historic structure that has been subject to federal tax treatment under 26 U.S.C. 47 and 170(h), and the residential units within the structure have been leased to individual tenants for at least five consecutive years (the “Extension Requirements”); and

WHEREAS, the Company has represented to the City that the Property satisfies the Extension Requirements and is eligible for an Historic Extension, and has requested that the City grant an extension of the real property tax exemption, for a total exemption term not to exceed 22 years; and

WHEREAS, the Company has committed to lease and make available forty percent of the residential units on the Property to families at or below eighty percent of the Area Median Income, as established by the U.S. Department of Housing and Urban Development, and as may be updated from time to time (the “Affordability Requirements”), upon the terms and conditions more particularly described in the draft First Amendment to Community Reinvestment Area Tax Exemption Agreement (LEED or Living Building Challenge) attached as Attachment A hereto (the “Amendment”); and

WHEREAS, in consideration of the Company’s agreement to comply with the Affordability Requirements, and provided that the Company satisfies the Extension Requirements and the other terms of the Agreement, as amended by the Amendment, the City desires to provide for an Historic Extension of up to ten years; and

WHEREAS, the Property is located within the Cincinnati City School District and, as required by the Agreement, the Company entered into a certain Payment in Lieu of Taxes Agreement dated September 27, 2016, pursuant to which the Company agreed to pay the Board of Education of the Cincinnati City School District (the “Board of Education”), amounts equal to 25 percent of the exempt real property taxes during the Original Term; and

WHEREAS, the Board of Education, pursuant to that certain Tax Incentive Agreement with the City effective as of April 28, 2020 (as may be amended, the “2020 Board of Education Agreement”), has approved exemptions of up to 100 percent of Community Reinvestment Area projects authorized by Council beginning in 2020, 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 2020 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 percent of the exempt real property taxes during the term of the Historic Extension; and

WHEREAS, the City’s Department of Community and Economic Development estimates that, during the Historic Extension, the real property tax exemption for the Improvements will provide an annual net benefit to the Company in the amount of approximately \$20,463; now, therefore,

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

Section 1. That Council authorizes the City Manager:

- (a) to execute an amendment to a certain Community Reinvestment Area Tax Exemption Agreement (LEED or Living Building Challenge) between the City of Cincinnati (the “City”) and Broadway Square II, LLC (together with its successors and assigns, the “Company”), dated June 16, 2016 (the “Agreement”), in substantially the form of Attachment A to this ordinance (the “Amendment”), authorizing the extension of the real property tax exemption provided by the Agreement by up to ten additional years, relating to real property located at 1126, 1201-1203, 1211, and 1218 Broadway, 412 E. 12th Street, and 331 E. 13th Street, all in the Pendleton neighborhood of Cincinnati, which property is more particularly described in the Agreement, provided the Company satisfies certain conditions as described in the Agreement, as amended by the Amendment, including compliance with all statutory requirements;
- (b) to submit on behalf of Council annual reports on the Agreement to the Director of the Ohio Department of Development, in accordance with Ohio Revised Code Section 3735.672, and to the Board of Education of the Cincinnati City School District, as necessary; and
- (c) to take all necessary and proper actions to fulfill the City’s obligations under the Agreement, as amended by the Amendment.

Section 2. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is to enable the parties to execute the Amendment as soon as possible to facilitate the Company's imminent financial closing.

Passed: _____, 2024

Aftab Pureval, Mayor

Attest: _____
Clerk

FIRST AMENDMENT
to
Community Reinvestment Area Tax Exemption Agreement
(*LEED or Living Building Challenge*)

THIS FIRST AMENDMENT TO COMMUNITY REINVESTMENT AREA TAX EXEMPTION AGREEMENT (this "Amendment") is made and entered into on the Effective Date (as defined on the signature page hereof) by and between the **CITY OF CINCINNATI**, an Ohio municipal corporation (the "City"), and **BROADWAY SQUARE II, LLC**, an Ohio limited liability company (the "Company").

Recitals:

A. The City and the Company are parties to a *Community Reinvestment Area Tax Exemption Agreement (LEED or Living Building Challenge)* dated June 16, 2016 (the "Agreement"), pertaining to the remodeling of existing buildings located on certain real property in the Over-The-Rhine neighborhood of Cincinnati more particularly identified therein (collectively, the "Property") into residential and commercial space on the terms and conditions of the Agreement as more particularly described therein (the "Project"), which Project was to be completed no later than May 31, 2017. Capitalized terms used herein but not defined herein shall have the meanings ascribed to them in the Agreement.

B. The Company completed the Improvements to the Property as required by the terms of the Agreement.

C. Following the completion of the Improvements, the Company consolidated two separate series of parcels within the Property, including: (i) 1201-1203 Broadway Street (former Parcel ID Nos. 75-1-19 and 75-1-20) by recording a consolidation plat in Plat Book 497, Page 62 of the Hamilton County, Ohio Recorder's Office along with an accompanying *Quit Claim Deed* in O.R. 14912, Page 1432, of the Hamilton County, Ohio Recorder's Office, which established the new consolidated parcel, legal description and Parcel ID No. of 75-1-291; and (ii) 1211 Broadway Street (former Parcel ID Nos. 75-1-24 thru 75-1-28) by recording a consolidation plat in Plat Book 464, Page 99 of the Hamilton County, Ohio Recorder's Office along with an accompanying *Quit Claim Deed* in O.R. 13631, Page 786, of the Hamilton County, Ohio Recorder's Office which established the new consolidated parcel, legal description and Parcel ID No. of 75-1-286, each of which are more fully described in Exhibit A-2 (Amended Legal Description of Property) hereto.

D. Pursuant to the Statute, and more particularly Ohio Revised Code ("ORC") Section 3735.67(D)(1), a legislative authority may extend a period of exemption from real property taxation for up to 10 years if the property is a structure of historical or architectural significance, is a certified historic structure that has been subject to federal tax treatment under 26 U.S.C. 47 and 170(h), and the residential units within the structure have been leased to individual tenants for 5 consecutive years.

E. The Company has represented to the City that the Property satisfies the aforementioned criteria and is eligible for an extension of real property tax exemption under ORC Section 3735.67(D)(1), and has requested the City grant an extension of the real property tax exemption, which was initially for a period of 12 years.

F. The City, upon the recommendation of the Department of Community and Economic Development, is willing to amend the Agreement to extend the real property tax exemption provided under the Agreement for a period of 10 years in consideration of the Company's commitment to lease and make available 40% of the residential units on the Property to families at or below 80% Area Median Income ("AMI") for Cincinnati, as established by the U.S. Department of Housing and Urban Development, and as may be updated from time to time, all as further described herein. The City is agreeable to doing so on and subject to the terms and conditions of this Amendment.

G. Following the execution of the Agreement, the City and the Board of Education entered into that certain *Tax Incentive Agreement*, executed on April 28, 2020, pursuant to which the Board of Education approved exemptions of up to 100% of Community Reinvestment Area projects on and after April 28, 2020, waived advance notice and right to review such projects, and waived sharing or allocation of municipal income taxes in connection with such projects.

H. Execution of this Amendment was authorized by Ordinance No. ____ - ____, passed by City Council on _____, ____.

NOW, THEREFORE, the parties agree as follows:

1. Amendment to Property Description. The definition of the “Property” for purposes of the Agreement shall mean all of the properties listed below and further described in Exhibit A-2 (Amended Legal Description of Property) hereto:

- a. 1126 Broadway (Parcel ID no. 75-3-17);
- b. 1201-1203 Broadway (Parcel ID No. 75-1-291);
- c. 1211 Broadway (Parcel ID No. 75-1-286);
- d. 331 E. 13th Street (Parcel ID No. 75-1-25);
- e. 1218 Broadway (a/k/a 407 E. 13th Street) (Parcel ID No. 75-3-1); and
- f. 412 E. 12th Street (a/k/a 408 E. 12th Street) (Parcel ID No. 75-3-13).

2. Board of Education of the Cincinnati School District. Recital L. and Recital M. are hereby deleted and replaced with the following:

- L. The Board of Education of the Cincinnati School District (the “Board of Education”), pursuant to an agreement with the City entered into on July 2, 1999 (as amended), and that certain *Tax Incentive Agreement*, effective as of April 28, 2020, has approved exemptions of up to 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.
- M. The Company has entered into an agreement with the Board of Education for the Initial Term (as defined below), which requires the Company to pay the Board of Education amounts equal to 25% 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 “1999 Board of Education Agreement”). The Company will enter into an agreement with the Board of Education for the term of the Historic Extension (as defined below), which will require the Company to pay the Board of Education amounts equal to 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 “2020 Board of Education Agreement”). The 1999 Board of Education Agreement and the 2020 Board of Education Agreement are collectively referred to herein as the “Board of Education Agreement”.

3. Reporting. Section 17 of the Agreement is hereby deleted in its entirety and replaced with the following:

Section 17. Annual Review and Report; Affordability Reporting Requirements.

A. 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.

B. Affordability Reporting Requirements. In addition to the Annual Review and Report, commencing on March 1, 2026, and continuing each year thereafter, the Company shall verify its continued compliance with the affordability terms contained in Exhibit C (Affordability Requirements) hereto, by certifying project rents and verifying tenant eligibility by submitting to the City a *Tenant Profile Income Verification Form* for all households occupying Affordable Units. The *Tenant Profile Income Verification Form* must be signed by and certified by each tenant and indicate that the information is complete and accurate.

4. Affordability Requirements. The following new Section 37 shall be added and incorporated into the Agreement:

Section 37. Affordability Requirements. The Company shall lease and make available at least 14 residential units on the Property (the “Affordable Units”) to qualifying households with a household income that is at or below 80% AMI for comparably sized households (the “Affordability Requirements”) for a period beginning on January 1, 2025, and continuing through the end of the abatement period provided pursuant to this Agreement, including the term of the Historic Extension (the “Affordability Period”). During the Affordability Period, the Company shall: (i) maintain the Affordable Units and the Property as decent, safe, and sanitary housing in good repair and in compliance with all City of Cincinnati Building Code requirements, (ii) lease the Affordable Units to qualifying households at affordable rents in accordance with those requirements set forth in Exhibit C, and (iii) comply with all other Affordability Requirements set forth in Exhibit C. The Company shall execute an affidavit of facts relating to title memorializing the Company’s commitment to abide by the Affordability Requirements in the form of Exhibit D (Form of Affidavit) hereto (the “Affordability Affidavit”), or in such other form as may be required by the City. The Affordability Affidavit shall be recorded at the Company’s sole expense with a copy delivered to the City within 3 days of recording.

5. Historic Extension. The following new Section 38 shall be added and incorporated into the Agreement:

Section 38. Historic Extension. The parties acknowledge that the Company is eligible for an extension of the abatement term because of the historical significance of the Property for up to ten years pursuant to the Statute, as may be amended from time to time, based upon the Company’s representations that the Property (a) is a structure of historical or architectural significance, (b) is a certified historic structure that has been subject to federal tax treatment under 26 U.S.C. 47 and 170(h), and (c) has residential units within the structure located thereon that have been leased to individual tenants for at least 5 consecutive years. Based upon the Company’s aforementioned representations and the City’s review of documentation evidencing compliance with the Statute, following the end of the initial abatement term provided pursuant to this Agreement (the “Initial Term”), the City approves the 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 an additional period of 10 years (the “Historic Extension”), provided that the Company has entered into the 2020 Board of Education Agreement. Notwithstanding the last sentence of Section 2 hereof, no exemption shall extend beyond the earlier of (i) tax year 2039 or (ii) the end of the 22nd year of exemption (being the 10th year of the Historic Extension).

6. General Indemnity. The following new Section 39 shall be added and incorporated into the Agreement:

Section 39. General Indemnity. Notwithstanding anything in this Agreement to the contrary, as a material inducement to the City to enter into this Agreement, the Company shall

defend, indemnify, and hold the City, its officers, council members, employees, and agents (collectively, the "Indemnified Parties") harmless from and against any and all actions, suits, claims, losses, costs (including, without limitation, attorneys' fees), demands, judgments, liability, and damages (collectively, "Claims") suffered or incurred by or asserted against the Indemnified Parties as a result of or arising from the acts of the Company, its agents, employees, contractors, subcontractors, licensees, invitees, or anyone else acting at the request of the Company in connection with the Project. The Company's indemnification obligations under this paragraph shall survive the termination or expiration of this Agreement with respect to Claims arising prior thereto.

7. Exhibits. Exhibit A (Legal Description of Property) is hereby deleted in its entirety and replaced with Exhibit A-2 (Amended Legal Description of Property) attached hereto, which is hereby incorporated into and made a part of the Agreement, and which, on and after the Effective Date of this Amendment, shall be deemed to be Exhibit A for all purposes of the Agreement. Exhibit C (Affordability Requirements) and Exhibit D (Form of Affidavit) attached hereto, are hereby incorporated into and made a part of the Agreement and, on and after the Effective Date hereof, shall be deemed to be Exhibit C and Exhibit D for all purposes of the Agreement.

8. General Provisions.

(A) Release. In consideration of the City's execution of this Amendment, the Company hereby waives any and all defaults or failures to observe or perform any of the City's obligations under the Agreement and any other liability of any kind on the part of the City to the extent any such default, failure or liability occurred or arose before the Effective Date of this Amendment.

(B) Ratification. All terms of the Agreement not amended hereby or not inconsistent herewith shall remain in full force and effect, and the Agreement, as amended hereby, is hereby ratified and reaffirmed by the parties.

(C) Counterparts; Electronic Signatures. This Amendment 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 Amendment may be executed and delivered by electronic signature.

[Signature Page Follows]

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

CITY OF CINCINNATI

BROADWAY SQUARE II, LLC,
an Ohio limited liability company

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

By: _____
Robert L. Maly, Managing Member

Date: _____, 2024

Date: _____, 2024

Approved as to Form:

Assistant City Solicitor

Certified Date: _____

Fund/Code: _____

Amount: _____

By: _____
Karen Alder, City Finance Director

Exhibit A-2

Amended Legal Description of Property

Property Address: 408-414 East 12th Avenue, Cincinnati, Ohio 45202

Auditor Parcel No.: 075-0003-0013 thru 16, cons.

Situate in Cincinnati, Hamilton County, Ohio, being Lots 32, 33, 34 and 35 in Jos. Ferneding's Subdivision of out Lots 6 and 7, and more particularly described as follows:

Beginning at the Northwest corner of E. Twelfth Street and Spring Street; thence S. 74° 40' W. 86.36 feet along the North line of E. Twelfth Street to the East line of Schultz Alley; thence N. 15° 18' W. 84.50 feet; thence N. 39° 41' E. 5.66 feet to the South line of Levering Alley; thence North 74° 40' E. 82.36 feet along the south line of Levering Alley to the West line of Spring Street; thence S. 15° 18' E. 88.50 feet to the point of beginning.

Property Address: 1218 Broadway Street, Cincinnati, Ohio 45202

Auditor Parcel No.: 075-0003-0001

Situate in Cincinnati, Hamilton County, Ohio, being Lot 9 in Joseph Ferneding's Subdivision of out Lots 6 and 7, as recorded in Deed Book 123, Page 592 in the Recorder's Office, and more particularly described as follows:

Beginning at the southeast corner of Broadway and E. Thirteenth Streets; thence east 90.40 feet along the south line of Thirteenth Street to the west line of Schultz Alley; thence south 18 feet along the west line of Schultz Alley; thence west 90.40 feet to the east line of Broadway; thence north 18 feet to the point of beginning.

TOGETHER WITH the non-exclusive "no-build" easement benefitting the Land, as set forth in No-Build Easement Declaration by Broadway Square I, LLC, an Ohio limited liability company, dated May 2, 2016 and recorded May 4, 2016 in Official Record Book 13159, Page 1032, and re-recorded May 26, 2016 in Official Record Book 13175, Page 1332, Hamilton County, Ohio Records.

Exhibit A-2 (continued)

Property Address: 1126 Broadway Street, Cincinnati, Ohio 45202

Auditor Parcel No.: 075-0003-0017 thru 19, cons.

Situated in Section 18, Town 4, Fractional Range 1, Storrs Township, City of Cincinnati, Hamilton County, Ohio being all of Lots 36, 37 and 38 of Joseph Ferneding's Subdivision as recorded in Plat Book 1, Page 216 of the Hamilton County, Ohio Records and being more particularly described as follows:

Beginning at the southeasterly corner of Broadway Street and East Twelfth Street, said point being also the northwesterly corner of said Lot 36; thence along the southerly line of East Twelfth Street and the northerly line of said Lot 36, North $73^{\circ} 50'$ East, 85.47 feet to the westerly line of Schultz Alley and the northeasterly corner of said Lot 36; thence along the westerly line of Schultz Alley and the easterly line of Lots 36, 37 and 38, South $16^{\circ} 02'$ East, 60.25 feet to the southeasterly corner of said Lot 38; thence along the southerly line of said Lot 38, South $73^{\circ} 50'$ West, 85.47 feet to the southwesterly corner thereof and a point in the easterly line of Broadway Street; thence along the easterly line of Broadway Street and the westerly line of Lots 38, 37 and 36, North $16^{\circ} 02'$ West 60.25 feet to the southerly line of East Twelfth Street, the northwesterly corner of said Lot 36 and the place of beginning.

Exhibit A-2 (continued)

Property Address: 1201-1203 Broadway Street, Cincinnati, Ohio 45202

Auditor Parcel No.: 075-0001-0291

Situated in Section 13, Town 3, Fractional Range 2 Between the Miamis, Millcreek Township, The City of Cincinnati, Hamilton County, Ohio, and being part of Broadway Square II, LLC; as recorded in Official Record 13178, Page 1477 and being all of lots 38C and 38D of Woodward High School as recorded in Plat Book 2, Page 74 of the Hamilton County Recorder's Office containing 0.052 acres and being further described as follows:

Begin at the northwest intersection of the north right of way of East 12th Street (40') and the west right of way of Broadway Street (40'), and being witnessed by a set cross notch, North 80° 13' 51" East, 3.00 feet and by a set cross notch, South 09° 43' 43" East, 3.00 feet and being the True Point of Beginning:

thence, from the True Point of Beginning and departing the west right of way of said Broadway Street and with the north right of way of said East 12th Street, South 80° 13' 51" West, 44.87 feet to the southeast corner of Lot #38B of said Woodward High School and being witnessed by a set cross notch, South 09° 46' 39" East, 3.00 feet;

thence, departing the north right of way of said East 12th Street and with said Lot #38B, North 09° 46' 39" West, 50.04 feet to a set 5/8" iron pin on the south line of Lot #37 of said Woodward High School;

thence, departing said Lot #38B and with said Lot #37, North 80° 11' 15" East, 44.91 feet to the southeast corner of said Lot #37, said corner being on the west right of way of said Broadway Street and being witnessed by a set cross notch, North 80° 11' 15" East, 3.00 feet;

thence, departing said Lot #37 and with the west right of way of said Broadway Street, South 09° 43' 43" East, 50.07 feet to the True Point of Beginning containing 0.052 acres of land, more or less.

The above description was prepared from a consolidation plat made on February 28, 2023 under the direction of Jeffrey O. Lambert, Professional Surveyor #7568 in the State of Ohio.

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

Exhibit A-2 (continued)

Property Address: 1211 Broadway Street, Cincinnati, Ohio 45202

Auditor Parcel No.: 075-0001-0286

Situated in Section 18, Town 4, Fractional Range 1 BTM, The City of Cincinnati, Hamilton County, Ohio and being all of lots 33 through 36 of Woodward High School Subdivision as recorded in Plat Book 2, Page 74 and being all of Auditor's Parcel No. 075-0001-0024 of Broadway Square II, LLC as recorded in Official Record 13178, Page 1477 and all of Auditor's Parcel No. 075-0001-0025 through 28 of Broadway Square II, LLC as recorded in Official Record 13178, Page 1483 of the Hamilton County Recorder's Office, containing 0.1864 acres and being further described as follows:

Begin at the southwest corner of the intersection of the west right of way of Broadway Street (40') and the south right of way of East Thirteenth Street (40'); said corner being the northeast corner of Lot 33 of said Woodward High School Subdivision and being referenced by a set cross notch being North 09° 43' 34" West, 3.00 feet and a set cross notch being North 80° 15' 42" 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 East Thirteenth Street, and with the west right of way of said Broadway Street, South 09° 43' 34" East, 90.10 feet to the northwest corner of the intersection of the west right of way of said Broadway Street and the north right of way of Grear Alley (12') and being referenced by a set cross notch being North 80° 09' 14" East, 3.00 feet and a set Cross Notch being South 09° 43' 34" East, 3.00 feet;

thence, departing the west right of way of said Broadway Street and with the north right of way of said Grear Alley, South 80° 09' 14" West, 90.00 feet to a set cross notch at the northeast corner of the intersection of the north right of way of said Grear Alley and the east right of way of Bunker Alley (10') being referenced by a found cross notch being South 80° 09' 14" West, 1.00 feet;

thence, departing the north right of way of said Grear Alley, with the east right of way of said Bunker Alley, North 09° 48' 09" West, 90.27 feet to the southeast corner of the intersection of the east right of way of said Bunker Alley and the south right of way of said East Thirteenth Street and being referenced by a set cross notch being North 09° 48' 09" West, 3.00 feet;

thence, departing the east right of way of said Bunker Alley and with the south right of way of said East Thirteenth Street, North 80° 15' 42" East, 90.12 feet to the Point of Beginning containing 0.1864 acres of land, more or less being subject to all legal highways, easements, restrictions and agreements of record.

Exhibit C

Affordability Requirements

The Company shall abide by the following requirements during the Affordability Period:

1. Maintenance. Throughout the Affordability Period, the Company shall maintain the Property as decent, safe and sanitary housing in good repair in compliance with the ongoing property condition standards of the Cincinnati Building Code, and any other applicable laws, as demonstrated by an on-site inspection which shall occur upon written request by the City and shall keep all dwelling units available for rent during that period. The Company shall give special attention to preventive maintenance of the Property and purchase the materials, equipment, tools, appliances, supplies and services necessary to maintain the Property in good and safe condition and repair. The Company shall receive and investigate systematically and promptly all service requests from tenants and City officials, take action as may be justified, and keep records of the same.

2. Reserved.

3. Leasing of Affordable Units to Qualifying Households. Throughout the Affordability Period, the Company shall ensure that all the completed Affordable Units at the Property are leased to households with an annual household income (as defined in 24 CFR 5.609) that is equal to or below the applicable area median income limits set forth in Section 38 of this Agreement.

4. Income Recertification.

(A) Verification Procedure. The Company shall verify an occupant's income (i) annually (including, without limitation, at the time of lease renewal or changes in income) through a statement and certification from the occupant, and (ii) at least once every 6 years during the Affordability Period using third party source documentation supplied by the occupant. On an annual basis, the Company shall verify its continued compliance with the affordability terms of this Exhibit by certifying project rents and verifying tenant eligibility by submitting to the City a *Tenant Profile Income Verification Form* for all households occupying Affordable Units. The *Tenant Profile Income Verification Form* must be signed by and certified by each tenant and indicate that the information is complete and accurate.

(B) Changes in Income and Over-income Households. In the event that a tenant's household income exceeds the applicable income limits during a tenancy, the tenant who becomes over income after initial income certification will be allowed to stay in the unit. Such change in annual income shall not prohibit an extension to the original lease term with the same occupant, so long as the occupant complied with the household income requirements at the execution of the initial lease agreement. A qualifying or low-income household that is not low-income at the time of income recertification (i.e., whose income is above 80% AMI must pay as rent the lesser of the amount payable by the tenant under State or local law or 30% of the family's adjusted income. If a household's current annual income exceeds the eligibility limit, the unit continues to qualify as an Affordable Unit as long as the Company fills the next available unit with an eligible, qualifying household. The next available unit would be one of similar or larger size than the one occupied by the over-income tenant. The Company shall collect such compliance documentation in such form as required by DCED and which form may be updated from time to time throughout the Affordability Period. Throughout the Affordability Period, the Company shall comply with, and shall cause each tenant to comply with, all other City verification and compliance reporting requirements.

5. Terms for Tenancies; Tenant Protections.

(A) **Written Rental Agreement.** The Company shall rent all dwelling units pursuant to a written rental agreement approved by the City for compliance with Chapter 5321 of the Ohio Revised Code and Chapter 871 of the Cincinnati Municipal Code and shall submit its form of written rental agreement to the City on an annual basis, in accordance with its reporting requirements under this Agreement. The written rental agreement shall not contain any of the prohibited lease terms specified in Section 5321.13 of the Ohio Revised Code. The Company shall ensure that a copy of the written rental agreement must be signed by both the tenant and the Company (or the Company's property management entity); maintained in the Company's files and submitted to the City along with the *Tenant Profile Income Verification Form*.

(B) **Limited Termination; Notice Requirements.** The Company may not terminate the tenancy or refuse to renew the lease of a tenant except for serious or repeated violation of the terms and conditions of the rental agreement. The Company must give the tenant written notice of the termination, specifying the grounds therefor, no less than 30 days prior to the effective date of the termination. Nothing in this paragraph shall prevent the Company from terminating the tenancy of a tenant for nonpayment of rent (if applicable), provided that the Company has complied with the rent limitations of Section 7. To terminate or refuse to renew tenancy for any household occupying an Affordable Unit, the Company must serve written notice upon the tenant at least 30 days prior to terminating the tenancy, specifying the grounds for the termination or nonrenewal.

6. Documentation. At the time of executing an initial lease agreement with a tenant of an Affordable Unit, the Company shall collect documentation of family size and household income from tenants of all of the Affordable Units in order to document compliance with the affordability requirements herein. The Company shall collect such compliance documentation in such form as required by DCED and which form may be updated from time to time. The Company is also responsible for ensuring that the lease terms for Affordable Units at all times comply with the Affordability Requirements. The Company shall provide documentation to the City demonstrating compliance with the Affordability Requirements in accordance with this Agreement.

7. Rent Limitation. The Company shall not charge rent to any tenant occupying an Affordable Unit that exceeds 30% of the annual income of a family whose annual income equals 80% of the median income for the Cincinnati metropolitan area, as determined and established by the U.S. Department of Housing and Urban Development, with adjustments for the number of bedrooms in the unit.

8. Project Occupancy. The Company shall use its best efforts to ensure all Affordable Units are occupied by eligible, qualifying households on or before the commencement of the Affordability Period and submit information to the City on its efforts to fill such units for qualifying households.

9. Condominium Conversion. During the Affordability Period, the Company shall not convert any dwelling units in the Project to condominium ownership or to any form of cooperative ownership.

10. Third-Party Beneficiaries. The Company and the City acknowledge that the tenants of the Affordable Units are intended third-party beneficiaries of the Affordability Requirements, and such tenants shall have the ability, but not the obligation, to enforce the terms of the Affordability Requirements against the Company; *provided however*, nothing herein shall permit the City and the Company from amending the terms of the Agreement, including the Affordability Requirements, in their sole discretion and without consent of the tenants of Affordable Units and no City liability or obligations to tenants of Affordable Units is intended to be created by this section. The Company shall be liable for all costs and damages, including without limitation attorneys' fees, suffered or incurred by a tenant of an Affordable Unit in connection with enforcement of the Affordability Requirements.

Exhibit D

Form of Affidavit

SEE ATTACHED

_____ space above for Recorder's office _____

AFFIDAVIT OF FACTS RELATING TO TITLE

(memorializing the Affordability Requirements contained in a Community Reinvestment Area Tax Exemption Agreement (LEED or Living Building Challenge) between the City of Cincinnati and Broadway Square II, LLC)

STATE OF OHIO)
) SS:
COUNTY OF HAMILTON)

The undersigned affiant, _____, the _____ of Broadway Square II, LLC (the "**Company**"), and on behalf of the Company, being first duly cautioned and sworn, deposes and says that:

1. The Company has entered into that certain *Community Reinvestment Area Tax Exemption Agreement (LEED or living Building Challenge)* with the City of Cincinnati (the "**City**") dated _____, 20__ (as the same may hereafter be amended, restated, or replaced from time to time, the "**Agreement**"), pertaining to the remodeling of the property described on Exhibit A (Legal Description) hereto (the "**Property**").

2. Pursuant to the terms of the Agreement, the Company agreed to hold the Property upon the following terms for a period beginning on January 1, 2025, and continuing until the end of the term of the Agreement and corresponding abatement period, with occupancy of the residential units to decent, safe, and sanitary occupancy standards, as more particularly described on Exhibit B (Affordability Requirements) hereto (the "**Affordability Restrictions**").

3. The Company executes this Affidavit for the purpose of memorializing the existence of the Agreement and providing notice that successors in interest to the Property may be subject to the Affordability Restrictions while the abatement provided for pursuant to the Agreement remains in place.

SIGNATURE PAGE FOLLOWS

Executed on the dates of acknowledgment set forth below.

COMPANY:

BROADWAY SQUARE II, LLC,
an Ohio limited liability company

By: _____
Name: _____
Title: _____

STATE OF OHIO,
COUNTY OF HAMILTON, SS:

The foregoing instrument was acknowledged before me this ____ day of _____, 2024, by _____, the _____ of Broadway Square II, LLC, an Ohio limited liability company.

Notary Public
My Commission Expires: _____

Approved as to Form:

Assistant City Solicitor

This instrument prepared by:
City of Cincinnati Law Department
City Hall, Suite 214
801 Plum Street
Cincinnati, Ohio 45202

Exhibit A
to Affidavit of Facts Relating to Title

Legal Description

Property Address: 408-414 East 12th Avenue, Cincinnati, Ohio 45202

Auditor Parcel No.: 075-0003-0013 thru 16, cons.

Situate in Cincinnati, Hamilton County, Ohio, being Lots 32, 33, 34 and 35 in Jos. Ferneding's Subdivision of out Lots 6 and 7, and more particularly described as follows:

Beginning at the Northwest corner of E. Twelfth Street and Spring Street; thence S. 74° 40' W. 86.36 feet along the North line of E. Twelfth Street to the East line of Schultz Alley; thence N. 15° 18' W. 84.50 feet; thence N. 39° 41' E. 5.66 feet to the South line of Levering Alley; thence North 74° 40' E. 82.36 feet along the south line of Levering Alley to the West line of Spring Street; thence S. 15° 18' E. 88.50 feet to the point of beginning.

Property Address: 1218 Broadway Street, Cincinnati, Ohio 45202

Auditor Parcel No.: 075-0003-0001

Situate in Cincinnati, Hamilton County, Ohio, being Lot 9 in Joseph Ferneding's Subdivision of out Lots 6 and 7, as recorded in Deed Book 123, Page 592 in the Recorder's Office, and more particularly described as follows:

Beginning at the southeast corner of Broadway and E. Thirteenth Streets; thence east 90.40 feet along the south line of Thirteenth Street to the west line of Schultz Alley; thence south 18 feet along the west line of Schultz Alley; thence west 90.40 feet to the east line of Broadway; thence north 18 feet to the point of beginning.

TOGETHER WITH the non-exclusive "no-build" easement benefitting the Land, as set forth in No-Build Easement Declaration by Broadway Square I, LLC, an Ohio limited liability company, dated May 2, 2016 and recorded May 4, 2016 in Official Record Book 13159, Page 1032, and re-recorded May 26, 2016 in Official Record Book 13175, Page 1332, Hamilton County, Ohio Records.

Exhibit A (continued)
to Affidavit of Facts Relating to Title

Legal Description

Property Address: 1126 Broadway Street, Cincinnati, Ohio 45202

Auditor Parcel No.: 075-0003-0017 thru 19, cons.

Situated in Section 18, Town 4, Fractional Range 1, Storrs Township, City of Cincinnati, Hamilton County, Ohio being all of Lots 36, 37 and 38 of Joseph Ferneding's Subdivision as recorded in Plat Book 1, Page 216 of the Hamilton County, Ohio Records and being more particularly described as follows:

Beginning at the southeasterly corner of Broadway Street and East Twelfth Street, said point being also the northwesterly corner of said Lot 36; thence along the southerly line of East Twelfth Street and the northerly line of said Lot 36, North $73^{\circ} 50'$ East, 85.47 feet to the westerly line of Schultz Alley and the northeasterly corner of said Lot 36; thence along the westerly line of Schultz Alley and the easterly line of Lots 36, 37 and 38, South $16^{\circ} 02'$ East, 60.25 feet to the southeasterly corner of said Lot 38; thence along the southerly line of said Lot 38, South $73^{\circ} 50'$ West, 85.47 feet to the southwest corner thereof and a point in the easterly line of Broadway Street; thence along the easterly line of Broadway Street and the westerly line of Lots 38, 37 and 36, North $16^{\circ} 02'$ West 60.25 feet to the southerly line of East Twelfth Street, the northwesterly corner of said Lot 36 and the place of beginning.

Exhibit A (continued)
to Affidavit of Facts Relating to Title

Legal Description

Property Address: 1201-1203 Broadway Street, Cincinnati, Ohio 45202

Auditor Parcel No.: 075-0001-0291

Situated in Section 13, Town 3, Fractional Range 2 Between the Miamis, Millcreek Township, The City of Cincinnati, Hamilton County, Ohio, and being part of Broadway Square II, LLC, as recorded in Official Record 13178, Page 1477 and being all of lots 38C and 38D of Woodward High School as recorded in Plat Book 2, Page 74 of the Hamilton County Recorder's Office containing 0.052 acres and being further described as follows:

Begin at the northwest intersection of the north right of way of East 12th Street (40') and the west right of way of Broadway Street (40'), and being witnessed by a set cross notch, North 80° 13' 51" East, 3.00 feet and by a set cross notch, South 09° 43' 43" East, 3.00 feet and being the True Point of Beginning;

thence, from the True Point of Beginning and departing the west right of way of said Broadway Street and with the north right of way of said East 12th Street, South 80° 13' 51" West, 44.87 feet to the southeast corner of Lot #38B of said Woodward High School and being witnessed by a set cross notch, South 09° 46' 39" East, 3.00 feet;

thence, departing the north right of way of said East 12th Street and with said Lot #38B, North 09° 46' 39" West, 50.04 feet to a set 5/8" iron pin on the south line of Lot #37 of said Woodward High School;

thence, departing said Lot #38B and with said Lot #37, North 80° 11' 15" East, 44.91 feet to the southeast corner of said Lot #37, said corner being on the west right of way of said Broadway Street and being witnessed by a set cross notch, North 80° 11' 15" East, 3.00 feet;

thence, departing said Lot #37 and with the west right of way of said Broadway Street, South 09° 43' 43" East, 50.07 feet to the True Point of Beginning containing 0.052 acres of land, more or less.

The above description was prepared from a consolidation plat made on February 28, 2023 under the direction of Jeffrey O. Lambert, Professional Surveyor #7568 in the State of Ohio.

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

Exhibit A (continued)
to Affidavit of Facts Relating to Title

Legal Description

Property Address: 1211 Broadway Street, Cincinnati, Ohio 45202

Auditor Parcel No.: 075-0001-0286

Situated in Section 18, Town 4, Fractional Range 1 BTM, The City of Cincinnati, Hamilton County, Ohio and being all of lots 33 through 36 of Woodward High School Subdivision as recorded in Plat Book 2, Page 74 and being all of Auditor's Parcel No. 075-0001-0024 of Broadway Square II, LLC as recorded in Official Record 13178, Page 1477 and all of Auditor's Parcel No. 075-0001-0025 through 28 of Broadway Square II, LLC as recorded in Official Record 13178, Page 1483 of the Hamilton County Recorder's Office, containing 0.1864 acres and being further described as follows:

Begin at the southwest corner of the intersection of the west right of way of Broadway Street (40') and the south right of way of East Thirteenth Street (40'); said corner being the northeast corner of Lot 33 of said Woodward High School Subdivision and being referenced by a set cross notch being North 09° 43' 34" West, 3.00 feet and a set cross notch being North 80° 15' 42" 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 East Thirteenth Street, and with the west right of way of said Broadway Street, South 09° 43' 34" East, 90.10 feet to the northwest corner of the intersection of the west right of way of said Broadway Street and the north right of way of Gear Alley (12') and being referenced by a set cross notch being North 80° 09' 14" East, 3.00 feet and a set Cross Notch being South 09° 43' 34" East, 3.00 feet;

thence, departing the west right of way of said Broadway Street and with the north right of way of said Gear Alley, South 80° 09' 14" West, 90.00 feet to a set cross notch at the northeast corner of the intersection of the north right of way of said Gear Alley and the east right of way of Bunker Alley (10') being referenced by a found cross notch being South 80° 09' 14" West, 1.00 feet;

thence, departing the north right of way of said Gear Alley, with the east right of way of said Bunker Alley, North 09° 48' 09" West, 90.27 feet to the southeast corner of the intersection of the east right of way of said Bunker Alley and the south right of way of said East Thirteenth Street and being referenced by a set cross notch being North 09° 48' 09" West, 3.00 feet;

thence, departing the east right of way of said Bunker Alley and with the south right of way of said East Thirteenth Street, North 80° 15' 42" East, 90.12 feet to the Point of Beginning containing 0.1864 acres of land, more or less being subject to all legal highways, easements, restrictions and agreements of record.

Exhibit B
to Affidavit of Facts Relating to Title
Affordability Requirements

TO BE ATTACHED TO EXECUTION VERSION

December 2, 2024

To: Members of the Budget and Finance Committee

From: Sheryl M.M. Long, City Manager 202402458

Subject: Ordinance – Approving and Authorizing a Historic CRA Extension with Paramount Square, LLC

Attached is an Ordinance captioned:

APPROVING AND AUTHORIZING the City Manager to execute a First Amendment to Community Reinvestment Area Tax Exemption Agreement (LEED or Living Building Challenge) with Paramount Square, LLC, an affiliate of The Model Group, and the Port of Greater Cincinnati Development Authority, thereby authorizing a ten-year extension to an existing tax exemption for 100 percent of the value of improvements made to real property located at 900 E. McMillan Street in the Walnut Hills neighborhood of Cincinnati.

BACKGROUND/CURRENT CONDITIONS

Paramount Square is a mixed use commercial and residential development, with fifteen (15) residential units, located at 900 E. McMillan Street in the Walnut Hills neighborhood of Cincinnati. It was renovated in 2018 and received a 15-year CRA property tax abatement, effective through 2033. These buildings are of historic significance, and are, therefore, eligible to have the abatement extended up to an additional ten years under Ohio Revised Code (ORC). Section 3736.36(D)(1). The attached ordinance extends the abatement for an additional ten years, the maximum allowed under the above cited section of the ORC. The property does not presently have any income restrictions for its rental units.

AFFORDABILITY COMMITMENT

The Administration was approached by the property owner, who requested a ten-year extension based on historic requirements. As a condition of the extension, the property owner has committed to holding forty percent (40%) of the development's rental units, totaling six units, at rates affordable to households earning 80% AMI.

RECOMMENDATION

The Administration recommends approval of this Ordinance, based on the property owner's affordability commitment.

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

APPROVING AND AUTHORIZING the City Manager to execute a First Amendment to Community Reinvestment Area Tax Exemption Agreement (LEED or Living Building Challenge) with Paramount Square, LLC, an affiliate of The Model Group, and the Port of Greater Cincinnati Development Authority, thereby authorizing a ten-year extension to an existing tax exemption for 100 percent of the value of improvements made to real property located at 900 E. McMillan Street in the Walnut Hills neighborhood of Cincinnati.

WHEREAS, pursuant to Ordinance No. 299-2017, passed by Council on October 18, 2017, the City entered into a certain Community Reinvestment Area Tax Exemption Agreement (LEED or Living Building Challenge) with Paramount Square, LLC (together with its successors and assigns, the “Company”) and the Port of Greater Cincinnati Development Authority, dated January 30, 2018 (the “Agreement”), which provides for a 100 percent real property tax exemption for the value of improvements to real property located at 900 E. McMillan Street in the Walnut Hills neighborhood of Cincinnati, as more particularly described in the Agreement, for fifteen years (the “Original Term”); and

WHEREAS, pursuant to Ohio Revised Code (“R.C”) Section 3735.67(D)(1), the City may extend a period of exemption from real property taxation for up to ten years (an “Historic Extension”) if the property is a structure of historical or architectural significance, is a certified historic structure that has been subject to federal tax treatment under 26 U.S.C. 47 and 170(h), and the residential units within the structure have been leased to individual tenants for at least five consecutive years (the “Extension Requirements”); and

WHEREAS, the Company has represented to the City that the Property satisfies the Extension Requirements and is eligible for an Historic Extension, and has requested that the City grant an extension of the real property tax exemption, for a total exemption term not to exceed 25 years; and

WHEREAS, the Company has committed to lease and make available forty percent of the residential units on the Property to families at or below eighty percent of the Area Median Income, as established by the U.S. Department of Housing and Urban Development, and as may be updated from time to time (the “Affordability Requirements”), upon the terms and conditions more particularly described in the draft First Amendment to Community Reinvestment Area LEED Tax Exemption Agreement attached as Attachment A hereto (the “Amendment”); and

WHEREAS, in consideration of the Company’s agreement to comply with the Affordability Requirements, and provided that the Company satisfies the Extension Requirements and the other terms of the Agreement, as amended by the Amendment, the City desires to provide for an Historic Extension of up to ten years; and

WHEREAS, the Property is located within the Cincinnati City School District and, as required by the Agreement, the Company entered into a certain Payment in Lieu of Taxes

Agreement dated March 13, 2020, pursuant to which the Company agreed to pay the Board of Education of the Cincinnati City School District (the “Board of Education”), amounts equal to 25 percent of the exempt real property taxes during the Original Term; and

WHEREAS, the Board of Education, pursuant to that certain Tax Incentive Agreement with the City effective as of April 28, 2020 (as may be amended, the “2020 Board of Education Agreement”), has approved exemptions of up to 100 percent of Community Reinvestment Area projects authorized by Council beginning in 2020, 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 2020 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 percent of the exempt real property taxes during the term of the Historic Extension; and

WHEREAS, the City’s Department of Community and Economic Development estimates that, during the Historic Extension, the real property tax exemption for the Improvements will provide an annual net benefit to the Company in the amount of approximately \$14,743; now, therefore,

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

Section 1. That Council authorizes the City Manager:

- (a) to execute an amendment to a certain Community Reinvestment Area Tax Exemption Agreement (LEED or Living Building Challenge) between the City of Cincinnati (the “City”), Paramount Square, LLC (together with its successors and assigns, the “Company”), and the Port of Greater Cincinnati Development Authority, dated January 30, 2018 (the “Agreement”), in substantially the form of Attachment A to this ordinance (the “Amendment”), authorizing the extension of the real property tax exemption provided by the Agreement by up to ten additional years, relating to real property located at 900 E. McMillan Street, all in the Walnut Hills neighborhood of Cincinnati, which property is more particularly described in the Agreement, provided the Company satisfies certain conditions as described in the Agreement, as amended by the Amendment, including compliance with all statutory requirements;
- (b) to submit on behalf of Council annual reports on the Agreement to the Director of the Ohio Department of Development, in accordance with Ohio Revised Code Section 3735.672, and to the Board of Education of the Cincinnati City School District, as necessary; and
- (c) to take all necessary and proper actions to fulfill the City’s obligations under the Agreement, as amended by the Amendment.

Section 2. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed: _____, 2024

Aftab Pureval, Mayor

Attest: _____
Clerk

FIRST AMENDMENT
to
Community Reinvestment Area Tax Exemption Agreement
(*LEED or Living Building Challenge*)

THIS FIRST AMENDMENT TO COMMUNITY REINVESTMENT AREA TAX EXEMPTION AGREEMENT (this "Amendment") is made and entered into on the Effective Date (as defined on the signature page hereof) by and among the **CITY OF CINCINNATI**, an Ohio municipal corporation (the "City"), **PARAMOUNT SQUARE, LLC**, an Ohio limited liability company (the "Company"), and the **PORT OF GREATER CINCINNATI DEVELOPMENT AUTHORITY d/b/a GREATER CINCINNATI REDEVELOPMENT AUTHORITY**, an Ohio port authority (the "Owner").

Recitals:

A. The City, the Company, and the Owner are parties to a *Community Reinvestment Area Tax Exemption Agreement* dated January 30, 2018 (the "Agreement"), pertaining to the remodeling of an existing building at 900 E. McMillan Street, Cincinnati, Ohio 45206 (the "Property") into approximately 24,671 square feet of commercial space and approximately 15 residential units, as more particularly described therein (the "Project"), which Project was to be completed no later than May 31, 2019. Capitalized terms used herein but not defined herein shall have the meanings ascribed to them in the Agreement.

B. The Company completed the Improvements to the Property as required by the terms of the Agreement.

C. Pursuant to the Statute, and more particularly Ohio Revised Code ("ORC") Section 3735.67(D)(1), a legislative authority may extend a period of exemption from real property taxation for up to 10 years if the property is a structure of historical or architectural significance, is a certified historic structure that has been subject to federal tax treatment under 26 U.S.C. 47 and 170(h), and the residential units within the structure have been leased to individual tenants for 5 consecutive years.

D. The Company has represented to the City that the Property satisfies the aforementioned criteria and is eligible for an extension of real property tax exemption under ORC Section 3735.67(D)(1), and has requested the City grant an extension of the real property tax exemption, which was initially for a period of 15 years.

E. The City, upon the recommendation of the Department of Community and Economic Development, is willing to amend the Agreement to extend the real property tax exemption provided under the Agreement for a period of 10 years in consideration of the Company's commitment to lease and make available 40% of the residential units on the Property to families at or below 80% Area Median Income ("AMI") for Cincinnati, as established by the U.S. Department of Housing and Urban Development, and as may be updated from time to time, all as further described herein. The City is agreeable to doing so on and subject to the terms and conditions of this Amendment.

F. Following the execution of the Agreement, the City and the Board of Education entered into that certain *Tax Incentive Agreement*, executed on April 28, 2020, pursuant to which the Board of Education approved exemptions of up to 100% of Community Reinvestment Area projects on and after April 28, 2020, waived advance notice and right to review such projects, and waived sharing or allocation of municipal income taxes in connection with such projects.

G. Execution of this Amendment was authorized by Ordinance No. ____ - ____, passed by City Council on _____, ____.

NOW, THEREFORE, the parties agree as follows:

1. Board of Education of the Cincinnati School District. Recital N. and Recital O. are hereby deleted and replaced with the following:

N. The Board of Education of the Cincinnati School District (the "Board of Education"), pursuant to an agreement with the City entered into on July 2, 1999 (as amended), and that certain *Tax Incentive Agreement*, effective as of April 28, 2020, has approved exemptions of up to 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.

O. The Company has entered into an agreement with the Board of Education for the Initial Term (as defined below), which requires the Company to pay the Board of Education amounts equal to 25% 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 "1999 Board of Education Agreement"). The Company will enter into an agreement with the Board of Education for the term of the Historic Extension (as defined below), which will require the Company to pay the Board of Education amounts equal to 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 "2020 Board of Education Agreement"). The 1999 Board of Education Agreement and the 2020 Board of Education Agreement are collectively referred to herein as the "Board of Education Agreement".

2. Reporting. Section 17 of the Agreement is hereby deleted in its entirety and replaced with the following:

Section 17. Annual Review and Report; Affordability Reporting Requirements.

A. 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.

B. Affordability Reporting Requirements. In addition to the Annual Review and Report, commencing on March 1, 2026, and continuing each year thereafter, the Company shall verify its continued compliance with the affordability terms contained in Exhibit C (Affordability Requirements) hereto, by certifying project rents and verifying tenant eligibility by submitting to the City a *Tenant Profile Income Verification Form* for all households occupying Affordable Units. The *Tenant Profile Income Verification Form* must be signed by and certified by each tenant and indicate that the information is complete and accurate.

3. Affordability Requirements. The following new Section 38 shall be added and incorporated into the Agreement:

Section 38. Affordability Requirements. The Company shall lease and make available at least [] residential units on the Property (the "Affordable Units") to qualifying households with a household income that is at or below 80% AMI for comparably sized households (the "Affordability Requirements") for a period beginning on January 1, 2025, and continuing through the end of the abatement period provided pursuant to this Agreement,

including the term of the Historic Extension (the "Affordability Period"). During the Affordability Period, the Company shall: (i) maintain the Affordable Units and the Property as decent, safe, and sanitary housing in good repair and in compliance with all City of Cincinnati Building Code requirements, (ii) lease the Affordable Units to qualifying households at affordable rents in accordance with those requirements set forth in Exhibit C, and (iii) comply with all other Affordability Requirements set forth in Exhibit C. The Company shall execute an affidavit of facts relating to title memorializing the Company's commitment to abide by the Affordability Requirements in the form of Exhibit D (Form of Affidavit) hereto (the "Affordability Affidavit"), or in such other form as may be required by the City. The Affordability Affidavit shall be recorded at the Company's sole expense with a copy delivered to the City within 3 days of recording.

4. Historic Extension. The following new Section 39 shall be added and incorporated into the Agreement:

Section 39. Historic Extension. The parties acknowledge that the Company is eligible for an extension of the abatement term because of the historical significance of the Property for up to ten years pursuant to the Statute, as may be amended from time to time, based upon the Company's representations that the Property (a) is a structure of historical or architectural significance, (b) is a certified historic structure that has been subject to federal tax treatment under 26 U.S.C. 47 and 170(h), and (c) has residential units within the structure located thereon that have been leased to individual tenants for at least 5 consecutive years. Based upon the Company's aforementioned representations and the City's review of documentation evidencing compliance with the Statute, following the end of the initial abatement term provided pursuant to this Agreement (the "Initial Term"), the City approves the 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 an additional period of 10 years (the "Historic Extension"), provided that the Company has entered into the 2020 Board of Education Agreement. Notwithstanding the last sentence of Section 2 hereof, no exemption shall extend beyond the earlier of (i) tax year 2043 or (ii) the end of the 25th year of exemption (being the 10th year of the Historic Extension).

5. General Indemnity. The following new Section 40 shall be added and incorporated into the Agreement:

Section 40. General Indemnity. Notwithstanding anything in this Agreement to the contrary, as a material inducement to the City to enter into this Agreement, the Company shall defend, indemnify, and hold the City, its officers, council members, employees, and agents (collectively, the "Indemnified Parties") harmless from and against any and all actions, suits, claims, losses, costs (including, without limitation, attorneys' fees), demands, judgments, liability, and damages (collectively, "Claims") suffered or incurred by or asserted against the Indemnified Parties as a result of or arising from the acts of the Company, its agents, employees, contractors, subcontractors, licensees, invitees, or anyone else acting at the request of the Company in connection with the Project. The Company's indemnification obligations under this paragraph shall survive the termination or expiration of this Agreement with respect to Claims arising prior thereto.

6. Exhibits. Exhibit C (Affordability Requirements) and Exhibit D (Form of Affidavit) attached hereto, are hereby incorporated into and made a part of the Agreement and, on and after the Effective Date hereof, shall be deemed to be Exhibit C and Exhibit D for all purposes of the Agreement.

7. General Provisions.

(A) Release. In consideration of the City's execution of this Amendment, the Company and the Owner each hereby waive any and all defaults or failures to observe or perform any of

the City's obligations under the Agreement and any other liability of any kind on the part of the City to the extent any such default, failure or liability occurred or arose before the Effective Date of this Amendment.

(B) Ratification. All terms of the Agreement not amended hereby or not inconsistent herewith shall remain in full force and effect, and the Agreement, as amended hereby, is hereby ratified and reaffirmed by the parties.

(C) Counterparts; Electronic Signatures. This Amendment 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 Amendment may be executed and delivered by electronic signature.

[Signature Page Follows]

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

CITY OF CINCINNATI

PARAMOUNT SQUARE, LLC,
an Ohio limited liability company

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

By: _____
Robert L. Maly, Managing Member

Date: _____, 2024

Date: _____, 2024

**PORT OF GREATER CINCINNATI
DEVELOPMENT AUTHORITY d/b/a GREATER
CINCINNATI REDEVELOPMENT AUTHORITY**

By: _____
Laura Brunner, President & CEO

Date: _____, 2024

Approved as to Form:

Assistant City Solicitor

Certified Date: _____

Fund/Code: _____

Amount: _____

By: _____
Karen Alder, City Finance Director

Exhibit C

Affordability Requirements

The Company shall abide by the following requirements during the Affordability Period:

1. Maintenance. Throughout the Affordability Period, the Company shall maintain the Property as decent, safe and sanitary housing in good repair in compliance with the ongoing property condition standards of the Cincinnati Building Code, and any other applicable laws, as demonstrated by an on-site inspection which shall occur upon written request by the City and shall keep all dwelling units available for rent during that period. The Company shall give special attention to preventive maintenance of the Property and purchase the materials, equipment, tools, appliances, supplies and services necessary to maintain the Property in good and safe condition and repair. The Company shall receive and investigate systematically and promptly all service requests from tenants and City officials, take action as may be justified, and keep records of the same.

2. Reserved.

3. Leasing of Affordable Units to Qualifying Households. Throughout the Affordability Period, the Company shall ensure that all the completed Affordable Units at the Property are leased to households with an annual household income (as defined in 24 CFR 5.609) that is equal to or below the applicable area median income limits set forth in Section 38 of this Agreement.

4. Income Recertification.

(A) Verification Procedure. The Company shall verify an occupant's income (i) annually (including, without limitation, at the time of lease renewal or changes in income) through a statement and certification from the occupant, and (ii) at least once every 6 years during the Affordability Period using third party source documentation supplied by the occupant. On an annual basis, the Company shall verify its continued compliance with the affordability terms of this Exhibit by certifying project rents and verifying tenant eligibility by submitting to the City a *Tenant Profile Income Verification Form* for all households occupying Affordable Units. The *Tenant Profile Income Verification Form* must be signed by and certified by each tenant and indicate that the information is complete and accurate.

(B) Changes in Income and Over-income Households. In the event that a tenant's household income exceeds the applicable income limits during a tenancy, the tenant who becomes over income after initial income certification will be allowed to stay in the unit. Such change in annual income shall not prohibit an extension to the original lease term with the same occupant, so long as the occupant complied with the household income requirements at the execution of the initial lease agreement. A qualifying or low-income household that is not low-income at the time of income recertification (i.e., whose income is above 80% AMI must pay as rent the lesser of the amount payable by the tenant under State or local law or 30% of the family's adjusted income. If a household's current annual income exceeds the eligibility limit, the unit continues to qualify as an Affordable Unit as long as the Company fills the next available unit with an eligible, qualifying household. The next available unit would be one of similar or larger size than the one occupied by the over-income tenant. The Company shall collect such compliance documentation in such form as required by DCED and which form may be updated from time to time throughout the Affordability Period. Throughout the Affordability Period, the Company shall comply with, and shall cause each tenant to comply with, all other City verification and compliance reporting requirements.

5. Terms for Tenancies; Tenant Protections.

(A) Written Rental Agreement. The Company shall rent all dwelling units pursuant to a written rental agreement approved by the City for compliance with Chapter 5321 of the Ohio Revised Code and Chapter 871 of the Cincinnati Municipal Code and shall submit its form of written rental agreement to the City on an annual basis, in accordance with its reporting requirements under this Agreement. The written rental agreement shall not contain any of the prohibited lease terms specified in Section 5321.13 of the Ohio Revised Code. The Company shall ensure that a copy of the written rental agreement must be signed by both the tenant and the Company (or the Company's property management entity); maintained in the Company's files and submitted to the City along with the *Tenant Profile Income Verification Form*.

(B) Limited Termination; Notice Requirements. The Company may not terminate the tenancy or refuse to renew the lease of a tenant except for serious or repeated violation of the terms and conditions of the rental agreement. The Company must give the tenant written notice of the termination, specifying the grounds therefor, no less than 30 days prior to the effective date of the termination. Nothing in this paragraph shall prevent the Company from terminating the tenancy of a tenant for nonpayment of rent (if applicable), provided that the Company has complied with the rent limitations of Section 7. To terminate or refuse to renew tenancy for any household occupying an Affordable Unit, the Company must serve written notice upon the tenant at least 30 days prior to terminating the tenancy, specifying the grounds for the termination or nonrenewal.

6. Documentation. At the time of executing an initial lease agreement with a tenant of an Affordable Unit, the Company shall collect documentation of family size and household income from tenants of all of the Affordable Units in order to document compliance with the affordability requirements herein. The Company shall collect such compliance documentation in such form as required by DCED and which form may be updated from time to time. The Company is also responsible for ensuring that the lease terms for Affordable Units at all times comply with the Affordability Requirements. The Company shall provide documentation to the City demonstrating compliance with the Affordability Requirements in accordance with this Agreement.

7. Rent Limitation. The Company shall not charge rent to any tenant occupying an Affordable Unit that exceeds 30% of the annual income of a family whose annual income equals 80% of the median income for the Cincinnati metropolitan area, as determined and established by the U.S. Department of Housing and Urban Development, with adjustments for the number of bedrooms in the unit.

8. Project Occupancy. The Company shall use its best efforts to ensure all Affordable Units are occupied by eligible, qualifying households on or before the commencement of the Affordability Period and submit information to the City on its efforts to fill such units for qualifying households.

9. Condominium Conversion. During the Affordability Period, the Company shall not convert any dwelling units in the Project to condominium ownership or to any form of cooperative ownership.

10. Third-Party Beneficiaries. The Company and the City acknowledge that the tenants of the Affordable Units are intended third-party beneficiaries of the Affordability Requirements, and such tenants shall have the ability, but not the obligation, to enforce the terms of the Affordability Requirements against the Company; *provided however*, nothing herein shall permit the City and the Company from amending the terms of the Agreement, including the Affordability Requirements, in their sole discretion and without consent of the tenants of Affordable Units and no City liability or obligations to tenants of Affordable Units is intended to be created by this section. The Company shall be liable for all costs and damages, including without limitation attorneys' fees, suffered or incurred by a tenant of an Affordable Unit in connection with enforcement of the Affordability Requirements.

Exhibit D

Form of Affidavit

SEE ATTACHED

_____ space above for Recorder's office _____

AFFIDAVIT OF FACTS RELATING TO TITLE

(memorializing the Affordability Requirements contained in a Community Reinvestment Area Tax Exemption Agreement among the City of Cincinnati, Paramount Square, LLC, and Port of Greater Cincinnati Development Authority)

STATE OF OHIO)
) SS:
COUNTY OF HAMILTON)

The undersigned affiant, _____, the _____ of Paramount Square, LLC (the "**Company**"), and on behalf of the Company, being first duly cautioned and sworn, deposes and says that:

1. The Company has entered into that certain *Community Reinvestment Area Tax Exemption Agreement* with the City of Cincinnati (the "**City**") dated _____, 20____ (as the same may hereafter be amended, restated, or replaced from time to time, the "**Agreement**"), pertaining to the remodeling of the property described on Exhibit A (*Legal Description*) hereto (the "**Property**").

2. The Port of Greater Cincinnati Development Authority is the sole owner of the Property and has entered into a lease agreement with the Company pursuant to a certain _____, dated _____.

3. Pursuant to the terms of the Agreement, the Company agreed to hold the Property upon the following terms for a period beginning on January 1, 2025, and continuing until the end of the term of the Agreement and corresponding abatement period, with occupancy of the residential units to decent, safe, and sanitary occupancy standards, as more particularly described on Exhibit B (*Affordability Requirements*) hereto (the "**Affordability Restrictions**").

4. The Company executes this Affidavit for the purpose of memorializing the existence of the Agreement and providing notice that successors in interest to the Property may be subject to the Affordability Restrictions while the abatement provided for pursuant to the Agreement remains in place.

SIGNATURE PAGE FOLLOWS

Executed on the dates of acknowledgment set forth below.

COMPANY:

PARAMOUNT SQUARE, LLC,
an Ohio limited liability company

By: _____
Name: _____
Title: _____

STATE OF OHIO,
COUNTY OF HAMILTON, SS:

The foregoing instrument was acknowledged before me this ____ day of _____, 2024, by _____, the _____ of Paramount Square, LLC, an Ohio limited liability company.

Notary Public
My Commission Expires: _____

Approved as to Form:

Assistant City Solicitor

This instrument prepared by:
City of Cincinnati Law Department
City Hall, Suite 214
801 Plum Street
Cincinnati, Ohio 45202

Exhibit A
to Affidavit of Facts Relating to Title
Legal Description

Property Address: 900 E. McMillan Avenue, Cincinnati, Ohio 45206

Auditor Parcel No.: 067-0003-0001-00

Exhibit B
to Affidavit of Facts Relating to Title
Affordability Requirements

TO BE ATTACHED TO EXECUTION VERSION

December 2, 2024

To: Members of the Budget and Finance Committee

From: Sheryl M.M. Long, City Manager

Subject: **Emergency Ordinance – Approving and Authorizing a Historic CRA Extension with Market Square I, LLC**

Attached is an Emergency Ordinance captioned:

APPROVING AND AUTHORIZING the City Manager to execute a First Amendment to Community Reinvestment Area LEED Tax Exemption Agreement with Market Square I, LLC and 1826 Race Street, LLC, affiliates of The Model Group, thereby authorizing a ten-year extension to an existing tax exemption for 100 percent of the value of improvements made to real property at 24 W. Elder Street, 1804-1814 Race Street, 1818 Race Street, and adjoining properties in the Over-the-Rhine neighborhood of Cincinnati.

BACKGROUND/CURRENT CONDITIONS

Market Square I is a mixed use commercial and residential development, with twenty (20) residential units, located at 24 W. Elder Street, 1804-1814 Race Street, 1818 Race Street, and adjoining properties in the Over-the-Rhine neighborhood of Cincinnati. It was renovated in 2016 and received a 12-year CRA property tax abatement, effective through 2028. These buildings are of historic significance, and are, therefore, eligible to have the abatement extended up to an additional ten years under Ohio Revised Code (ORC) Section 3736.36(D)(1). The attached ordinance extends the abatement for an additional ten years, the maximum allowed under the above cited section of the ORC. The property does not presently have any income restrictions for its rental units.

AFFORDABILITY COMMITMENT

The Administration was approached by the property owner, who requested a ten-year extension based on historic requirements. As a condition of the extension, the property owner has committed to holding forty percent (40%) of the development's rental units, totaling eight units, at rates affordable to households earning 80% AMI.

RECOMMENDATION

The Administration recommends approval of this Emergency Ordinance, based on the property owner's affordability commitment.

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

EMERGENCY

SSB

- 2024

APPROVING AND AUTHORIZING the City Manager to execute a First Amendment to Community Reinvestment Area LEED Tax Exemption Agreement with Market Square I, LLC and 1826 Race Street, LLC, affiliates of The Model Group, thereby authorizing a ten-year extension to an existing tax exemption for 100 percent of the value of improvements made to real property located at 24 W. Elder Street, 1804-1814 Race Street, 1818 Race Street, and adjoining properties in the Over-the-Rhine neighborhood of Cincinnati.

WHEREAS, pursuant to Ordinance No. 329-2015, passed by Council on October 14, 2015, the City entered into a certain Community Reinvestment Area LEED Tax Exemption Agreement with Market Square I, LLC (together with its successors and assigns, the “Company”), dated February 10, 2016 (the “Agreement”), which provides for a 100 percent real property tax exemption for the value of improvements to real property located at 24 W. Elder Street, 1804-1814 Race Street, 1818 Race Street, and adjoining properties, all in the Over-the-Rhine neighborhood of Cincinnati, as more particularly described in the Agreement, for twelve years (the “Original Term”); and

WHEREAS, pursuant to Ohio Revised Code (“R.C.”) Section 3735.67(D)(1), the City may extend a period of exemption from real property taxation for up to ten years (an “Historic Extension”) if the property is a structure of historical or architectural significance, is a certified historic structure that has been subject to federal tax treatment under 26 U.S.C. 47 and 170(h), and the residential units within the structure have been leased to individual tenants for at least five consecutive years (the “Extension Requirements”); and

WHEREAS, the Company has represented to the City that the Property may satisfy the Extension Requirements and may be eligible for an Historic Extension, and has requested that the City grant a conditional extension of the real property tax exemption, for a total exemption term not to exceed 22 years; and

WHEREAS, the Company has committed to lease and make available forty percent of the residential units on the Property to families at or below eighty percent of the Area Median Income, as established by the U.S. Department of Housing and Urban Development, and as may be updated from time to time (the “Affordability Requirements”), upon the terms and conditions more particularly described in the draft First Amendment to Community Reinvestment Area LEED Tax Exemption Agreement attached as Attachment A hereto (the “Amendment”); and

WHEREAS, in consideration of the Company’s agreement to comply with the Affordability Requirements, and provided that the Company satisfies the Extension Requirements and the other terms of the Agreement, as amended by the Amendment, the City desires to provide for an Historic Extension of up to ten years; and

WHEREAS, the Property is located within the Cincinnati City School District and, as required by the Agreement, the Company entered into a certain Payment in Lieu of Taxes

Agreement dated May 24, 2016, pursuant to which the Company agreed to pay the Board of Education of the Cincinnati City School District (the “Board of Education”), amounts equal to 25 percent of the exempt real property taxes during the Original Term; and

WHEREAS, the Board of Education, pursuant to that certain Tax Incentive Agreement with the City effective as of April 28, 2020 (as may be amended, the “2020 Board of Education Agreement”), has approved exemptions of up to 100 percent of Community Reinvestment Area projects authorized by Council beginning in 2020, 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 2020 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 percent of the exempt real property taxes during the term of the Historic Extension; and

WHEREAS, the City’s Department of Community and Economic Development estimates that, during the Historic Extension, the real property tax exemption for the Improvements will provide an annual net benefit to the Company in the amount of approximately \$24,842; now, therefore,

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

Section 1. That Council authorizes the City Manager:

- (a) to execute an amendment to a certain Community Reinvestment Area LEED Tax Exemption Agreement between the City of Cincinnati (the “City”) and Market Square I, LLC (together with its successors and assigns, the “Company”), dated February 10, 2016 (the “Agreement”), in substantially the form of Attachment A to this ordinance (the “Amendment”), authorizing the extension of the real property tax exemption provided by the Agreement by up to ten additional years, relating to real property located at 24 W. Elder Street, 1804-1814 Race Street, 1818 Race Street, and adjoining properties, all in the Over-the-Rhine neighborhood of Cincinnati, which property is more particularly described in the Agreement, provided the Company satisfies certain conditions as described in the Agreement, as amended by the Amendment, including compliance with all statutory requirements;
- (b) to submit on behalf of Council annual reports on the Agreement to the Director of the Ohio Department of Development, in accordance with Ohio Revised Code Section 3735.672, and to the Board of Education of the Cincinnati City School District, as necessary; and
- (c) to take all necessary and proper actions to fulfill the City’s obligations under the Agreement, as amended by the Amendment, including executing any future amendment to the Agreement for the historic extension, as contemplated in the Amendment.

Section 2. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is to enable the parties to execute the Amendment as soon as possible to facilitate the Company's imminent financial closing.

Passed: _____, 2024

Aftab Pureval, Mayor

Attest: _____
Clerk

FIRST AMENDMENT
to
Community Reinvestment Area LEED Tax Exemption Agreement

THIS FIRST AMENDMENT TO COMMUNITY REINVESTMENT AREA LEED TAX EXEMPTION AGREEMENT (this "Amendment") is made and entered into on the Effective Date (as defined on the signature page hereof) by and among the **CITY OF CINCINNATI**, an Ohio municipal corporation (the "City"), and **MARKET SQUARE I, LLC**, an Ohio limited liability company ("Market Square"), and **1826 RACE STREET, LLC**, an Ohio limited liability company ("Race Street LLC"; and, together with Market Square, the "Company").

Recitals:

A. The City and Market Square are parties to a *Community Reinvestment Area LEED Tax Exemption Agreement* dated February 10, 2016 (the "Agreement"), pertaining to the remodeling of existing buildings located at certain real property in the Over-the-Rhine neighborhood of Cincinnati more particularly identified therein (collectively, the "Property") into residential and commercial space on the terms and conditions of the Agreement (the "Project"). Capitalized terms used herein but not defined herein shall have the meanings ascribed to them in the Agreement.

B. The Company completed the Improvements to the Property as required by the terms of the Agreement.

C. Pursuant to the Statute, and more particularly Ohio Revised Code ("ORC") Section 3735.67(D)(1), a legislative authority may extend a period of exemption from real property taxation for up to 10 years if the property is a structure of historical or architectural significance, is a certified historic structure that has been subject to federal tax treatment under 26 U.S.C. 47 and 170(h), and the residential units within the structure have been leased to individual tenants for 5 consecutive years.

D. The Company has represented to the City that the Property may satisfy the aforementioned criteria and may be eligible for an extension of real property tax exemption under ORC Section 3735.67(D)(1), and has requested the City grant a conditional extension of the real property tax exemption, which was initially for a period of 12 years.

E. The City, upon the recommendation of the Department of Community and Economic Development, is willing to amend the Agreement to potentially extend the real property tax exemption provided under the Agreement for a period of up to 10 years in consideration of the Company's commitment to lease and make available 40% of the residential units on the Property to families at or below 80% Area Median Income ("AMI") for Cincinnati, as established by the U.S. Department of Housing and Urban Development, and as may be updated from time to time, all as further described herein. The City is agreeable to doing so on and subject to the terms and conditions of this Amendment.

F. Following the execution of the Agreement, the City and the Board of Education entered into that certain *Tax Incentive Agreement*, executed on April 28, 2020, pursuant to which the Board of Education approved exemptions of up to 100% of Community Reinvestment Area projects on and after April 28, 2020, waived advance notice and right to review such projects, and waived sharing or allocation of municipal income taxes in connection with such projects.

G. Market Square has also conveyed two parcels included within the Property, being 1818 Race Street (Auditor's Parcel No. 094-0008-0315-00) (the "Race St. Property") and 101 W. Elder Street (Auditor's Parcel No. 094-0008-0184-00) (the "Elder St. Property").

H. Market Square transferred the Race St. Property to Race Street LLC pursuant to that certain *Limited Warranty Deed* dated September 21, 2023, and recorded on September 25, 2023, in OR 15007, Page 2018, Hamilton County, Ohio Records.

I. Market Square transferred the Elder St. Property to Valentine Feghali, a married woman whose spouse is Georges M. Feghali, pursuant to that certain *Limited Warranty Deed* dated effective March 15, 2023, and recorded on March 17, 2023, in OR 14875, Page 362, Hamilton County, Ohio Records.

J. ORC Section 3735.671 requires that the City enter into a written agreement with the owner of the property that is to be abated pursuant to the City's Community Reinvestment Area Program.

K. To address the change in ownership of the Race St. Property, Race Street LLC is joining the Agreement as a party and consenting to the Agreement.

L. To address the change in ownership of the Elder St. Property, the City, Market Square, and Valentine Feghali entered into that certain *Amended and Restated CRA Agreement*, dated on or about the Effective Date hereof, whereby Market Square assigned, and Valentine Feghali assumed, the Agreement as it relates solely to the Elder St. Property (the "Elder Agreement").

M. Execution of this Amendment was authorized by Ordinance No. ___-___, passed by City Council on _____, ____.

NOW, THEREFORE, the parties agree as follows:

1. Property Description. The parties hereby agree and acknowledge that, from and after the effective date of the Elder Agreement, the Elder St. Property is no longer included within the defined "Property" for purposes of the Agreement. All remaining obligations associated with the Elder St. Property shall be governed by the Elder Agreement.

2. Joinder of Race Street LLC. Race Street LLC hereby agrees that it is joined to the Agreement as a party thereto. Race Street LLC consents to the Agreement and agrees to be bound by the terms thereof as part of the "Company" under the Agreement. Solely for the purposes of the Agreement, and without consenting to further transfers, assignments, or anything other than the joinder of Race Street LLC to the Agreement, the City hereby consents to the joinder of Race Street LLC to the Agreement. The City, Market Square, and Race Street LLC hereby agree that, on and after the Effective Date of this Amendment, Race Street LLC will be a party to the Agreement.

3. Joint and Several Liability. The obligations and liability of the parties comprising the Company under this Agreement are joint and several, except as otherwise expressly indicated. In dealing with said entities, the City shall be entitled to rely upon information, notices, documents, and the like received by the City from only one of said entities to the same extent as if the same had been provided to the City by all entities.

4. Board of Education of the Cincinnati School District. Recital L. and Recital M. are hereby deleted and replaced with the following:

L. The Board of Education of the Cincinnati School District (the "Board of Education"), pursuant to an agreement with the City entered into on July 2, 1999 (as amended), and that certain *Tax Incentive Agreement*, effective as of April 28, 2020, has approved exemptions of up to 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.

M. The Company has entered into an agreement with the Board of Education for the Initial Term (as defined below), which requires the Company to pay the

Board of Education amounts equal to 25% 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 “1999 Board of Education Agreement”). In the event that the City grants the Historic Extension (as defined in Section 36), the Company will enter into an agreement with the Board of Education for the term of the Historic Extension, which will require the Company to pay the Board of Education amounts equal to 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 “2020 Board of Education Agreement”). The 1999 Board of Education Agreement and the 2020 Board of Education Agreement are collectively referred to herein as the “Board of Education Agreement”.

5. Reporting. Section 17 of the Agreement is hereby deleted in its entirety and replaced with the following:

Section 17. Annual Review and Report; Affordability Reporting Requirements.

A. 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.

B. Affordability Reporting Requirements. In addition to the Annual Review and Report, commencing on March 1, 2026, and continuing each year thereafter, the Company shall verify its continued compliance with the affordability terms contained in Exhibit C (Affordability Requirements) hereto, by certifying project rents and verifying tenant eligibility by submitting to the City a *Tenant Profile Income Verification Form* for all households occupying Affordability Units. The *Tenant Profile Income Verification Form* must be signed by and certified by each tenant and indicate that the information is complete and accurate.

6. Affordability Requirements. The following new Section 35 shall be added and incorporated into the Agreement:

Section 35. Affordability Requirements. The Company shall lease and make available at least 7 residential units on the Property (the “Affordable Units”) to qualifying households with a household income that is at or below 80% AMI for comparably sized households (the “Affordability Requirements”) for a period beginning on January 1, 2025, and continuing through the end of the abatement period provided pursuant to this Agreement, including the term of the Historic Extension, if any (the “Affordability Period”). During the Affordability Period, the Company shall: (i) maintain the Affordable Units and the Property as decent, safe, and sanitary housing in good repair and in compliance with all City of Cincinnati Building Code requirements, (ii) lease the Affordable Units to qualifying households of individuals and families at affordable rents in accordance with those requirements set forth in Exhibit C, and (iii) comply with all other Affordability Requirements set forth in Exhibit C. The Company shall execute an affidavit of facts relating to title memorializing the Company’s commitment to abide by the Affordability Requirements in the form of Exhibit D (Form of Affidavit) hereto (the “Affordability Affidavit”), or in such other form as may be required by the City. The Affordability Affidavit shall be recorded at the Company’s sole expense with a copy delivered to the City within 3 days of recording.

7. Historic Extension. The following new Section 36 shall be added and incorporated into the Agreement:

Section 36. Historic Extension. The parties acknowledge that the Company may be eligible for an extension of the abatement term because of the historical significance of the Property for up to ten years pursuant to the Statute, as may be amended from time to time (the "Historic Extension"). Once the Company has satisfied the requirements of the Statute and no later than 180 days prior to the end of the initial abatement term pursuant to this Agreement (the "Initial Term"), the Company shall provide the City with (i)(a) income tax statements verifying that the Property has been subject to federal tax treatment under 26 U.S.C. 47 and 170(h) or (b) a certification from the Company's accountant confirming that the Property has been subject to federal tax treatment under 26 U.S.C. 47 and 170(h), (ii) such other documentation as requested in writing by DCED to verify the eligibility of each parcel constituting the Property for the Historic Extension, and (iii) operating revenue and expenses for the prior 5 years; each of the foregoing must be provided in a format acceptable to the City in its sole and absolute discretion. Following the City's review of the foregoing materials and the City's confirmation that the Company is in compliance with the Affordability Requirements, if the Property qualifies for the Historic Extension, the parties will execute a mutually satisfactory amendment to this Agreement to extend the abatement term for a period of 10 years.

8. General Indemnity. The following new Section 37 shall be added and incorporated into the Agreement:

Section 37. General Indemnity. Notwithstanding anything in this Agreement to the contrary, as a material inducement to the City to enter into this Agreement, the Company shall defend, indemnify, and hold the City, its officers, council members, employees, and agents (collectively, the "Indemnified Parties") harmless from and against any and all actions, suits, claims, losses, costs (including, without limitation, attorneys' fees), demands, judgments, liability, and damages (collectively, "Claims") suffered or incurred by or asserted against the Indemnified Parties as a result of or arising from the acts of the Company, its agents, employees, contractors, subcontractors, licensees, invitees, or anyone else acting at the request of the Company in connection with the Project. The Company's indemnification obligations under this paragraph shall survive the termination or expiration of this Agreement with respect to Claims arising prior thereto.

9. Exhibits. Exhibit C (Affordability Requirements) and Exhibit D (Form of Affidavit) attached hereto, are hereby incorporated into and made a part of the Agreement and, on and after the Effective Date hereof, shall be deemed to be Exhibit C and Exhibit D for all purposes of the Agreement.

10. General Provisions.

(A) Representations and Warranties. Market Square and Race Street LLC, each on behalf of itself, hereby represent and warrant to the City that all representations and warranties made by the Company in the Agreement continue to be true and correct as to Market Square and Race Street LLC, respectively, as of the Effective Date of this Amendment.

(B) Release. In consideration of the City's execution of this Amendment, the Company hereby waives any and all defaults or failures to observe or perform any of the City's obligations under the Agreement and any other liability of any kind on the part of the City to the extent any such default, failure, or liability occurred or arose before the Effective Date of this Amendment.

(C) Ratification. All terms of the Agreement not amended hereby or not inconsistent herewith shall remain in full force and effect, and the Agreement, as amended hereby, is hereby ratified and reaffirmed by the parties.

(D) Certification as to Non-Debarment. Market Square and Race Street LLC, each on behalf of itself, hereby represents that neither it nor any of its principals is presently debarred by any federal, state, or local government agency. If Market Square, Race Street LLC, or any of either entity's 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.

(E) Legal Requirements. In 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, Hamilton County, and City of Cincinnati.

(F) Counterparts; Electronic Signatures. This Amendment 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 Amendment may be executed and delivered by electronic signature.

[Signature Page Follows]

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

CITY OF CINCINNATI,
an Ohio municipal corporation

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

Date: _____, 2024

MARKET SQUARE I, LLC,
an Ohio limited liability company

By: _____

Name: _____

Title: _____

Date: _____, 2024

1826 RACE STREET, LLC,
an Ohio limited liability company

By: _____

Name: _____

Title: _____

Date: _____, 2024

Approved as to Form:

Assistant City Solicitor

Certified Date: _____

Fund/Code: _____

Amount: _____

By: _____
Karen Alder, City Finance Director

Exhibit C

Affordability Requirements

The Company shall abide by the following requirements during the Affordability Period:

1. Maintenance. Throughout the Affordability Period, the Company shall maintain the Property as decent, safe and sanitary housing in good repair in compliance with the ongoing property condition standards of the Cincinnati Building Code, and any other applicable laws, as demonstrated by an on-site inspection which shall occur upon written request by the City and shall keep all dwelling units available for rent during that period. The Company shall give special attention to preventive maintenance of the Property and purchase the materials, equipment, tools, appliances, supplies and services necessary to maintain the Property in good and safe condition and repair. The Company shall receive and investigate systematically and promptly all service requests from tenants and City officials, take action as may be justified, and keep records of the same.

2. Reserved.

3. Leasing of Affordable Units to Qualifying Households. Throughout the Affordability Period, the Company shall ensure that all the completed Affordable Units at the Property are leased to households with an annual household income (as defined in 24 CFR 5.609) that is equal to or below the applicable area median income limits set forth in Section 35 of this Agreement.

4. Income Recertification.

(A) Verification Procedure. The Company shall verify an occupant's income (i) annually (including, without limitation, at the time of lease renewal or changes in income) through a statement and certification from the occupant, and (ii) at least once every 6 years during the Affordability Period using third party source documentation supplied by the occupant. On an annual basis, the Company shall verify its continued compliance with the affordability terms of this Exhibit by certifying project rents and verifying tenant eligibility by submitting to the City a *Tenant Profile Income Verification Form* for all households occupying Affordability Units. The *Tenant Profile Income Verification Form* must be signed by and certified by each tenant and indicate that the information is complete and accurate.

(B) Changes in Income and Over-income Households. In the event that a tenant's household income exceeds the applicable income limits during a tenancy, the tenant who becomes over income after initial income certification will be allowed to stay in the unit. Such change in annual income shall not prohibit an extension to the original lease term with the same occupant, so long as the occupant complied with the household income requirements at the execution of the initial lease agreement. A qualifying or low-income household that is not low-income at the time of income recertification (i.e., whose income is above 80% AMI) must pay as rent the lesser of the amount payable by the tenant under State or local law or 30% of the family's adjusted income. If a household's current annual income exceeds the eligibility limit, the unit continues to qualify as an Affordable Unit as long as the Company fills the next available unit with an eligible, qualifying household. The next available unit would be one of similar or larger size than the one occupied by the over-income tenant. The Company shall collect such compliance documentation in such form as required by DCED and which form may be updated from time to time throughout the Affordability Period. Throughout the Affordability Period, the Company shall comply with, and shall cause each tenant to comply with, all other City verification and compliance reporting requirements.

5. Terms for Tenancies; Tenant Protections.

(A) Written Rental Agreement. The Company shall rent all dwelling units pursuant to a written rental agreement approved by the City for compliance with Chapter 5321 of the Ohio Revised Code and Chapter 871 of the Cincinnati Municipal Code and shall submit its form of written rental agreement to the City on an annual basis, in accordance with its reporting requirements under this Agreement. The written rental agreement shall not contain any of the prohibited lease terms specified in Section 5321.13 of the

Ohio Revised Code. The Company shall ensure that a copy of the written rental agreement must be signed by both the tenant and the Company (or the Company's property management entity); maintained in the Company's files and submitted to the City along with the *Tenant Profile Income Verification Form*.

(B) **Limited Termination; Notice Requirements.** The Company may not terminate the tenancy or refuse to renew the lease of a tenant except for serious or repeated violation of the terms and conditions of the rental agreement. The Company must give the tenant written notice of the termination, specifying the grounds therefor, no less than 30 days prior to the effective date of the termination. Nothing in this paragraph shall prevent the Company from terminating the tenancy of a tenant for nonpayment of rent (if applicable), provided that inability to pay rent means that the tenant cannot pay more than 30% of the household's income toward rent, based on an income determination made by the City in the last 30 days. To terminate or refuse to renew tenancy for any household occupying an Affordable Unit, the Company must serve written notice upon the tenant at least 30 days prior to terminating the tenancy, specifying the grounds for the termination or nonrenewal.

6. Documentation. At the time of executing an initial lease agreement with a tenant of an Affordable Unit, the Company shall collect documentation of family size and household income from tenants of all of the Affordable Units in order to document compliance with the affordability requirements herein. The Company shall collect such compliance documentation in such form as required by DCED and which form may be updated from time to time. The Company is also responsible for ensuring that the lease terms for Affordable Units at all times comply with the Affordability Requirements. The Company shall provide documentation to the City demonstrating compliance with the Affordability Requirements in accordance with this Agreement.

7. Rent Limitation. The Company shall not charge rent to any Affordable Unit occupied by qualifying households that exceeds the maximum applicable rent amounts for the Affordable Units (as applicable based on the number of bedrooms in a given Affordable Units, and as those rent amounts correspond to those Affordable Unit's area median income limits).

8. Project Occupancy. The Company shall use its best efforts to ensure all Affordable Units are occupied by eligible, qualifying households on or before the commencement of the Affordability Period and submit information to the City on its efforts to fill such units for qualifying households.

9. Condominium Conversion. During the Affordability Period, the Company shall not convert any dwelling units in the Project to condominium ownership or to any form of cooperative ownership.

10. Third-Party Beneficiaries. The Company and the City acknowledge that the tenants of the Affordable Units are intended third-party beneficiaries of the Affordability Requirements, and such tenants shall have the ability, but not the obligation, to enforce the terms of the Affordability Requirements against the Company; *provided however*, nothing herein shall permit the City and the Company from amending the terms of the Agreement, including the Affordability Requirements, in their sole discretion and without consent of the tenants of Affordable Units and no City liability or obligations to tenants of Affordable Units is intended to be created by this section. The Company shall be liable for all costs and damages, including without limitation attorneys' fees, suffered or incurred by a tenant of an Affordable Unit in connection with enforcement of the Affordability Requirements.

Exhibit D

Form of Affidavit

SEE ATTACHED

Executed on the dates of acknowledgment set forth below.

MARKET SQUARE I, LLC,
an Ohio limited liability company

By: _____
Name: _____
Title: _____

1826 RACE STREET, LLC,
an Ohio limited liability company

By: _____
Name: _____
Title: _____

STATE OF OHIO,
COUNTY OF HAMILTON, SS:

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by _____, the _____ of Market Square I, LLC, an Ohio limited liability company, on behalf of the company.

Notary Public
My Commission Expires: _____

STATE OF OHIO,
COUNTY OF HAMILTON, SS:

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by _____, the _____ of 1826 Race Street, LLC, an Ohio limited liability company, on behalf of the company.

Notary Public
My Commission Expires: _____

Approved as to Form:

Assistant City Solicitor

This instrument prepared by:
City of Cincinnati Law Department
City Hall, Suite 214
801 Plum Street
Cincinnati, Ohio 45202

{00408029-6}

Exhibit A
to Affidavit of Facts Relating to Title
Legal Description

TO BE ATTACHED TO EXECUTION VERSION

Exhibit B
to Affidavit of Facts Relating to Title
Affordability Requirements

TO BE ATTACHED TO EXECUTION VERSION

November 20, 2024

To: Mayor and Members of City Council
From: Sheryl M. M. Long, City Manager
Subject: Road Closure Policy Update

202402399

Reference Document #202401922

The Council at its session on September 11, 2024, referred the following item for review and report.

MOTION, dated 8/21/2024, submitted by Councilmember Walsh, WE MOVE that the Administration prepare a report and updated policy within 30 days for supporting small businesses during road closures.

BACKGROUND

The Department of Transportation and Engineering (DOTE) Permit Office requires a Traffic Management Plan (TMP) for those permitted construction activities that significantly impact public right-of-way, such as utility service road closures, to ensure safe passage for all travel modes, including pedestrians, cyclists, transit users, and motorists. Before issuing a right-of-way permit, the TMP must be approved, meeting safety standards from the Ohio Manual on Uniform Traffic Control Devices (OMUTCD).

To better align with the City's focus on pedestrian safety in 2023, the Permit Office updated TMP Guidelines which emphasized active transportation modes (walking and biking), minimum contractor requirements, a comprehensive checklist of items to include in the TMP and contact information for requesting police details and obtaining temporary no-parking signage.

Currently, the minimum contractor requirements include notifications to the affected properties immediately adjacent to the construction. Prior to the start of non-emergency construction, notifications by mail must be postmarked at least 5 days in advance and in-person notifications must occur at least 72 hours before construction.

DOTE regularly updates road closures on its website, with special event road closures listed on the Traffic Alerts page, and long-term closures shared via the News section and social media, as appropriate.

ACKNOWLEDGEMENT

The DOTE Permit Office recognizes the challenges of balancing construction work in the public right-of-way while maintaining access and safety for all road users. Construction, whether it is associated with a DOTE sponsored project or a permit project, can significantly disrupt residents, commuters, and businesses, affecting customer access, deliveries, and overall operations. To address this, for DOTE sponsored projects, our construction and design teams collaborate with impacted property owners and businesses to accommodate their needs. For permit projects, the DOTE Permit Office issues notification requirements as part of the permit conditions.

As part of the recent Riverside Drive closure, these notification requirements were exceeded by the permit holder, Greater Cincinnati Water Works (GCWW), who began notifying affected property owners and the East End Neighborhood Business District well in advance of the utility work, hosting community meetings and adding signage to inform travelers that the business district remained open. DOTE sponsored projects recently provided supplemental signage for longer-term road closures, including Mr. Gene's Dog House on Beekman Street and Hyde Park School on Edwards Road. Please see the images attached to this report.

These efforts demonstrate the importance of proactive communication and collaboration to keep residents, commuters, and businesses informed about project timelines, detours, and work progress despite the many moving parts and potential delays involved in construction.

SUMMARY

DOTe implements a structured process to manage road closures and construction activities, prioritizing safety and communication with the intent to support small businesses.

- DOTE Permit Office requires a TMP for significant construction activity impacting the street system; the TMP requires a comprehensive project description and traffic control measures that consider all travel modes.
- The updated TMP Guidelines includes a comprehensive checklist to address safety requirements, including the accommodation of all travel modes and the maintenance of ADA compliance.
- Contractors are required to notify affected properties before construction begins.
- DOTE communicates road closure updates through the City's website and social media channels, when appropriate.
- Currently, there is no dedicated funding available to compensate business owners impacted by right-of-way construction, nor is there a process in place to manage such a program.

CONSIDERATIONS

To further enhance the TMP process for the safety and accessibility in construction work zones and to minimize the disruption to businesses, DOTE would consider the following:

1. **Centralized Roadway Closure Information:** Efforts are underway to consolidate road closure and detour information on the city's Traffic Updates page as a central source for all roadway closures for permitted special events and long-term projects. DOTE is also exploring additional public awareness measures, such as an opt-in email and potential communications through the existing Cincy Alerts/311Cincy systems.
2. **Community Notification Plans:** DOTE will update the current TMP Checklist to require contractors to submit a communication plan outlining how they will notify the impacted community for construction activities that significantly impact public right-of-way. An impacted community would include the typical stakeholder groups such as Community Councils, Community Development Corporations, and Business Associations/Districts.

3. **Templates for Businesses and Contractors:** From the DOTE website, the department will work on providing downloadable templates for door knockers, handouts, and flyers that contractors and businesses can edit and print on their own. This would not be a requirement; it is an optional resource to encourage public awareness from contractors and businesses to communicate with their clientele.
4. **Supplemental Signage:** For construction activities that significantly impact public right-of-way, DOTE will require contractors to provide supplemental signage, especially in areas with Neighborhood Business Districts, to ensure clear communication about roadway access with the goal of improving visibility and business accessibility for patrons during construction.
5. **Post Signage in Advance:** For construction activities that significantly impact public right-of-way, DOTE will strongly encourage contractors to place signage along the affected routes before construction begins, giving commuters, residents, and businesses ample time to prepare and adjust their routes.
6. **Expand the Notification Period:** DOTE will extend the required notification period to at least 30 days for non-emergency construction projects with long-term road closures to allow residents, businesses, and other stakeholders more time to prepare.
7. **Navigation Apps:** DOTE can continue to update long-term closures in navigation apps like Google Maps, Apple Maps, and Waze. However, the department has limited control over these updates from outside service providers.

You can learn more about accessing the right-of-way and the TMP Guidelines from the DOTE website: <https://www.cincinnati-oh.gov/dote/permits-licenses/dote-resource-page/>.

Attachment

cc: John S. Brazina, Director, Transportation and Engineering

SIGN IMAGES

