



City of Cincinnati

801 Plum Street
Cincinnati, OH 45202

Agenda - Final-revised

Budget and Finance Committee

Chairperson Reggie Harris
Vice Chair Jeff Cramerding
Councilmember Mark Jeffreys
Councilmember Scotty Johnson
Vice Mayor Jan-Michele Kearney
Councilmember Liz Keating
Councilmember Meeka Owens
Councilmember Seth Walsh
President Pro Tem Victoria Parks

Monday, March 20, 2023

1:00 PM

Council Chambers, Room 300

PRESENTATIONS

Neighborhood Catalytic Capital Investment Program

Markiea L. Carter, Director, Department of Community and Economic Development

AGENDA

COMMUNITY REINVESTMENT AREA AGREEMENTS

- [202300760](#) **ORDINANCE** submitted by Sheryl M. M. Long, City Manager, on 3/8/2023, **APPROVING AND AUTHORIZING** the City Manager to execute a *Community Reinvestment Area Tax Exemption* with 8K Development Company, LLC, thereby authorizing a 15-year tax exemption for 100% of the value of improvements made to real property located at 129-131 W. Elder Street in the Over-the-Rhine neighborhood of Cincinnati, in connection with the remodeling of the upper floors of 2 buildings into approximately 4,680 square feet of residential space, consisting of approximately 10 residential units, at a total construction cost of approximately \$880,600. (Subject to the [Temporary Prohibition List](#) <<https://www.cincinnati-oh.gov/law/ethics/city-business>>)

Sponsors: City Manager
Attachments: [Transmittal](#)
[Ordinance](#)
[Attachment](#)
- [202300764](#) **ORDINANCE (EMERGENCY)** submitted by Sheryl M. M. Long, City Manager, on 3/8/2023, **AUTHORIZING** the City Manager to execute a *Property Sale and Development Agreement* with 8K Development Company, LLC for the sale of the upper levels of the City-owned building located at 129-131 W. Elder Street in the Over-the-Rhine neighborhood for residential redevelopment. (Subject to the [Temporary Prohibition List](#) <<https://www.cincinnati-oh.gov/law/ethics/city-business>>)

Sponsors: City Manager

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

3. [202300766](#) **ORDINANCE (EMERGENCY)** submitted by Sheryl M. M. Long, City Manager, on 3/8/2023, **APPROVING AND AUTHORIZING** the City Manager to execute a *Community Reinvestment Area Tax Exemption Agreement* with Moerlein Properties LLC, thereby authorizing a 12-year tax exemption for 100% of the value of improvements made to real property located at 115-125 W. McMillan Avenue and 124-142 Lyon Street in the CUF neighborhood of Cincinnati, in connection with the construction of a mixed-use development comprised of a parking garage, approximately 5,000 square feet of commercial space, and approximately 263,000 square feet of residential space, consisting of approximately 103 units, at a total construction cost of approximately \$33,000,000. (Subject to the [Temporary Prohibition List](https://www.cincinnati-oh.gov/law/ethics/city-business) <<https://www.cincinnati-oh.gov/law/ethics/city-business>>)

Sponsors: City Manager

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

GRANTS AND DONATIONS

4. [202300831](#) **ORDINANCE** submitted by Sheryl M. M. Long, City Manager, on 3/15/2023, **AUTHORIZING** the City Manager to apply for, accept, and appropriate a grant in the amount of \$298,344 from the Get Vaccinated OHIO Public Health Initiative for the purpose of supporting activities that will increase immunization rates in children under two years of age, school aged children, and adolescents; and **AUTHORIZING** the Finance Director to deposit the grant funds into Immunization Action Plan Fund revenue account no. 415x8556.

Sponsors: City Manager

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

5. [202300835](#) **ORDINANCE** submitted by Sheryl M. M. Long, City Manager, on 3/15/2023, **ESTABLISHING** new capital improvement program project account no. 980x232x232315, "Wasson Way 6A 2023 ODNR COTF Grant," for the purpose of providing resources for the construction of Phase 6A of the Wasson Way Trail; **AUTHORIZING** the City Manager to accept and appropriate a grant in an amount up to \$500,000 from the Clean Ohio Trails Fund program as awarded by the Ohio Department of Natural Resources to newly established capital improvement program project account no. 980x232x232315, "Wasson Way 6A 2023 ODNR COTF Grant;" **AUTHORIZING** the Director of

Finance to deposit the grant resources into newly established capital improvement program project account no. 980x232x232315, "Wasson Way 6A 2023 ODNR COTF Grant"; and AUTHORIZING the City Manager to execute any agreements necessary for the receipt and administration of these grant resources.

Sponsors: City Manager

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

6. [202300837](#) **ORDINANCE** submitted by Sheryl M. M. Long, City Manager, on 3/15/2023, **AUTHORIZING** the City Manager and employees of the Department of Economic Inclusion to solicit and accept donations of money, in-kind contributions, participation fees, and other things of value from the business community, individual benefactors, and other appropriate sources for the City of Cincinnati's 2023 Business Enterprise Expo; and AUTHORIZING the Finance Director to deposit the donated funds into Special Events Fund 314.

Sponsors: City Manager

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

TRANSFERS AND PAYMENTS

7. [202300829](#) **ORDINANCE (EMERGENCY)** submitted by Sheryl M. M. Long, City Manager, on 3/15/2023, **AUTHORIZING** the transfer of the sum of \$85,000 within the General Fund from and to various Cincinnati Recreation Commission ("CRC") operating budget accounts in accordance with Schedule A of the attached Schedule of Transfer, for the purpose of realigning resources to address programmatic needs; and AUTHORIZING the transfer and appropriation of the sum of \$1,400,000 from the unappropriated surplus of Municipal Golf Fund 105 to CRC's Golf Administration non-personnel operating budget account in accordance with Schedule B of the attached Schedule of Transfer, for the purpose of providing resources for costs associated with increased golf activities, including utilities, drainage and equipment repairs, and safety enhancements; AUTHORIZING the transfer and appropriation of the sum of \$720,000 within Recreation Special Activities Fund 323 in accordance with Schedule C of the attached Schedule of Transfer, for the purpose of realigning resources and providing resources to address programmatic needs; and AUTHORIZING the transfer and appropriation of the sum of \$75,000 from the unappropriated surplus of Recreation Special Activities Fund 323 to CRC capital improvement program project account no. 980x199x211900, "Outdoor Facilities Renovation," for the purpose of renovating underutilized recreation spaces in Avondale as part of the 2021 Community Makeover program.

Sponsors: City Manager

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

8. [202300832](#) **ORDINANCE (EMERGENCY)** submitted by Sheryl M. M. Long, City Manager, on 3/15/2023, **AUTHORIZING** the payment of \$2,723.96 from Cincinnati Fire Department General Fund non-personnel operating budget account no. 050x272x3300x7299 as a moral obligation to Axon Enterprise for TASERS and holsters for the Fire Investigation Unit, which represents the balance due to Axon based on Axon's original invoice of \$5,232.96 less the City's payment of \$2,500 with a purchase card.

Sponsors: City Manager

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

9. [202300836](#) **ORDINANCE (EMERGENCY)** submitted by Sheryl M. M. Long, City Manager, on 3/15/2023, **AUTHORIZING** a payment in the amount of \$46,506.90 to Prus Construction as a moral obligation of the City of Cincinnati for professional services completed for the Downtown Fiber Optic Cable project.

Sponsors: City Manager

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

SPECIAL ASSESSMENTS

10. [202300873](#) **PETITION**, submitted by the Clerk of Council, A petition to the City of Cincinnati, Ohio seeking the imposition of Special Assessments to Pay the costs of various special energy improvement projects against property owned by the petitioner and specially benefited thereby, including a waiver of all rights to notices, hearings and appeals respecting the requested special assessments (830 Main Street LLC)

Sponsors: Clerk of Council

Attachments: [Special Energy Improvement](#)

11. [202300875](#) **RESOLUTION (LEGISLATIVE) (EMERGENCY)** submitted by Sheryl M. M. Long, City Manager, on 3/15/2023, **DECLARING** by legislative resolution the necessity of the assessment project at 830 Main Street in the City of Cincinnati, Ohio involving the City of Cincinnati, Ohio Energy Special Improvement District.

Sponsors: City Manager

Attachments: [Transmittal](#)
[Legislative Resolution](#)
[Attachment](#)

12. [202300876](#) **ORDINANCE (EMERGENCY)** submitted by Sheryl M. M. Long, City Manager, on 3/15/2023, **LEVYING** special assessments for the purpose of the assessment project at 830 Main Street in the City of Cincinnati involving the City of Cincinnati, Ohio Energy Special Improvement District.

Sponsors: City Manager

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

13. [202300877](#) **ORDINANCE (EMERGENCY)** submitted by Sheryl M. M. Long, City Manager, on 3/15/2023, **DETERMINING** to proceed with the assessment project at 830 Main Street in the City of Cincinnati involving the City of Cincinnati, Ohio Energy Special Improvement District.

Sponsors: City Manager

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

PRESENTATION

14. [202300889](#) **PRESENTATION**, submitted by Sheryl M. M. Long, City Manager, dated 3/20/2023, regarding **Neighborhood Catalytic Capital Improvement Program Presentation (NCCIP) Proposed Awards**

Sponsors: City Manager

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

ADJOURNMENT

March 8, 2023

To: Mayor and Members of City Council

From: Sheryl M.M. Long, City Manager

202300760

Subject: Ordinance – Approving and Authorizing a CRA Tax Abatement with 8K Development Company, LLC

Attached is an Ordinance captioned:

APPROVING AND AUTHORIZING the City Manager to execute a *Community Reinvestment Area Tax Exemption* with 8K Development Company, LLC, thereby authorizing a 15-year tax exemption for 100% of the value of improvements made to real property located at 129-131 W. Elder Street in the Over-the-Rhine neighborhood of Cincinnati, in connection with the remodeling of the upper floors of 2 buildings into approximately 4,680 square feet of residential space, consisting of approximately 10 residential units, at a total construction cost of approximately \$880,600.

BACKGROUND/CURRENT CONDITIONS

The City owns two adjoining four-story buildings located at 129-131 W. Elder Street in Over-the-Rhine. The properties are currently subject to the City's lease and management agreement with the Corporation for Findlay Market, with the ground floor of both buildings being occupied by commercial tenants, *The Arepa Place*, and *Maverick Chocolate*. The upper floors of the two building currently sit vacant and are in need of substantial renovation. An appraisal of the upper floors of the properties conducted by the City's Real Estate Services Division determined their fair market value to be \$100,000.

The Department of Community and Economic Development (DCED) released a Request for Proposals (RFP) for the sale and redevelopment of the upper floors of the two buildings in February 2022. The RFP received three (3) responses from the following respondents: 8K Development Company, LLC, A.M. Titan Group, and True Blue Properties. A cross-departmental committee reviewed and evaluated the 3 proposals and recommended the sale of property be awarded to 8K Development Company, LLC in June 2022.

DEVELOPER INFORMATION

8K was founded in 2009. Starting with the gut renovation of one dilapidated house on Langland Street in Northside, 8K has grown into an integrated construction and property development company. The renaissance in Cincinnati's core neighborhoods has led to expertise across a broad spectrum of development and construction services such as

comprehensive historic renovations, commercial buildouts, and ground up construction. In 2016, the organization was reconfigured into two companies, 8K Development Co. and 8K Construction Co. Since the reorganization, 8K has completed over 30,000 sf of residential renovation and over 15,000 sf of commercial build-out working primarily in Northside, Over-the-Rhine, and Walnut Hills.

RECOMMENDATION

The Administration recommends approval of this Ordinance.

Attachment: Project Outline

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

Project Outline

<u>Project Description Details</u>	<u>Explanation</u>
Project Name	129-131 W. Elder Street
Street Address	129-131 W. Elder Street
Property Condition	Two historic buildings that sit in Findlay Market; ground floor of 129 W. Elder St. is currently occupied by The Arepa Place and ground floor of 131 W. Elder St. is currently occupied by Maverick Chocolate; the upper floors are vacant and in disrepair
Neighborhood	Over-the-Rhine
Incentive Application Process	Request for Proposals and Commercial CRA – Downtown Streetcar Area
Recent or other projects by Developer	1714 Vine Street, KeyMark Phase I & II
Approval at Planning Commission/Neighborhood support	<ul style="list-style-type: none"> - Approval of sale by City Planning Commission on 9/16/2022 - Public engagement meeting held with OTR stakeholders, the Developer and City Planning on 9/6/2022 - Written letters of support from OTRCC and CFFM
Plan Cincinnati Goals	Achieves the Compete Initiative Area Goal 2 (pages 114-120), Live Area goal 3 by (pages 164-178), and Sustain Initiative Area Goal 2 (pages 193-198)

Project Image



<u>Incentive Summary Category</u>	<u>Explanation</u>
Proposed Incentive	15-year, net 67% Commercial CRA tax abatement, with the possibility for 10-year historic extension (at the discretion of Council)
Additional Incentives	\$1.00 property sale to 8K Development Company, LLC
Construction Cost & Private investment committed	Project Costs <ul style="list-style-type: none"> - \$1,056,840 in total project costs (\$880,600 in hard construction costs) Financing Commitments <ul style="list-style-type: none"> - \$191,840 in Developer equity - \$650,000 permanent loan from North Side Bank - \$215,000 in State Historic Tax Credit Equity
Sq. Footage by Use	4,680 sf - residential
Number of units and rental ranges	10 one-bedroom units <ul style="list-style-type: none"> - 3 affordable to 50% AMI (\$650/month) - 3 affordable to 60% AMI (\$750/month) - 4 at market rate (\$900/month)
Jobs created/retained and payroll (living wage)	This project will not create any FTE positions
“But For”	The project, as presented with income restricted units, would not proceed without the proposed incentive package due to the Developer not receiving adequate returns until after Year 7.
Cash on Cash Return for developer (Market return between 8-12%, depends on investment risk)	Without Abatement (Year 5): 6% With Abatement (Year 5): 8%
LEED or other environmental build	Non-LEED
Neighborhood VTICA	No VTICA contribution
Total Public Benefit (Benefits Realized vs Taxes Forgone)	\$2.56 of new CPS/Income taxes for each \$1 forgone
Projected Income Tax Revenue	\$6,750
MBE/WBE Goals	SBE Goal of 30%
Transit Access/Walkability	The project is adjacent to Findlay Market-Elm, Findlay Market-Race, and Brewery District Streetcar stops; the project also sits along the 21, 64, 46, and 78 Metro bus routes

Geography	The project sits in an Opportunity Zone and the OTR-West End NRSA
Historic Preservation/Existing Building Renovation	This project will renovate the upper floors of two historic buildings, preserving and reactivating them for future use
Public Infrastructure Improvements	N/A

Rent	Affordable to Salary	City Jobs (Min Salary exceeds affordable salary)
\$650.00	\$26,000.00	Lifeguard, Laboratory Technician (Part-Time), Breast Feeding Peer Counselor (Part-Time), Parks/Recreation Program Leader (Part-Time)
\$900.00	\$36,000.00	Card Punch Operator, Custodian, Municipal Worker, Recreation Specialist (Part-Time)

AMI	1	2	3	4	5	6	7	8
30%	\$20,100	\$22,950	\$25,800	\$28,650	\$32,470	\$37,190	\$49,910	\$46,360
50%	\$33,450	\$38,200	\$43,000	\$47,750	\$51,600	\$55,400	\$49,250	\$63,050
60%	\$40,140	\$45,840	\$51,600	\$57,300	\$61,920	\$66,480	\$59,100	\$75,660
80%	\$53,520	\$61,120	\$68,800	\$76,400	\$82,560	\$88,640	\$78,800	\$100,880

APPROVING AND AUTHORIZING the City Manager to execute a *Community Reinvestment Area Tax Exemption Agreement* with 8K Development Company, LLC, thereby authorizing a 15-year tax exemption for 100% of the value of improvements made to real property located at 129-131 W. Elder Street in the Over-the-Rhine neighborhood of Cincinnati, in connection with the remodeling of the upper floors of 2 buildings into approximately 4,680 square feet of residential space, consisting of approximately 10 residential rental units, at a total construction cost of approximately \$880,600.

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

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

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

WHEREAS, 8K Development Company, LLC (the “Company”) desires to remodel the upper floors of 2 buildings into approximately 4,680 square feet of residential space, consisting of approximately 10 residential rental units, on real property at 129-131 W. Elder Street located within the corporate boundaries of the City of Cincinnati (the “Improvements” and the “Property,” as applicable), provided that the appropriate development incentives are available to support the economic viability of the Improvements; and

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

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

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

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

WHEREAS, pursuant to a separate ordinance passed by this Council on or around the date of this Ordinance, the City and the Company will enter into a separate Property Sale and Development Agreement (the “PSDA”), pursuant to which the City will sell the Property to the Company; and

WHEREAS, the City’s Real Estate Services Division determined that the fair market value of the Property is approximately \$100,000; however, subject to the terms and conditions of the PSDA, the City will sell the property for less than fair market value, namely, for \$1.00; and

WHEREAS, the City’s Department of Community and Economic Development estimates that the real property tax exemption for the Improvements will provide an annual net benefit to the Company in the amount of approximately \$10,118; and

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

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

Section 1. That Council approves a *Community Reinvestment Area Tax Exemption Agreement* with 8K Development Company, LLC (the “Agreement”), thereby authorizing a 15-year tax exemption for 100% of the assessed value of improvements to be made to real property located at 129-131 W. Elder Street in Cincinnati, as calculated by the Hamilton County Auditor, in connection with the remodeling of the upper floors of 2 buildings into approximately 4,680 square feet of residential space, consisting of approximately 10 residential rental units, to be completed at a total construction cost of approximately \$880,600.

Section 2. That Council authorizes the City Manager:

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

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

Passed: _____, 2023

Aftab Pureval, Mayor

Attest: _____
Clerk

Contract No. _____

Community Reinvestment Area Tax Exemption Agreement

This Community Reinvestment Area Tax Exemption Agreement (this "Agreement") is made and entered into as of the Effective Date (as defined on the signature page hereof) by and between the CITY OF CINCINNATI, an Ohio municipal corporation (the "City"), and 8K DEVELOPMENT COMPANY, LLC, an Ohio limited liability company (the "Company").

Recitals:

- A. The City and the Company are parties to a certain *Property Sale and Development Agreement* dated _____ (the "Development Agreement"). Pursuant to the Development Agreement, the City conveyed a portion of the Property (as defined below) to the Company.
- B. The City, through the adoption of Ordinance No. 274-2017 on September 27, 2017, designated the entire City of Cincinnati as a Community Reinvestment Area to encourage the development of real property and the acquisition of personal property in that area, pursuant to Ohio Revised Code Sections 3735.65 through 3735.70 (the "Statute").
- C. In accordance with the Statute, the Ohio Director of Development has forwarded to the City the Director's determination dated October 23, 2017, stating that the findings contained in Ordinance No. 274-2017 are valid and that the entire City is a Community Reinvestment Area under the Statute. By such determination, the Director of Development of the State of Ohio determined that the area within the corporate boundaries of the City of Cincinnati contains the characteristics set forth in the Statute and confirmed such area as a Community Reinvestment Area under the Statute.
- D. The Council of the City of Cincinnati has also passed Ordinance No. 275-2017 as of September 27, 2017, as amended by Ordinance No. 339-2018, passed on October 31, 2018, Ordinance No. 370-2020, passed on November 12, 2020, and Ordinance No. 24-2022, passed on February 2, 2022 (as amended, the "Commercial Policy Ordinance"), which sets forth certain additional policies, conditions and limitations regarding newly constructed or remodeled commercial and residential structures in the Community Reinvestment Area.
- E. The Company is the sole owner of certain real property within the City, located at 129-131 W. Elder Street, Cincinnati, Ohio 45202, consisting of the air parcel above the ground floors of the buildings located thereon (the "Property"), as further described in Exhibit A (Legal Description of Property) hereto. Notwithstanding the foregoing, the Property shall not include any residential condominiums being developed in connection with the Project (as defined below) (the "Excluded Property"), and the Company acknowledges and agrees that the City's Community Reinvestment Area program entails separate applications by the owner of any residential condominium units included within the Project. For the avoidance of doubt, the Excluded Property shall not be exempt under this Agreement; however, this provision shall not be deemed to prohibit any owners from time to time of any Excluded Property from separately applying for a tax abatement in accordance with applicable law.
- F. The Company has proposed to remodel the upper floors of buildings located on the Property, within the boundaries of the City of Cincinnati, as more fully described in Section 1 herein (the "Project"), provided that the appropriate development incentives are available to support the economic viability of the Project.
- G. The Statute provides that if any part of a project is to be used for commercial or industrial purposes, including projects containing five or more dwelling units, in order to be eligible for tax exemption the City and the Company must enter into an agreement pursuant to Ohio Revised Code Section 3735.671 prior to commencement of construction or remodeling.

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- H. The City, having appropriate authority under the Statute for this type of project, agrees (as provided herein and subject to all conditions herein) to provide the Company with the tax exemption incentives stated herein, available under the Statute, for development of the Project.
- I. The Company has submitted to the City an application for this tax exemption agreement (the "Application"), a copy of which is attached hereto as Exhibit B, has remitted with the Application (i) the City application fee of One Thousand Two Hundred Fifty Dollars (\$1,250) made payable to the City and (ii) in accordance with Ohio Revised Code Section 3735.672(C), the state application fee of Seven Hundred Fifty Dollars (\$750) made payable to the Ohio Development Services Agency ("ODSA"), to be forwarded to the ODSA with an executed copy of this Agreement.
- J. The Director of the City's Department of Community and Economic Development has recommended approval of the Application on the basis that the Company is qualified by financial responsibility and business experience to create and preserve employment opportunities and improve the economic climate of the City.
- K. The Board of Education of the Cincinnati City School District (the "Board of Education"), pursuant to that certain *Tax Incentive Agreement* effective as of April 28, 2020, has approved exemptions of up to one hundred percent (100%) of Community Reinvestment Area projects, waived advance notice and right to review such projects, and waived sharing or allocation of municipal income taxes in connection with such projects.
- L. The Company has entered into (or will enter into) an agreement with the Board of Education requiring the Company to pay the Board of Education amounts equal to thirty-three percent (33%) of the full amount of exempt real property taxes that would have been paid to Hamilton County if this Agreement were not in effect (the "Board of Education Agreement").
- M. The Company represents and warrants to the City that the Company and its major tenants, if any, do not intend to relocate part or all of their operations to the City from another county or municipal corporation in the State of Ohio (the "State").
- N. The Company represents that within the past five (5) years neither the Company, any related member of the Company, nor any entity to which the Company is a successor has discontinued operations at a project site in the State during the term of a property tax exemption agreement (under Ohio Revised Code Section 3735.671, 5709.62, 5709.63 or 5709.632) applicable to that site, and the Company acknowledges that misrepresentation hereunder will result in voiding of this Agreement.
- O. The Company represents and warrants to the City that the Company is not subject to an Enterprise Zone Agreement with the City of Cincinnati for the Property or the Project.
- P. This Agreement has been authorized by Ordinance No. _____-2023, passed by Cincinnati City Council on _____, 2023.
- Q. In determining to recommend and authorize this Agreement, the Department of Community and Economic Development and City Council, respectively, have acted in material reliance on the Company's representations in the Application and herein regarding the Project including, but not limited to, representations relating to the number of jobs to be created and/or retained by the Company, the Board of Education Agreement, and the Project's effect in promoting the general welfare of the people of Cincinnati by, for example, encouraging the development of real property located in the Community Reinvestment Area and thereby promoting economic growth and vitality in Cincinnati.

NOW, THEREFORE, pursuant to Ohio Revised Code Section 3735.67(A) and in conformity with the format required under Ohio Revised Code Section 3735.671, in consideration of the mutual covenants

contained herein and the benefit to be derived by the parties from the execution hereof, the parties agree as follows:

Section 1. Project. Upon issuance of the necessary zoning and building approvals, the Company agrees to remodel the upper floors of 2 existing buildings on the Property into approximately 4,680 square feet of residential space, consisting of approximately 10 residential rental units (the "Improvements") at an estimated aggregate cost of \$880,600 to commence after the execution of this Agreement and to be completed no later than June 30, 2024; *provided*, however, that the Director of the Department of Community and Economic Development (the "Housing Officer") may, in his or her discretion, extend such deadline for a period of up to 12 months by written notice if, in the Director's judgment, the Company is proceeding in good faith towards completion. The remodeling shall be in compliance with applicable building code requirements and zoning regulations. In addition to the foregoing, (A) the Project shall comply with the Americans with Disabilities Act, together with any and all regulations or other binding directives promulgated pursuant thereto (collectively, the "**ADA**"), and (B) if (i) any building(s) within the Project is subject to the accessibility requirements of the ADA (e.g., by constituting a "place of public accommodation" or another category of structure to which the ADA is applicable) and (ii) such building(s) is not already required to meet the Contractual Minimum Accessibility Requirements (as defined below) pursuant to the ADA, applicable building code requirements, or by any other legal requirement, then the Company shall cause such building(s) to comply with the Contractual Minimum Accessibility Requirements in addition to any requirements pursuant to the ADA and the applicable building code or legal requirement. As used herein, "**Contractual Minimum Accessibility Requirements**" means that a building shall, at a minimum, include (1) at least one point of entry (as used in the ADA), accessible from a public right of way, with respect to which all architectural barriers (as used in the ADA) to entry have been eliminated, and (2) if such accessible point of entry is not a building's primary point of entry, conspicuous signage directing persons to such accessible point of entry.

Section 2. Real Property Tax Exemption. Subject to the satisfaction of the conditions set forth in this Agreement, the City approves exemption from real property taxation, pursuant to and to the fullest extent authorized by the Statute, of one hundred percent (100%) of the amount by which the Improvements increase the assessed value of the Property as determined by the Hamilton County Auditor, for a period of fifteen (15) years, provided that the Company shall have entered into the Board of Education Agreement. Within 120 days after completion of the Project (unless otherwise extended in writing by the City's Housing Officer), the Company must file the appropriate application for tax exemption with the City's Housing Officer. The Company is solely responsible to take this action. Upon receipt of the application for tax exemption, the City will proceed with the exemption authorized by this Agreement. In accordance with Ohio Revised Code Section 3735.67, the exemption is conditioned on verification by the Housing Officer of (A) the completion of remodeling, (B) the cost of remodeling, (C) the facts asserted in the application for exemption and (D) if a remodeled structure is a structure of historical or architectural significance as designated by the City, state or federal government, that the appropriateness of the remodeling has been certified in writing by the appropriate agency. If the required verification is made, the Housing Officer will forward the exemption application to the Hamilton County Auditor with the necessary certification by the Housing Officer. Subject to the conditions set forth in this Agreement, the exemption commences the first tax year for which the Improvements would first be taxable were the Improvements not exempted from taxation. The dates provided in this paragraph refer to tax years in which the subject property is assessed, as opposed to years in which taxes are billed. No exemption shall commence after tax year 2025 nor extend beyond the earlier of (i) tax year 2039 or (ii) the end of the fifteenth (15th) year of exemption.

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

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

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

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

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

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

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

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

Section 11. Small Business Enterprise Program.¹

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

- (i) Including qualified SBEs on solicitation lists.
- (ii) Assuring that SBEs are solicited whenever they are potential sources. The Company must advertise, on at least two separate occasions, both in local minority publications and in other local newspapers of general circulation, invitations to SBEs to provide services, to supply materials, or to bid on construction contracts, as applicable.
- (iii) When economically feasible, dividing total requirements into small tasks or quantities so as to permit maximum SBE participation.
- (iv) If any subcontracts are to be let, the Company shall require the prime contractor (if different from the Company) to take the above affirmative steps.
- (v) Prior to the commencement of work under any subcontracts, the Company shall provide to the City a list of such subcontractors, including information as to the dollar amount of the subcontracts and such other information as may be requested by the City. The Company shall update the report monthly.
- (vi) The Company shall periodically document its best efforts and affirmative steps to meet the above SBE participation goals by submitting such information as may be requested from time to time by the City.

B. Remedies for Noncompliance with Small Business Enterprise Program. Failure of the Company or its contractors and subcontractors to take the affirmative steps specified above, to provide fair and equal opportunity to SBEs, or to provide technical assistance to SBEs as may be necessary to reach SBE participation as set out in CMC Chapter 323 may be construed by the City as failure of the Company to use its best efforts, and, in addition to other remedies under this Agreement, may be a cause for the City to file suit in Common Pleas Court to enforce specific performance of the terms of this Section. The provisions of CMC Section 323-99 are hereby incorporated by reference into this Agreement.

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

Section 13. Job Creation and Retention.

A. Jobs to be Created by Company. The Company agrees to use its best efforts to create 12 full-time temporary construction jobs at the Property in connection with the Project. In the case of the construction jobs, the job creation and retention period shall be concurrent with remodeling.

B. Company’s Estimated Payroll Increase. The Company’s increase in the number of employees will result in approximately \$375,000 of additional annual payroll prior to the

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

completion of the Project with respect to the full-time temporary construction jobs.

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

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

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

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

Section 16. Default. As provided in Ohio Revised Code Section 3735.671(C)(6), if the Company materially fails to fulfill its obligations under this Agreement including, without limitation, its obligation to comply with the Development Agreement, or if the City determines that the certification as to delinquent taxes required by this Agreement (Section 6 hereof) or the covenant of satisfaction of tax and other obligations (Section 7 hereof) is fraudulent, the City may terminate or modify the exemptions from taxation granted or authorized under this Agreement and may require the repayment by the Company of the amount of taxes that would have been payable had the Improvements not been exempted from taxation pursuant to this Agreement. A modification of exemption may be in the form of reduction in the number of years that eligible property is exempt and/or a reduction in the exemption percentage. The City shall provide written notice to the Company prior to finding the Company in default under this section. The notice shall provide the Company with not less than thirty (30) days to cure the default prior to City termination or modification of the exemptions under this Agreement. The City may extend the cure period as reasonably necessary under the circumstances. In the event of such termination or modification, the City is authorized to so notify the appropriate taxing authorities in order to effect the termination or modification. If repayment of previously exempt taxes is required by the City under this Section, such amount shall be paid as directed by the City within thirty (30) days of written demand. The City may secure repayment of such taxes by a lien on the Property in the amount required to be repaid. Such a lien shall attach, and may be perfected, collected, and enforced, in the same manner as a mortgage lien on real property, and shall otherwise have the same force and effect as a mortgage lien on real property. Amounts due and not paid when due under this Section 16 shall bear interest at the rate specified in Ohio Revised Code Section 1343.03(A) (as in effect on the date of the City's payment demand).

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

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Section 18. Revocation.

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

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

Section 19. False Statements; Penalties; Material Representations.

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

B. Material Representations. The Parties acknowledge and agree that a material failure by the Company to comply with its representations concerning the Board of Education Agreement shall constitute an event of default for purposes of Section 16 (*Default*) and the basis for revocation under Section 18 (*Revocation*). Nothing in this Section 19.B shall operate to limit the City's enforcement authority under this Agreement including, without limitation, Section 16, Section 18, and Section 19.A.

Section 20. Conflict of Interest. The Company covenants that, to the Company's knowledge, no employee of the City has any personal interest, direct or indirect, in any matters pertaining to the Project,

and the Company agrees to take appropriate steps to prevent any employee of the City from obtaining any such interest throughout the term of this Agreement.

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

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

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

To the City:

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

To the Company:

8K Development Company, LLC
Attention: Michael Chewning
57 E McMicken
Cincinnati, OH 45202

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 36. Wage Enforcement.

(i) Applicability. Council passed Ordinance No. 22-2016 on February 3, 2016, which ordained Chapter 326 (Wage Enforcement) of the Cincinnati Municipal Code (the "Wage Enforcement Chapter"). The Wage Enforcement Chapter was then amended by Ordinance No. 96-2017, passed May

17, 2017. As amended, the Wage Enforcement Chapter imposes certain requirements upon persons entering into agreements with the City whereby the City provides an incentive or benefit that is projected to exceed \$25,000, as described more particularly in the Wage Enforcement Chapter. Cincinnati Municipal Code Section 326-5 requires that the language below be included in contracts subject to the Wage Enforcement Chapter.

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

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

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

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

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

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

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

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

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

Section 39. 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). Once the Company has satisfied the requirements of the Statute and no later than 180 days prior to the end of the abatement term pursuant to this Agreement, 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 the Property for an extension of the abatement term pursuant to the Statute; and (iii) operating revenue and expenses for the prior five 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, if the Property qualifies for a historic extension pursuant to the Statute, the parties will execute a mutually satisfactory amendment to this Agreement to extend the abatement term for a period of ten years.

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

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

CITY OF CINCINNATI,
an Ohio municipal corporation

8K DEVELOPMENT COMPANY, LLC,
an Ohio limited liability company

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

Date: _____

By: _____

Printed Name: _____

Title: _____

Date: _____

Authorized by resolution dated _____

Approved as to Form:

Assistant City Solicitor

Certified Date: _____

Fund/Code: _____

Amount: _____

By: _____
Karen Alder, City Finance Director

Exhibit A to CRA Agreement

LEGAL DESCRIPTION OF PROPERTY

As it applies to the air lot located above the following parcel:

Situate in the City of Cincinnati, County of Hamilton, State of Ohio, and being all that part of Block "F" which was laid out by Findlay and Garrard recorded in Book 47, Page 319, of the Hamilton County, Ohio Records and being Lot No. fifty-two (52) in Block "F" as now subdivided by the Commissioners in case of Partition of the Estate of James and Jane Findlay, deceased. Said Lot No. Fifty-two (52) in Block "F" fronting twenty (20) feet on the south side of Elder Street (or Market Place) and extending back same width in rear as in front eighty (80) feet to a twelve (12) foot alley.

Commented [SZ1]: Interim legal description only.

Final legal description to be provided by Company after Company subdivides City parcel into 2 air parcels, pursuant to the Property Sale and Development Agreement.

Exhibit B to CRA Agreement
APPLICATION FOR TAX EXEMPTION

TO BE ATTACHED

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March 8, 2023

To: Mayor and Members of City Council

From: Sheryl M.M. Long, City Manager

202300764

Subject: Emergency Ordinance – Authorizing a Property Sale and Development Agreement with 8K Development Company, LLC

Attached is an Emergency Ordinance captioned:

AUTHORIZING the City Manager to execute a *Property Sale and Development Agreement* with 8K Development Company, LLC for the sale of the upper levels of the City-owned building located at 129-131 W. Elder Street in the Over-the-Rhine neighborhood for residential redevelopment.

BACKGROUND/CURRENT CONDITIONS

The City owns two adjoining four-story buildings located at 129-131 W. Elder Street in Over-the-Rhine. The properties are currently subject to the City’s lease and management agreement with the Corporation for Findlay Market, with the ground floor of both buildings being occupied by commercial tenants, *The Arepa Place*, and *Maverick Chocolate*. The upper floors of the two building currently sit vacant and are in need of substantial renovation. An appraisal of the upper floors of the properties conducted by the City’s Real Estate Services Division determined their fair market value to be \$100,000.

The Department of Community and Economic Development (DCED) released a Request for Proposals (RFP) for the sale and redevelopment of the upper floors of the two buildings in February 2022. The RFP received three (3) responses from the following respondents: 8K Development Company, LLC, A.M. Titan Group, and True Blue Properties. A cross-departmental committee reviewed and evaluated the 3 proposals and recommended the sale of property be awarded to 8K Development Company, LLC in June 2022.

DEVELOPER INFORMATION

8K was founded in 2009. Starting with the gut renovation of one dilapidated house on Langland Street in Northside, 8K has grown into an integrated construction and property development company. The renaissance in Cincinnati’s core neighborhoods has led to expertise across a broad spectrum of development and construction services such as comprehensive historic renovations, commercial buildouts, and ground up construction. In 2016, the organization was reconfigured into two companies, 8K Development Co. and 8K Construction Co. Since the reorganization, 8K has completed over 30,000 sf of residential renovation and over 15,000 sf of commercial build-out working primarily in Northside, Over-the-Rhine, and Walnut Hills.

RECOMMENDATION

DCED is recommending a sale of the upper floors of 129-131 W. Elder Street to 8K Development Company, LLC at the offer price of \$1.00, which is below the appraised fair market value of \$100,000. The City will retain ownership of the first floor of the two buildings and continue a leasing and management relationship with Corporation For Findlay Market for these spaces. DCED is also recommending a 15-year, net 67% Commercial CRA tax abatement on the improved value property with the potential for a 10-year historic extension, the ordinance for which has been introduced in tandem with this ordinance.

DCED's recommendation is based on the following reasons:

- 8K Development Company, LLC has presented the most advantageous proposal for the redevelopment of the upper portion of the property.
- The proposal made by the Developer will return the upper floors of the properties back into productive use by renovating the vacant space into residential units.
- The proposal will create ten (10) units, with six (6) units being affordable to households making between fifty (50%) and sixty (60%) percent of the area median income, and the remaining four (4) being market rate units.
- The proposal creates mixed income housing and will bring more residents and foot traffic to the Findlay Market area, which will help to support the Market and small businesses in the area.

The Administration recommends approval of this Emergency Ordinance so that the Developer can close on the properties, meet their historic tax credit application deadline, and begin construction on the project as soon as possible.

Attachment: Project Outline

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

Project Outline

<u>Project Description Details</u>	<u>Explanation</u>
Project Name	129-131 W. Elder Street
Street Address	129-131 W. Elder Street
Property Condition	Two historic buildings that sit in Findlay Market; ground floor of 129 W. Elder St. is currently occupied by The Arepa Place and ground floor of 131 W. Elder St. is currently occupied by Maverick Chocolate; the upper floors are vacant and in disrepair
Neighborhood	Over-the-Rhine
Incentive Application Process	Request for Proposals and Commercial CRA – Downtown Streetcar Area
Recent or other projects by Developer	1714 Vine Street, KeyMark Phase I & II
Approval at Planning Commission/Neighborhood support	<ul style="list-style-type: none"> - Approval of sale by City Planning Commission on 9/16/2022 - Public engagement meeting held with OTR stakeholders, the Developer and City Planning on 9/6/2022 - Written letters of support from OTRCC and CFFM
Plan Cincinnati Goals	Achieves the Compete Initiative Area Goal 2 (pages 114-120), Live Area goal 3 by (pages 164-178), and Sustain Initiative Area Goal 2 (pages 193-198)

Project Image



<u>Incentive Summary Category</u>	<u>Explanation</u>
Proposed Incentive	\$1.00 property sale to 8K Development Company, LLC
Additional Incentives	15-year, net 67% Commercial CRA tax abatement, with the possibility for 10-year historic extension (at the discretion of Council)
Construction Cost & Private investment committed	Project Costs <ul style="list-style-type: none"> - \$1,056,840 in total project costs (\$880,600 in hard construction costs) Financing Commitments <ul style="list-style-type: none"> - \$191,840 in Developer equity - \$650,000 permanent loan from North Side Bank - \$215,000 in State Historic Tax Credit Equity
Sq. Footage by Use	4,680 sf - residential
Number of units and rental ranges	10 one-bedroom units <ul style="list-style-type: none"> - 3 affordable to 50% AMI (\$650/month) - 3 affordable to 60% AMI (\$750/month) - 4 at market rate (\$900/month)
Jobs created/retained and payroll (living wage)	This project will not create any FTE positions
“But For”	The project, as presented with income restricted units, would not proceed without the proposed incentive package due to the Developer not receiving adequate returns until after Year 7.
Cash on Cash Return for developer (Market return between 8-12%, depends on investment risk)	Without Abatement (Year 5): 6% With Abatement (Year 5): 8%
LEED or other environmental build	Non-LEED
Neighborhood VTICA	No VTICA contribution
Total Public Benefit (Benefits Realized vs Taxes Forgone)	\$2.56 of new CPS/Income taxes for each \$1 forgone
Projected Income Tax Revenue	\$6,750
MBE/WBE Goals	SBE Goal of 30%
Transit Access/Walkability	The project is adjacent to Findlay Market-Elm, Findlay Market-Race, and Brewery District Streetcar stops; the project also sits along the 21, 64, 46, and 78 Metro bus routes

Geography	The project sits in an Opportunity Zone and the OTR-West End NRSA
Historic Preservation/Existing Building Renovation	This project will renovate the upper floors of two historic buildings, preserving and reactivating them for future use
Public Infrastructure Improvements	N/A

Rent	Affordable to Salary	City Jobs (Min Salary exceeds affordable salary)
\$650.00	\$26,000.00	Lifeguard, Laboratory Technician (Part-Time), Breast Feeding Peer Counselor (Part-Time), Parks/Recreation Program Leader (Part-Time)
\$900.00	\$36,000.00	Card Punch Operator, Custodian, Municipal Worker, Recreation Specialist (Part-Time)

AMI	1	2	3	4	5	6	7	8
30%	\$20,100	\$22,950	\$25,800	\$28,650	\$32,470	\$37,190	\$49,910	\$46,360
50%	\$33,450	\$38,200	\$43,000	\$47,750	\$51,600	\$55,400	\$49,250	\$63,050
60%	\$40,140	\$45,840	\$51,600	\$57,300	\$61,920	\$66,480	\$59,100	\$75,660
80%	\$53,520	\$61,120	\$68,800	\$76,400	\$82,560	\$88,640	\$78,800	\$100,880

EMERGENCY

CHM

- 2023

AUTHORIZING the City Manager to execute a *Property Sale and Development Agreement* with 8K Development Company, LLC for the sale of the upper levels of the City-owned building located at 129-131 W. Elder Street in the Over-the-Rhine neighborhood for residential redevelopment.

WHEREAS, the City owns the real property, including the building thereon, located at 129-131 W. Elder Street at Findlay Market in the Over-the-Rhine neighborhood, as more particularly depicted and described in the *Property Sale and Development Agreement* attached to this ordinance as Attachment A and incorporated herein by reference (“Property”), which Property is under the management of the City’s Department of Community and Economic Development (“DCED”); and

WHEREAS, the City currently leases the Property to the Corporation for Findlay Market of Cincinnati (“CFFM”), which manages the Property for the City; and

WHEREAS, two commercial tenants presently occupy the Property’s street-level commercial spaces, and the upper levels of the building are vacant and in need of redevelopment; and

WHEREAS, 8K Development Company, LLC, an Ohio limited liability company (“Developer”), submitted a development proposal to redevelop the upper floors of the Property into residential use, which proposal the City Manager, in consultation with DCED, determined to be the most advantageous to the City and involves the subdivision of the Property into two parcels: (i) a residential air lot primarily comprised of the upper floors of the building (“Residential Air Lot”) to be sold to Developer for the construction of 10 residential multi-family dwelling units at an estimated cost of approximately \$1,056,840 (“Project”); and (ii) a commercial air lot, including the basement and any and all residual space and land rights not part of the Residential Air Lot to be retained by the City (leased and managed by CFFM); and

WHEREAS, Developer estimates that the Project will create approximately 12 temporary construction jobs and no full-time permanent jobs; and

WHEREAS, the City Manager, in consultation with DCED, has determined that the Residential Air Lot is not needed for a municipal purpose and that the conveyance to Developer of the Residential Air Lot is not adverse to the City’s retained interest in the Property; and

WHEREAS, the City’s Real Estate Services Division has determined, by a professional appraisal, that the fair market value of the Residential Air Lot is approximately \$100,000; however, the City desires to sell the Residential Air Lot for less than the fair market value, namely, for \$1.00 because the City will receive economic and non-economic benefits from the Project that equal or exceed the fair market value of the Residential Air Lot because the City anticipates that the Project will create new jobs, stimulate economic growth in the Over-the-Rhine neighborhood, will create additional housing in Cincinnati, and will contribute to the social and economic viability and stability of the Findlay Market area by restoring the vacant upper levels of the building to productive use; and

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

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

WHEREAS, the City has determined that the Project is in the vital and best interests of the City and the health, safety, and welfare of its residents and in accordance with the above-stated public purposes because the Project will restore the vacant upper levels of the building to productive use, create additional housing and employment opportunities, stimulate economic growth in the Findlay Market area, and help to revitalize the Over-the-Rhine neighborhood, all for the economic benefit of the City; and

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

WHEREAS, the City Planning Commission, having the authority to approve the change in the use of City-owned property, approved the City’s sale of the Residential Air Lot to Developer at its meeting on September 16, 2022; now, therefore,

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

Section 1. That the City Manager is hereby authorized to execute a *Property Sale and Development Agreement* with 8K Development Company, LLC, an Ohio limited liability company (“Developer”), in substantially the form attached to this ordinance as Attachment A and incorporated herein by reference (“Agreement”), pursuant to which the City will sell to

Developer an air lot located at 129-131 W. Elder Street in Over-the-Rhine, as more particularly detailed in the Agreement (“Residential Air Lot”).

Section 2. That the Residential Air Lot is not needed for a municipal purpose and that the conveyance to Developer of the Residential Air Lot is not adverse to the City’s retained interest in the building and property located at 129-131 W. Elder Street.

Section 3. That the City’s Real Estate Services Division has determined, by a professional appraisal, that the fair market value of the Residential Air Lot is approximately \$100,000; however, the City will sell the Residential Air Lot for less than the fair market value, namely, for \$1.00 because the City will receive economic and non-economic benefits from the Project that equal or exceed the fair market value of the Residential Air Lot because the City anticipates that the Project will create new jobs, stimulate economic growth in the Over-the-Rhine neighborhood, will create additional housing in Cincinnati, and will contribute to the social and economic viability and stability of the Findlay Market area by restoring the vacant upper levels of the building to productive use.

Section 4. That it is in the best interest of the City to eliminate competitive bidding in connection with the City’s sale of the Residential Air Lot because the City Manager, in consultation with the Department of Community and Economic Development, determined Developer’s proposal to be the most suitable and advantageous to the City.

Section 5. That proceeds from the sale of the Residential Air Lot shall be deposited into Property Management Fund 209 to pay the fees for services provided by the City’s Real Estate Services Division in connection with the sale, and that the City’s Finance Director is hereby authorized to deposit amounts in excess thereof into Miscellaneous Permanent Improvement Fund 757.

Section 6. That the City’s Finance Director is authorized to transfer and appropriate such excess funds from the unappropriated surplus of Miscellaneous Permanent Improvement Fund 757 to capital improvement program project account no. 980x162xYY1641, “DCED Property Improvements,” in which “YY” represents the last two digits of the fiscal year in which the closing occurs and the proceeds are received, referencing the latter fiscal year if the events occur in different fiscal years.

Section 7. That Council authorizes the proper City officials to take all necessary and proper actions to fulfill the terms of the Agreement and this ordinance, including without limitation executing any and all ancillary agreements, deeds, plats, and other documents to facilitate all transactions contemplated by the Agreement.

Section 8. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to allow the City to do all things necessary to create the Residential Air Lot without delay to allow this construction-ready project to move forward so that the City may receive the economic and noneconomic benefits from the sale and development of the Residential Air Lot at the earliest possible time.

Passed: _____, 2023

Aftab Pureval, Mayor

Attest: _____
Clerk

Contract No. _____

PROPERTY SALE AND DEVELOPMENT AGREEMENT

between the

CITY OF CINCINNATI

and

8K Development Company, LLC
("Developer")

Project: 129 and 131 W. Elder Street

creation of 1st floor commercial lot at (to be retained by the City),
creation of residential air lot for upper floors for sale and redevelopment as residential
multifamily units

PROPERTY SALE AND DEVELOPMENT AGREEMENT

THIS PROPERTY SALE AND DEVELOPMENT AGREEMENT (“**Agreement**”) is made and entered into on the Effective Date (as defined on the signature page hereof) by and between the **CITY OF CINCINNATI**, an Ohio municipal corporation, having an address of 801 Plum Street, Cincinnati, Ohio 45202 (the “**City**”), and **8K Development Company, LLC**, an Ohio limited liability company, whose address for purposes of this Agreement is 60 E. McMicken Avenue, Cincinnati, Ohio 45202 (“**Developer**”).

Recitals:

A. The City owns the land and two adjoining 4-story buildings thereon located at 129 W. Elder Street (the “**129 Building**”) and 131 W. Elder Street (the “**131 Building**”), more particularly identified as Hamilton County, Ohio Auditor’s Parcel ID No. 094-0008-0145, in Over-the-Rhine in Cincinnati as shown on Exhibit A (*Site Survey*) hereto (the “**Buildings**”), which are under the management and control of the City’s Department of Community and Economic Development (“**DCED**”).

B. Pursuant to a *Lease and Management Agreement* between the City and the Corporation for Findlay Market of Cincinnati, an Ohio non-profit corporation (“**CFFM**”), dated April 12, 2022 (the “**CFFM Lease & Management Agreement**”), the City leases to CFFM various properties at Findlay Market, including the Buildings for the management and operation thereof.

D. A commercial restaurant known as *The Arepa Place* currently occupies the first-floor commercial space of the 129 Building, and a commercial tenant known as *Maverick Chocolate* currently occupies the first-floor commercial space of the 131 Building, each under a license agreement between CFFM and the tenant (the “**Commercial Tenant License Agreements**” and the “**Commercial Tenants**”, respectively). The upper floors of the Buildings are currently vacant and need substantial renovation.

E. Pursuant to a Request for Proposals solicited by DCED, the City determined that Developer’s proposed redevelopment plan for the Buildings is the most advantageous to the City. Developer’s proposal is as follows (the “**Project**”):

(i) *Pre-Closing Title & Survey Work*: Following the Effective Date, Developer shall engage [a] a title company to conduct a title examination to determine whether there are any liens or other encumbrances that may impair the proposed redevelopment of the Buildings; and [b] a professional surveyor to prepare proposed subdivision plats and any and all other engineering drawings and other documents as may be required by the City’s Department of City Planning and Engagement, the Hamilton County, Ohio Engineer, the Hamilton County, Ohio Auditor, and the Hamilton County, Ohio Recorder to subdivide Hamilton County, Ohio Auditor’s Parcel ID No. 094-0008-0145 into two lots (the “**Lots**”); namely:

[x] One upper-level residential air lot comprising the upper floors of the Buildings, including access from the ground floor (the “**Residential Air Lot**”, and also the “**Property**”), to be sold by the City to Developer under this Agreement for redevelopment into 10 residential multi-family units of which Developer will lease and make affordable six residential dwelling units for a period of 15 years (the “**Affordability Period**”) to families earning between 50% to 60% of the area median income (“**AMI**”) as established by United States Department of Housing and Urban Development (“**HUD**”) for the Cincinnati metropolitan area, adjusted for household size, and as may be updated from time to time (the “**Affordable Units**”); and

[y] one street-level commercial lot (including a basement and any and all residual space and land rights not part of the Residential Air Lot) of the Buildings (the “**Commercial Air Lots**”) which will remain under the City’s ownership and which the parties anticipate will remain occupied by the Commercial Tenants under the terms of the Commercial Tenant License Agreements.

- (ii) *Declaration of Covenants, Easements, and Restrictions:* Upon the parties’ approval of title, the proposed subdivision plats, engineering drawings, and other documents prepared under subparagraph (i) above, the City, Developer and CFFM shall work jointly to prepare and mutually approve a proposed *Declaration of Covenants, Easements and Restrictions* (the “**Declaration**”) that will set forth the respective rights and obligations of the owner of the Residential Air Lot and the Commercial Lot, including without limitation: [a] creating any necessary cross easements (including, if applicable, easements that may be necessary through the Commercial Lot in order for the owner of the Residential Air Lot to access mechanicals and utilities located in the basements of the Commercial Lots that provide service to the Residential Air Lot); and [b] self-help rights in favor of the owner of the Commercial Lot if the owner of the Residential Air Lot fails to fulfill their maintenance and repair obligations under the Declaration (e.g., roof or structural repairs) to the detriment of the Commercial Lot. (The parties acknowledge that the Declaration will not allocate off-street parking space between the Lots because there is no such off-site parking space behind the Buildings.);
- (iii) *Creation of Lots:* Upon the parties’ approval of the proposed Declaration, the parties shall take all steps necessary to [a] subdivide Hamilton County, Ohio Auditor’s Parcel ID No. 094-0008-0145 into the Lots as aforesaid, and [b] record the Declaration in the Hamilton County, Ohio Recorder’s office;
- (iv) *Closing:* Upon the creation of the Lots, the City shall transfer title to the Residential Air Lot to Developer (the “**Closing**”), and the City shall retain ownership of the Commercial Lot; and
- (v) *Construction:* Following the Closing, Developer shall [a] perform all work required to functionally separate the Residential Air Lot from the Commercial Lot (including, without limitation, performing all fire code separation work required by the City’s Department of Buildings and Inspections as a condition of receiving a certificate of occupancy for the Residential Air Lot), [b] construct the 10 residential multi-family dwelling units within the Residential Air Lot, and [c] make certain other improvements to the Buildings (collectively, the “**Improvements**”); with a target construction completion date (as evidenced by a certificate of occupancy for the residential improvements) no later than 24 months following the Effective Date.

F. Developer anticipates that the hard and soft costs associated with creating the Lots and constructing the Improvements (including the purchase price) will be approximately \$1,056,840 as shown on Exhibit B (*Scope of Work; Preliminary Budget; Source of Funds*) hereto.

G. Developer anticipates that the construction of the Improvements will create approximately 12 temporary construction jobs and 0 permanent jobs.

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

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

J. The City believes that the Project is in the vital and best interests of the City and the health, safety, and welfare of its residents, and in accordance with the public purposes and provisions of applicable federal, state, and local laws and requirements.

K. The City's Real Estate Services Division has determined that the fair market value of the Residential Air Lot, as determined by a professional appraisal, is \$100,000; however, the City is agreeable to convey the Property for less than fair market value, namely, for \$1.00 because the City will receive economic and non-economic benefits from the Project that equal or exceed the fair market value of the Property because it is anticipated that the Project will create new jobs, stimulate economic growth in the Over-the-Rhine neighborhood, will create additional housing in Cincinnati and is consistent with the City's objective of creating good quality housing options within the Over-the-Rhine neighborhood, thereby contributing to the social and economic viability and stability of the neighborhood and restore the Property to productive use.

L. The City believes that the Project is in the vital and best interests of the City and the health, safety, and welfare of its residents, and in accordance with the public purposes and provisions of applicable federal, state, and local laws and requirements. Accordingly, the City is cooperating to facilitate a real property tax abatement for the Project under a *Community Reinvestment Area Tax Exemption Agreement* (the "**CRA Agreement**"), subject to passage by City Council of a separate ordinance authorizing such abatement.

M. The City has determined that eliminating competitive bidding in connection with the City's sale of the Property is in the best interest of the City because the City issued a request for proposals to solicit offers to develop the Property, and the City finds that Developer's development proposal is the most suitable and advantageous to the City.

N. City Planning Commission, having the authority to approve the change in the use of City-owned property, approved the City's sale of the Property to Developer at its meeting on September 16, 2022.

O. Execution of this Agreement was authorized by Cincinnati City Council by Ordinance No. ____-2023, passed by City Council on _____, 2023.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Due Diligence Period.

(A) Due Diligence Materials. Following the Effective Date, Developer shall prepare and deliver the following items to DCED for its review and approval (the "**Due Diligence Materials**"):

- (i) Title: a recent 40-year title exam for the Buildings, prepared by a reputable title company acceptable to the City;
- (ii) Subdivision Plat: a proposed subdivision plat and, if needed, engineering drawings, to create the Residential Air Lot and Commercial Lot, prepared by a reputable surveyor or engineering firm acceptable to the City;
- (iii) Plans and Specifications: plans and specifications for the Improvements;

- (iv) Construction Schedule: The proposed construction schedule for the Project;
- (v) Building Permit: evidence that Developer has obtained or is ready to obtain a building permit issued by the City's Department of Buildings and Inspections for the construction of the Improvements (including a Certificate of Appropriateness by the Historic Conservation Board and, if required, a Certificate of Compliance by the Urban Conservator);
- (vi) Financing, Tax Credits, and Incentives: Evidence of a satisfactory loan commitment or letter from Developer's lender evidencing that Developer has secured or will be able to secure all financing necessary to complete the Project. Developer having satisfied itself that it will qualify for and ultimately obtain tax credits, abatements, and/or other incentives and financing to support the Project, including but not limited to, the CRA Agreement;
- (vii) Appraisal: an appraisal showing the prospective "as built" fair market value of the Residential Air Lot following renovation; and
- (viii) Other Information: such other information and documents pertaining to Developer or the Project as the City may reasonably require.

The City may, in its sole and absolute discretion, waive the requirement for delivery of any of the Due Diligence Materials or may permit that any of the Due Diligence Materials be delivered following the Closing (as defined below).

(B) Right to Terminate Agreement Upon Expiration of Due Diligence Period (6 months). The parties acknowledge that Developer intends to conduct various due diligence investigations with respect to the Project, including, without limitation, investigations pertaining to title, survey, physical condition, environmental, zoning, utilities, and permitting requirements. Notwithstanding anything in this Agreement to the contrary, if, after exercising good faith efforts, Developer is not satisfied with the results of its due diligence investigations, or if the Due Diligence Materials have not been finalized and approved by both parties, in either case within **six (6) months** after the Effective Date (the "**Due Diligence Period**"), the parties shall each have the right to terminate this Agreement by delivering a written notice of termination to the other party upon the expiration of the Due Diligence Period, whereupon neither party shall thereafter have any rights or obligations hereunder. During the Due Diligence Period and at Developer's request, the City shall give Developer the right to enter upon the Property from time to time in connection with its due diligence investigations by executing a written right-of-entry. Developer shall complete all its due diligence investigations at no cost to the City.

(C) Right to Terminate if City is Unable to Remove Property from CFFM Lease and Management Agreement. Notwithstanding anything in this Agreement to the contrary, the parties' obligations under this Agreement shall be contingent upon the City's ability to remove the Property from the CFFM Lease and Management Agreement, pursuant to which the City has the right to remove the Residential Air Lot from the terms of the CFFM Lease and Management Agreement (including without limitation causing CFFM to (i) terminate any existing license agreements or other agreements with third parties affecting the Residential Air Lot, and (ii) amend its existing Commercial Tenant License Agreements with the Commercial Tenants, if necessary, to address any impact of the proposed redevelopment on the Commercial Tenant License Agreements). The City shall use reasonable efforts to provide such notice to CFFM during the Due Diligence Period. If the City has not provided such written notice to CFFM or CFFM has failed to wind up all operational matters pertaining to the Property before the expiration of the Due Diligence Period, either party may terminate this Agreement by giving written notice thereof to the other party at any time thereafter (but prior to the date that the City notifies Developer that the City and CFFM have removed the Property from the CFFM Lease and Management Agreement).

(D) Copies of Due Diligence Materials to be Provided to City. Without limitation of Developer's other obligations under this Agreement, periodically throughout the Due Diligence Period and as such reports and materials are obtained by Developer, Developer, at no cost to the City, shall provide the City's Department of Community and Economic Development with copies of the inspection, engineering, and environmental reports, title reports, surveys, and other materials prepared by third party professionals obtained by Developer during the Due Diligence Period that pertain to the Project.

2. Real Estate Closing; Reconveyance for Failure to Timely Commence Construction.

(A) Purchase Price. Subject to the terms and conditions set forth herein, the City hereby agrees to sell the Property to Developer, and Developer hereby agrees to purchase the Property from the City for a purchase price of \$1.00 (the "**Purchase Price**"). Developer acknowledges that it is familiar with the condition of the Property, and, at the Closing (as defined below), the City shall convey the Property to Developer in "as is" condition. The City makes no representations or warranties to Developer with respect to the condition of the Property and, from and after the Closing, the City shall have no liability of any kind to Developer for any defects, adverse environmental condition, or any other matters affecting the Property.

(B) Closing Date. Provided this Agreement has not been terminated under paragraphs 1(B) or 1(C) above, the Closing shall take place **thirty (30) days** after the expiration of the Due Diligence Period or on such earlier or later date as the parties may agree upon.

(C) Closing Conditions. The Closing shall not occur unless and until the following conditions have been satisfied (the "**Closing Conditions**"); *provided, however*, that if the City, in its sole discretion, determines that one or more of the Closing Conditions would be more appropriately handled at Closing or post-Closing, the City may, if appropriate, include such Conditions in the City's Quitclaim Deed to Developer or handle such Conditions post-Closing. Developer shall perform all work and investigations and obtain and prepare all necessary documents to satisfy the Conditions at no cost to the City. In its sole discretion, the City may waive one or more of the Closing Conditions.

- (i) Due Diligence Materials: Each party must be satisfied with the various Due Diligence Materials and other reports related to the Project, as described in Section 1 above;
- (ii) Inspections and Utilities: Developer's approval (or waiver) of [x] inspections of the Property, including without limitation environmental assessments and soil assessments, to the extent Developer, at its option, elects to obtain such inspections, [y] MSD/GCWW: Developer shall (i) have submitted a Request for Availability for Sewer Service to the Metropolitan Sewer District of Greater Cincinnati and be complying with all related City requirements, and (ii) be satisfactorily coordinating the construction of the Project with the City's Greater Cincinnati Water Works and Division Stormwater Management Utility and complying with applicable requirements with respect to all matters pertaining to utility service for the Property;
- (iii) Project Completion: Based upon all information then available to the City, the City must be reasonably satisfied that the Developer has attained or will attain all approvals and awards necessary to complete the Project; has made no false or misleading claims to the City regarding the Project; and is otherwise prepared, able, and ready to complete the Project in accordance with the requirements of this Agreement;
- (iv) Plats, Legal Descriptions, and Deeds: Developer shall have provided the City with all plats and legal descriptions as required by DOTE, the Department of City Planning and Engagement, and the Hamilton County, Ohio Auditor, Engineer, and Recorder in connection with the City's sale of the Property, including a subdivision plat new legal description of the Property;

(v) Continued Compliance: Developer is in compliance with all obligations under this Agreement and that all representations made by Developer, as applicable, under this Agreement or the CRA Agreement continue to be true and accurate.

(vi) Coordinated Report Conditions (CR #03-2022) :

(a) GCWW:

(1) There are two existing water service line servicing these properties: 3/4", H-305704 (131 W Elder St.) and 1.5", H-309503 (129 W. Elder St.).

(2) Air Lots necessitate the Owner(s)/Developer(s) to prepare and record a Declaration of Easement document between all the property owners. GCWW requires a Recorder's office stamped copy of the Declaration of Easement.

(3) In order to get water service, the Owners/Developers will also need to process a request for an Air Lot Covenant using the Property Information form: Requirement for Water Service to Air Lots/Vertical Parcels. This process can begin at any point prior to needing water service.

(4) Once the Property Information Form is completed by the Owner/Developer, the form is submitted to GCWW to begin preparation of the Water Service Covenant document.

(5) Signatories on the covenant include the GCWW Director, GCWW Attorney and the Owners/Developers. The Owners/Developer will need to have the finalized covenant recorded at the Hamilton County Recorder's Office and then send a stamped copy to GCWW. After GCWW receives the stamped copy of the covenant, this restriction will be lifted from the Branch Sale process.

(6) A Grant of Easement and Water Service Covenant is required and must be recorded so that all created parcels will have access to a public water main. The Grant of Easement and Water Service Covenant must include language on how the water system will function within the building, including language regarding the repair, maintenance, and replacement of the service branches.

(7) GCWW must review and approve the Grant of Easement and Water Service Covenant prior to the sale of water service.

(8) If in the future, the petitioner or their agents determine the existing water system does not meet their fire and/or domestic water demands, then the petitioner may need to upgrade the water main(s) in their area to meet their fixture water demands. GCWW approval of this Coordinated Report for the subject sale in no way relieves the petitioner of their responsibility to potentially upgrade the water system to meet their future fire and domestic water demands. This work will be performed at the expense of the petitioner and not at the expense of GCWW.

(9) All conditions of water service to this property, including the location of attachment to the public water system, and abandonment of any existing water service branches that presently serve the subject premises, will be determined upon submission of final plans and application for service. Water service to this property is subject to all rules, regulations, and current practices and policies of GCWW.

(b) Department of City Planning and Engagement:

(1) Developer should make an appointment with the Urban Conservator for evaluation of the proposed exterior changes prior to sale: 513-352-4848. If the project potentially includes the significant rear addition or other significant exterior alterations, we will request that the project be granted a Certificate of Appropriateness from the Historic Conservation Board prior to the sale of property. If no COA is sought prior to closing, the City should stipulate with the sale that the buyer cannot infer that the City must approve any and all exterior changes to the building, regardless of whether such an addition is in keeping with the district guidelines

(2) If residential is desired on upper floors, the base zoning of CC-P would permit up to 6 residential units over both addresses as the addresses have been consolidated into one parcel. Any residential units in excess of 6 units would be required to get a Density Variance from the Historic Conservation Board. Applicant is encouraged to consult with Urban Conservator on desired uses of upper floors to determine their compliance with the Zoning Code.

(c) Buildings and Inspections:

(1) Water supplies may be inadequate in this alley for enhanced fire suppression, triggered by potential redevelopment/change of occupancy of the site.

(2) Any alterations triggering ADA compliance should be accomplished within the perimeter of property and not within the right-of-way.

(d) Altafiber: Altafiber has underground utility facilities in the area. Such facilities must remain in place, in service, and able to be accessed. Any damage done to the facilities or any work done to relocate the facilities as a result of this sale will be handled entirely at Developer's expense.

(e) MSD: As a reminder and if not already submitted, the MSDGC Request for Availability for Sewer Service (RASS) will be required by the project for a future development or redevelopment. The MSDGC RASS will determine the availability of a sewer and outline any additional MSDGC project requirements that could impact a project schedule if not considered, such as the need to obtain any MSDGC tap permits, easements, Ohio EPA Permit to Install, utilization of licensed and bonded sewer tappers with MSDGC, sewer inspection scheduling, project on-site separation of flow requirements, MSDGC Excavation/Fill permitting and bonding, MSDGC detention requirements per Section 303 of the MSDGC Rules and Regulations, need for a grease interception system, and/or a reminder for the project to coordinate with City of Cincinnati Stormwater Management Utility of the Department of the Greater Cincinnati Waterworks for their specific additional detailed storm water, storm water detention, and flood plain requirements

(D) Right to Terminate. If the Closing Conditions have not been satisfied or waived and the Closing has not occurred by **12 months** from the date that Council authorized the execution of this Agreement, then the City or Developer shall have the right to terminate this Agreement by giving written notice thereof to the other, whereupon this Agreement and all rights and obligations of the parties hereunder shall immediately terminate.

(E) Closing Costs and Closing Documents. At the Closing, (i) Developer shall pay the Purchase Price in full, and (ii) the City shall convey all its right, title, and interest in and to the Property to Developer by Quitclaim Deed in the form of Exhibit C (Quitclaim Deed) hereto (the "**City's Deed**"). Developer shall pay all conveyance fees, recording fees, title exam fees, title insurance premiums, settlement fees, and any and all other closing costs associated with the Closing such that the City shall

not be required to come up with any funds for the Closing (except that the City shall be responsible for discharging any monetary liens on the Property, other than real estate taxes and assessments). There shall be no proration of real estate taxes and assessments at Closing, and from and after the Closing, Developer shall pay all real estate taxes and assessments allocable to the Property thereafter becoming due. At Closing, the parties shall execute a closing statement and any and all other customary closing documents that are necessary for the Closing (except that the City shall not be required to execute a title affidavit or the like). Pursuant to Section 301-20, Cincinnati Municipal Code, at Closing, Developer shall pay to the City any and all unpaid related and unrelated fines, penalties, judgments, water or other utility charges, and any and all other outstanding amounts owed to the City by Developer or any of its affiliated entities. The provisions of this Agreement shall survive the City's execution and delivery of the City's Deed and shall not be deemed to have been merged therein.

(F) Re-conveyance of Property to City for Failure to Timely Commence Construction. Developer acknowledges that Developer's agreement to timely commence and complete construction, which will provide economic benefits to the City, is of utmost importance to the City. Accordingly, if Developer fails to obtain a building permit and commence on-site construction at the Property within **180 days** after the Closing, then, notwithstanding anything to the contrary in this Agreement, Developer shall re-convey the Property to the City or its designee, by limited warranty deed, free and clear of all liens and encumbrances except those, if any, that were in existence immediately prior to the date and time of the Closing, and in the same condition as presently exists, reasonable wear and tear and damage by the elements excepted (and under no circumstances shall the City be required to pay for the value of any improvements made by Developer to the Property) (the "**Re-conveyance**"), whereupon the City shall refund the Purchase Price to Developer (minus any and all out-of-pocket costs incurred by the City in connection with the Closing, including without limitation the fee payable to the City's Real Estate Services Division for services provided in connection with the Closing). Real estate taxes and assessments shall be prorated at Closing in accordance with local custom. Developer shall pay any and all closing costs associated with the Re-conveyance such that the City shall not be required to come up with any funds for the Re-conveyance. The obligation to re-convey the Property to the City shall be set forth in the City's Deed.

3. Construction.

(A) Maintenance of Property Between Closing and Prior to Construction. Between the Closing and Developer's commencement of on-site construction, Developer, at no expense to the City, shall maintain the Property in safe and presentable condition, including keeping the site reasonably free of debris and other unsightly materials.

(B) Construction; No Disruption of Commercial Tenant. Following the Closing, Developer shall commence and complete the renovation of the Property. Developer shall not transfer title to the Property to a third party prior to substantial completion of construction, and any attempt to do so shall constitute a default under this Agreement. During construction, Developer shall take all reasonable steps to avoid disrupting the Commercial Tenants' occupancy of the Commercial Lot.

(C) Applicable Laws. Developer shall obtain all necessary permits, licenses, and other governmental approvals and shall comply with all applicable federal, state, and local laws, codes, ordinances, and other governmental requirements applicable to the Project, including without limitation those set forth in Exhibit D hereto. The City makes no representations or other assurances to Developer that Developer will be able to obtain whatever permits and other approvals from the Department of City Planning and Engagement, the Department of Buildings and Inspections, the Department of Transportation and Engineering ("**DOTE**"), Metropolitan Sewer District ("**MSD**"), Greater Cincinnati Water Works ("**GCWW**"), Stormwater Management Utility ("**SMU**"), other City departments, City Planning Commission, or Cincinnati City Council that may be required in connection with the Project.

(D) Inspection of Work. During construction, the City, its employees, and agents shall have the right at all reasonable times to inspect the progress of construction to determine whether Developer is complying with its obligations hereunder.

(E) Mechanics Liens. Developer shall not permit any mechanics' or other similar liens to remain on the Property during construction.

(F) Project Information. During construction, Developer shall provide the City with such additional pertinent information pertaining to the Project as the City may reasonably request.

(G) Recognition of City Support. Developer shall acknowledge the support of the City with respect to the Project in all printed materials such as informational releases, pamphlets and brochures, construction signs, project and identification signage, and any publicity such as that appearing on the internet, television, cable television, radio, or in the press or any other printed media. In identifying the City as a participant, Developer shall use either the phrase "Project made possible by the City of Cincinnati" or a City of Cincinnati logotype or other form of acknowledgement that has been approved in advance in writing by the City. Developer's obligations under this section shall commence on the Effective Date and shall terminate on the date on which the Project has been completed.

(H) Affordability Requirements. Following construction completion of the Residential Air Lots, as evidenced by a certificate of occupancy issued by the City's Department of Buildings and Inspections, Developer shall ensure that the Affordable Units of the Residential Air Lot are rented in accordance with the requirements set forth in Exhibit E (Affordability Requirements) hereto (the "**Affordability Requirements**") for the Affordability Period.

4. Insurance; Indemnity.

(A) Insurance during Construction. During construction, Developer shall maintain, or cause to be maintained, the following insurance: (i) Commercial General Liability insurance of at least \$1,000,000 per occurrence, combined single limit/\$1,000,000 aggregate, naming the City as an additional insured, (ii) builder's risk insurance in the amount of one hundred percent (100%) of the value of the improvements constructed, (iii) automobile liability insurance in the amount of \$1,000,000 per occurrence, naming the City as an additional insured, (iv) worker's compensation insurance in such amount as required by law, (v) all insurance as may be required by Developer's lender(s) for the Project, and (vi) such other insurance as may be reasonably required by the City. Developer's insurance policies shall (a) be written in standard form by companies of recognized responsibility and credit reasonably acceptable to the City, that are authorized to do business in Ohio, and that have an A.M. Best rating of A VII or better, and (b) provide that they may not be canceled or modified without at least thirty (30) days prior written notice to the City.

(B) Waiver of Subrogation. Developer hereby waives all claims and rights of recovery, and on behalf of its respective 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 to be maintained under this Agreement, even if such loss or damage arises from the negligence of the City, its employees, agents, contractors or subcontractors; it being the agreement of the parties that Developer shall at all times protect itself against such loss or damage by maintaining adequate insurance. Developer shall cause its property insurance policies to include a waiver of subrogation provision consistent with the foregoing waiver.

(C) General Indemnity. Notwithstanding anything in this Agreement to the contrary, as a material inducement to the City to enter into this Agreement, Developer shall defend, indemnify and hold the City, its officers, council members, employees and agents (collectively, the "**Indemnified Parties**") harmless from and against any and all actions, suits, claims, losses, costs (including without limitation attorneys' fees), demands, judgments, liability and damages suffered or incurred by or asserted against the Indemnified Parties as a result of or arising from the acts of Developer, its agents, employees,

contractors, subcontractors, licensees, invitees or anyone else acting at its request in connection with each such Project.

5. Casualty. If the Property is damaged or destroyed by fire or other casualty during construction, Developer shall cause the damage to be repaired, as expeditiously as possible, and to the extent practicable, to substantially the same condition that existed immediately prior to such occurrence. If the insurance proceeds are insufficient to fully repair and restore the affected property, the City shall not be required to make up the deficiency. Developer shall handle all reconstruction in accordance with the applicable requirements set forth herein. Developer shall not be relieved of any obligations, financial or otherwise, under this Agreement during any period in which the damage is being repaired.

6. Default; Remedies.

(A) Default. The occurrence of any of the following shall be an “**event of default**” under this Agreement:

(i) The failure of Developer to perform any obligation under this Agreement, and failure to correct such failure within thirty (30) days after their receipt of written notice thereof from the City; *provided, however*, that if the nature of the default is such that it cannot reasonably be cured during the Cure period, Developer shall not be in default under this Agreement so long as Developer commences to cure the default within the Cure Period and thereafter diligently completes such cure within a reasonable period of time (but not exceeding 90 days) after Developer’s receipt of the City’s initial notice of default. Notwithstanding the foregoing, if Developer’s failure to perform or observe any obligation, duty, or responsibility under this Agreement creates a dangerous condition or otherwise constitutes an emergency as determined by the City, an event of default shall be deemed to have occurred if Developer fails to take corrective action immediately upon discovering such dangerous condition or emergency; or

(ii) the dissolution of Developer or the filing of any bankruptcy or insolvency proceedings by or against Developer, the making by Developer of an assignment for the benefit of creditors, the appointment of a receiver (temporary or permanent) for Developer, or the attachment of, levy upon, or seizure by legal process of any property of Developer; or

(iii) any representation, warranty, or certification of Developer made in connection with this Agreement, or any other related agreements or documents shall prove to have been false or materially misleading when made.

(B) Remedies. Upon the occurrence of an event of default under this Agreement, the City shall be entitled to: (i) terminate this Agreement by giving Developer written notice thereof and, without limitation of its other rights and remedies, and with or without terminating this Agreement, demand repayment of any and all loan or grant funds previously disbursed by the City under this Agreement, (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 Developer, and (iii) exercise any and all other rights and remedies under this Agreement or available at law or in equity. Developer shall be liable for all costs and damages, including without limitation attorneys’ fees, suffered, or incurred by the City as a result of a default of Developer under this Agreement or the City’s enforcement or termination of this Agreement. The failure of the City to insist upon the strict performance of any covenant or duty or to pursue any remedy under this Agreement shall not constitute a waiver of the breach of such covenant or of such remedy.

7. Notices. All notices given by the parties hereunder shall be deemed given if personally delivered, or delivered by 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 Community & Economic Development
805 Central Avenue, Suite 700
Cincinnati, OH 45202

To Developer:
8K Development Company, LLC
60 E. McMicken Avenue
Cincinnati, OH 45202

If Developer sends a notice to the City alleging that the City is in default under this Agreement, 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.

8. Representations, Warranties, and Covenants. Developer makes the following representations, warranties and covenants to induce the City to enter into this Agreement:

(i) Developer is duly organized and validly existing under the laws of the State of Ohio, has properly filed all certificates and reports required to be filed by it under the laws of the State of Ohio, and is not in violation of any laws of the State of Ohio relevant to the transactions contemplated by this Agreement.

(ii) Developer has full power and authority to execute and deliver this Agreement and to carry out the transactions provided for therein. This Agreement has by proper action been duly authorized, executed and delivered by Developer and all actions necessary have been taken to constitute this Agreement, when executed and delivered, valid and binding obligations of Developer.

(iii) The execution, delivery and performance by Developer of this Agreement and the consummation of the transactions contemplated hereby will not violate any applicable laws, or any writ or decree of any court or governmental instrumentality, or the organizational documents of Developer, or any mortgage, indenture, contract, agreement or other undertaking to which Developer is a party or which purports to be binding upon Developer or upon any of its assets, nor is Developer in violation or default of any of the foregoing.

(iv) There are no actions, suits, proceedings or governmental investigations pending, or to the knowledge of Developer, threatened against or affecting Developer, at law or in equity or before or by any governmental authority.

(v) Developer shall give prompt notice in writing to the City of the occurrence or existence of any litigation, labor dispute or governmental proceeding or investigation affecting Developer that could reasonably be expected to interfere substantially with its normal operations or materially and adversely affect its financial condition.

(vi) The statements made in the documentation provided by Developer to the City that are descriptive of Developer or the Project have been reviewed by Developer and do not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make such statements, in light of the circumstances under which they were made, not misleading.

(vii) With reference to Section 301-20 of the Cincinnati Municipal Code, neither Developer (nor its affiliates, if applicable) owes any outstanding fines, penalties, judgments, water or other utility charges or other amounts to the City.

9. Reporting Requirements.

(A) Submission of Records and Reports; Records Retention. Until such time as the Affordability Period has expired, Developer shall collect, maintain, and furnish to the City upon the City's request such accounting, financial, business, administrative, operational and other reports, records, statements and information as may be requested by the City pertaining to Developer, the Project, or this Agreement, including without limitation audited financial statements, bank statements, income tax returns, information pertinent to the determination of finances of the Project, and such reports and information as may be required for compliance with programs and projects funded by the City, Hamilton County, the State of Ohio, or any federal agency (collectively, "**Records and Reports**"). All Records and Reports compiled by Developer and furnished to the City shall be in such form as the City may from time to time require.

(B) City's Right to Inspect and Audit. From and after the Effective Date and for a period of three years after the Project has been completed, Developer shall permit the City and its designees and auditors to have reasonable access to and to inspect and audit Developer's Records and Reports. In the event any such inspection or audit discloses a material discrepancy with information previously provided by Developer to the City, Developer shall reimburse the City for its out-of-pocket costs associated with such inspection or audit.

10. General Provisions.

(A) Assignment. Developer shall not assign its rights or interests under this Agreement or any ancillary agreements with the City without the prior written consent of the City; provided that a collateral assignment of its rights under this Agreement to its lender for the Project (and subsequent assignments by such lender) shall be permitted. Developer's assignment of its rights or interests under this Agreement to an affiliate of Developer that is owned or controlled by Developer shall be subject to the City's prior written approval, not to be unreasonably withheld; however, no such assignment between Developer and its affiliated assignee shall release Developer from its obligations to the City under this Agreement.

(B) Entire Agreement; Conflicting Provisions. This Agreement (including the exhibits hereto) and the other agreements referred to herein contain the entire agreement between the parties with respect to the subject matter hereof and supersedes any and all prior discussions, negotiations, representations or agreements, written or oral, between them respecting the subject matter hereof. If any of the provisions of this Agreement purporting to describe specific provisions of other agreements are in conflict with the specific provisions of such other agreements, the provisions of such other agreements shall control.

(C) Amendments. This Agreement may be amended only by a written amendment signed by all parties.

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

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

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

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

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

(I) Time. Time is of the essence with respect to the performance by the parties of their respective obligations under this Agreement.

(J) No Third-Party Beneficiaries. Except as otherwise provided herein, no third-party beneficiary rights are created by this Agreement.

(K) No Brokers. The parties represent that they have 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 Agreement or the sale of the Property.

(L) Official Capacity. All representations, warranties, covenants, agreements and obligations of the City under this Agreement shall be effective to the extent authorized and permitted by applicable law. None of those representations, warranties, covenants, agreements or obligations shall be deemed to be a representation, warranty, covenant, agreement or obligation of any present or future officer, agent, employee or attorney of the City in other than his or her official capacity.

(M) Contingency for Legislative Authorization from City Council. Notwithstanding anything to the contrary in this Agreement, the City shall not be in breach of this Agreement if for any reason City Council does not pass any and all additional ordinances as may be necessary for the City to carry out the terms of this Agreement.

(N) Conflict of Interest. No officer, employee, or agent of the City who exercises any functions or responsibilities in connection with the planning or carrying out of the Project shall have any personal financial interest, direct or indirect, in Developer or in the Project, and Developer shall take appropriate steps to assure compliance.

(O) Administrative Actions. To the extent permitted by applicable laws, and unless otherwise expressly provided in this Agreement, all actions taken or to be taken by the City under this Agreement may be taken by administrative action and shall not require legislative action of the City beyond the legislative action authorizing the execution of this Agreement.

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

11. **Exhibits**. The following exhibits are attached to this Agreement and made a part hereof:

Exhibit A - *Site Survey*

Exhibit B - *Scope of Work; Preliminary Budget; Source of Funds*

Exhibit C - *Quitclaim Deed*

Exhibit D - *Additional Requirements*

Exhibit E - *Affordability Requirements*

SIGNATURE PAGE FOLLOWS

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

DEVELOPER:

8K DEVELOPMENT COMPANY, LLC,
an Ohio limited liability company

By: _____

Printed Name: _____

Title: _____

Date: _____

[Remainder of Page Intentionally Blank; City Signature Page Follows]

CITY OF CINCINNATI

By: _____

Printed Name: _____

Title: _____

Date: _____

Recommended by:

Markiea L. Carter, Director
Department of Community and Economic Development

Approved as to Form:

Assistant City Solicitor

Certified Date: _____

Fund/Code: _____

Amount: _____

By: _____
Karen Alder, City Finance Director

EXHIBIT A

to Property Sale and Development Agreement
Site Survey

113MAY-7 AM 9:58

DUSTY RHODES
AUDITOR
HAMILTON COUNTY

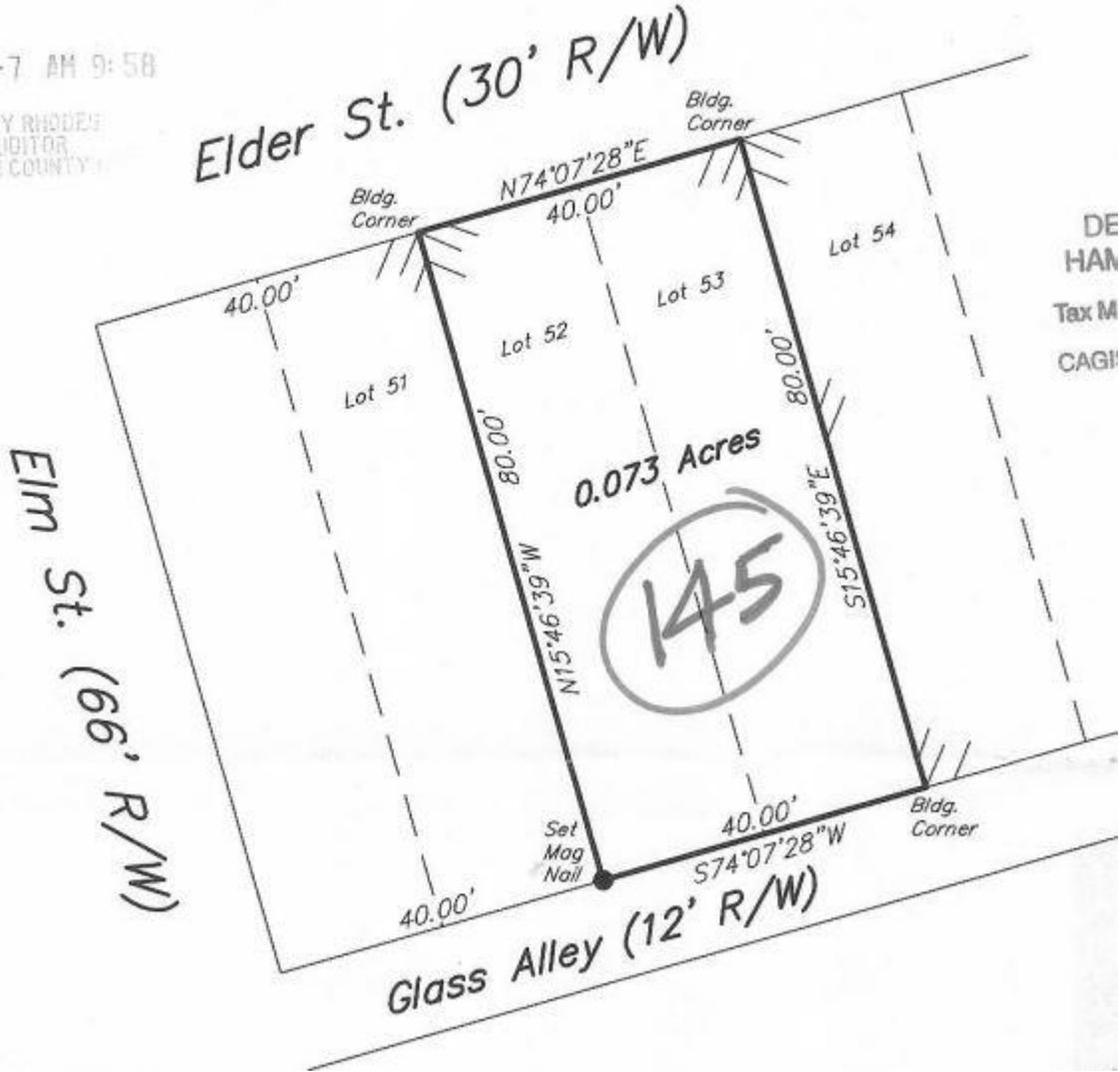


EXHIBIT B

to Property Sale and Development Agreement

Scope of Work; Preliminary Budget; Source of Funds

I. SCOPE OF WORK

Developer will be redeveloping the Property into 10 new residential rental units.

II. BUDGET, SOURCES & USES

a. Sources of Funds

Bank Loan	\$650,000
Developer Equity	\$191,840
State Historic Tax Credit Equity	\$215,000
TOTAL SOURCES	\$1,056,840

b. Uses of Funds

ITEM	COST
ACQUISITION	
Building Acquisition	\$1
HARD COSTS	
Rehabilitation	\$880,600
SOFT COSTS	
Architect & Engineering	\$29,500
Developer Fee	\$73,733
Environmental	\$3,850
Survey	\$850
Property Taxes	\$7,650
Construction Insurance	\$5,000
CONSTRUCTION FINANCE	
Title and Recording	\$5,656
Construction Interest	\$32,500
Appraisal	\$2,500
CONTINGENCIES	
Hard Cost Contingency	\$15,000
TOTAL DEVELOPMENT COST	\$1,056,840

EXHIBIT C

to Property Sale and Development Agreement

QUITCLAIM DEED

SEE ATTACHED

[SPACE ABOVE FOR RECORDER'S OFFICE]

QUITCLAIM DEED

The **CITY OF CINCINNATI**, an Ohio municipal corporation (the "**City**"), for valuable consideration paid, hereby grants and conveys to **8K Development Company, LLC**, as tenants in common, whose address is 60 E. McMicken Avenue, Cincinnati, Ohio 45202 ("**Grantee**"), all of the City's right, title and interest in and to the real property described on Exhibit A (Legal Description) hereto (the "**Property**").

Property Address: 129 & 131 W. Elder St, Cincinnati, OH 45202 (newly-created residential air lots)
Auditor's parcel No.: 094-0008-[____]
Prior Instrument: OR [____], Page [____], Hamilton County, Ohio Records

Re-conveyance of Property to City for Failure to Timely Commence Construction. The City and Grantee are parties to a *Property Sale and Development Agreement* dated _____, 2023 (the "**Development Agreement**"). As provided in the Development Agreement, if Grantee fails to obtain a building permit and commence on-site construction at the Property on or before _____, 2023, Grantee shall re-convey the Property to the City free and clear of all liens and encumbrances, as more particularly described in the Development Agreement. At such time as Grantee is no longer required to re-convey the Property to the City under the Development Agreement, the City shall execute and deliver to Grantee a recordable release, for recording in the Hamilton County Recorder's office, at Grantee's cost.

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

[Signature and Acknowledgement Page Follows]

Executed on the date of acknowledgment below.

CITY OF CINCINNATI

By: _____

Printed Name: _____

Title: _____

Date: _____

STATE OF OHIO)
) SS:
COUNTY OF HAMILTON)

The foregoing instrument was acknowledged before me this ____ day of _____, 2023, by _____, the _____ of the **CITY OF CINCINNATI**, an Ohio municipal corporation, on behalf of the corporation. This is an acknowledgement. No oath or affirmation was administered to the signer with regard to the notarial act certified hereto.

Notary Public
My commission expires: _____

Approved as to Form:

Assistant City Solicitor

This instrument prepared by:

City of Cincinnati Law Department
801 Plum Street
Cincinnati, OH 45202

Exhibits:
Exhibit A – *Legal Description*

EXHIBIT A
to Quitclaim Deed

LEGAL DESCRIPTION

**LEGAL DESCRIPTION
129-131 WEST ELDER STREET
RESIDENTIAL AIR LOT—AIR LOT [___]**

Situate in Section 13, Town 3, Fractional Range 2, Millcreek Township, City of Cincinnati, Hamilton County, Ohio and being more particularly described as follows:

Being all of Air Lot [___] of the [_____] Subdivision as recorded in Plat Book [___], Page [___], Hamilton County, Ohio Recorder's Office.

Being subject to all easements, reservations, conditions, and restrictions of record.

EXHIBIT D

to Property Sale and Development Agreement

Additional Requirements

Developer and Developer's general contractor shall comply with all applicable statutes, ordinances, regulations, and rules of the government of the United States, State of Ohio, County of Hamilton, and City of Cincinnati (collectively, "**Government Requirements**"), including the Government Requirements listed below, to the extent that they are applicable. Developer hereby acknowledges and agrees that (a) the below listing of Government Requirements is not intended to be an exhaustive list of Government Requirements applicable to the Project, Developer, or Developer's contractors, subcontractors or employees, either on the City's part or with respect to any other governmental entity, and (b) neither the City nor its Law Department is providing legal counsel to or creating an attorney-client relationship with Developer by attaching this Exhibit to the Agreement.

This Exhibit serves two functions:

(i) Serving as a Source of Information with Respect to Government Requirements.

This Exhibit identifies certain Government Requirements that may be applicable to the Project, Developer, or its contractors and subcontractors. Because this Agreement requires that Developer comply with all applicable laws, regulations, and other Government Requirements (and in certain circumstances to cause others to do so), this Exhibit flags certain Government Requirements that Developers, contractors and subcontractors regularly face in constructing projects or doing business with the City. To the extent a Developer is legally required to comply with a Government Requirement, failure to comply with such a Government Requirement is a violation of the Agreement.

(ii) Affirmatively Imposing Contractual Obligations.

If certain conditions for applicability are met, this Exhibit also affirmatively imposes contractual obligations on Developer, even where such obligations are not imposed on Developer by Government Requirements. As described below, the affirmative obligations imposed hereby are typically a result of policies adopted by City Council which, per Council's directive, are to be furthered by the inclusion of certain specified language in some or all City contracts. The City administration (including the City's Department of Community and Economic Development) is responsible for implementing the policy directives promulgated by Council (which typically takes place via the adoption of motions or resolutions by Council), including, in certain circumstances, by adding specific contractual provisions in City contracts such as this Agreement.

(A) Construction Workforce.

(i) Applicability.

Consistent with the limitations contained within the City Resolutions identified in clause (ii) below, this Section (A) shall not apply to contracts with the City other than construction contracts, or to construction contracts to which the City is not a party. For the avoidance of doubt, this Agreement is a construction contract solely to the extent that it directly obligates Developer to assume the role of a general contractor on a construction project for public improvements such as police stations or other government buildings, public parks, or public roadways.

The Construction Workforce Goals are not applicable to future work (such as repairs or modifications) on any portion of the Project. The Construction Workforce Goals are not applicable to the purchase of specialty fixtures and trade fixtures.

(ii) Requirement.

In furtherance of the policy enumerated in City Resolutions No. 32-1983 and 21-1998 concerning the inclusion of minorities and women in City construction work, if Developer is performing construction work for the City under a construction contract to which the City is a party, Developer shall use Best Efforts to achieve a standard of no less than 11.8% Minority Persons (as

defined below) and 6.9% females (of whom at least one-half shall be Minority Persons) in each craft trade in Developer and its general contractor's aggregate workforce in Hamilton County, to be achieved at least halfway through the construction contract (or in the case of a construction contract of six months or more, within 60 days of beginning the construction contract) (collectively, the "**Construction Workforce Goals**").

As used herein, the following terms shall have the following meanings:

(a) "**Best Efforts**" means substantially complying with all of the following as to any of its employees performing such construction, and requiring that all of its construction subcontractors substantially comply with all of the following: (1) solicitation of Minority Persons as potential employees through advertisements in local minority publications; and (2) contacting government agencies, private agencies, and/or trade unions for the job referral of qualified Minority Persons.

(b) "**Minority Person**" means any person who is Black, Asian or Pacific Islander, Hispanic, American Indian or Alaskan Native.

(c) "**Black**" means a person having origin in the black racial group of Africa.

(d) "**Asian or Pacific Islander**" means a person having origin in the original people of the Far East or the Pacific Islands, which includes, among others, China, India, Japan, Korea, the Philippine Islands, Malaysia, Hawaii and Samoa.

(e) "**Hispanic**" means a person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish cultural origin.

(f) "**American Indian**" or "**Alaskan Native**" means a person having origin in any of the original people of North America and who maintains cultural identification through tribal affiliation.

(B) Trade Unions; Subcontracts; Competitive Bidding.

(i) Meeting and Conferring with Trade Unions.

(a) Applicability. Per City of Cincinnati, Ordinance No. 130-2002, this requirement is limited to transactions in which Developer receives City funds or other assistance (including, but not limited to, the City's construction of public improvements to specifically benefit the Project, or the City's sale of real property to Developer at below fair market value).

(b) Requirement. This Agreement may be subject to the requirements of City of Cincinnati, Ordinance No. 130-2002, as amended or superseded, providing that, if Developer receives City funds or other assistance, Developer and its general contractor, prior to the commencement of construction of the Project and prior to any expenditure of City funds, and with the aim of reaching comprehensive and efficient project agreements covering all work done by Developer or its general contractor, shall meet and confer with: the trade unions representing all of the crafts working on the Project, and minority, female, and locally-owned contractors and suppliers potentially involved with the construction of the Project. At this meeting, Developer and/or its general contractor shall make available copies of the scope of work and if prevailing wage rates apply, the rates pertaining to all proposed work on the Project. Not later than ten (10) days following Developer and/or its general contractor's meet and confer activity, Developer shall provide to the City, in writing, a summary of Developer and/or its general contractor's meet and confer activity.

(ii) Contracts and Subcontracts; Competitive Bidding.

(a) Applicability. This clause (ii) is applicable to “construction contracts” under Cincinnati Municipal Code Chapter 321. Municipal Code Chapter 321 defines “construction” as “any construction, reconstruction, improvement, enlargement, alteration, repair, painting, decorating, wrecking or demolition, of any public improvement the total overall project cost of which is fairly estimated by Federal or Ohio statutes to be more than four thousand dollars and performed by other than full-time employees who have completed their probationary periods in the classified service of a public authority,” and “contract” as “all written agreements of the City of Cincinnati, its boards or commissions, prepared and signed by the city purchasing agent or a board or commission for the procurement or disposal of supplies, service or construction.”

(b) Requirement. If CMC Chapter 321 applies to the Project, Developer is required to ensure that all contracts and subcontracts for the Project are awarded pursuant to a competitive bidding process that is approved by the City in writing. All bids shall be subject to review by the City. All contracts and subcontracts shall be expressly required by written agreement to comply with the provisions of this Agreement and the applicable City and State of Ohio laws, ordinances and regulations with respect to such matters as allocation of subcontracts among trade crafts, Small Business Enterprise Program, Equal Employment Opportunity, and Construction Workforce Goals.

(iii) Competitive Bidding for Certain City-Funded Development Agreements.

(a) Applicability. Pursuant to Ordinance No. 273-2002, the provision in clause (b) below applies solely where the Project receives in \$250,000 or more in direct City funding, and where such funding comprises at least 25% of the Project’s budget. For the purposes of this clause (iii), “direct City funding” means a direct subsidy of City funds in the form of cash, including grants and forgivable loans, but not including public improvements, land acquisitions and sales, job creation tax credits, or tax abatements or exemptions.

(b) Requirement. This Agreement requires that Developer issue an invitation to bid on the construction components of the development by trade craft through public notification and that the bids be read aloud in a public forum. For purposes of this provision, the following terms shall be defined as set forth below:

- (1) “Bid” means an offer in response to an invitation for bids to provide construction work.
- (2) “Invitation to Bid” means the solicitation for quoted prices on construction specifications and setting a time, date and place for the submission of and public reading of bids. The place for the public reading of bids shall be chosen at the discretion of Developer; however, the place chosen must be accessible to the public on the date and time of the public reading and must have sufficient room capacity to accommodate the number of respondents to the invitation to bid.
- (3) “Trade Craft” means (a) general construction work, (b) electrical equipment, (c) plumbing and gas fitting, (d) steam and hot water heating and air conditioning and ventilating apparatus, and steam power plant, (e) elevator work, and (f) fire protection.
- (4) “Public Notification” means (a) advertisement of an invitation to bid with ACI (Allied Construction Industries) and the Dodge Report, and (b) dissemination of the advertisement (either by mail or electronically) to the South Central Ohio Minority Business Council, Greater Cincinnati Northern Kentucky African-American Chamber of Commerce, and the Hispanic Chamber of Commerce. The advertisement shall include a description of the “scope of work” and any other information reasonably necessary for the

preparation of a bid, and it shall be published and disseminated no less than fourteen days prior to the deadline for submission of bids stated in the invitation to bid.

(5) "Read Aloud in a Public Forum" means all bids shall be read aloud at the time, date and place specified in the invitation for bids, and the bids shall be available for public inspection at the reading.

(C) City Building Code. All construction work must be performed in compliance with City building code requirements.

(D) Lead Paint Regulations. All work must be performed in compliance with Chapter 3742 of the Ohio Revised Code, Chapter 3701-32 of the Ohio Administrative Code, and must comply with OSHA's Lead in Construction Regulations and the OEPA's hazardous waste rules. All lead hazard abatement work must be supervised by an Ohio Licensed Lead Abatement Contractor/Supervisor.

(E) Displacement. If the Project involves the displacement of tenants, Developer shall comply with all Government Requirements in connection with such displacement. If the City shall become obligated to pay any relocation costs or benefits or other sums in connection with the displacement of tenants, under Cincinnati Municipal Code Chapter 740 or otherwise, Developer shall reimburse the City for any and all such amounts paid by the City in connection with such displacement within twenty (20) days after the City's written demand.

(F) Small Business Enterprise Program.

(i) Applicability. The applicability of Municipal Code Chapter 323 (Small Business Enterprise Program) is limited to construction contracts in excess of \$5,000. Municipal Code Chapter 323 defines "contract" as "a contract in excess of \$5,000.00, except types of contracts listed by the City purchasing agent as exempt and approved by the City Manager, for (a) construction, (b) supplies, (c) services, or (d) professional services." It defines "construction" as "any construction, reconstruction, improvement, enlargement, alteration, repair, painting, decorating, wrecking or demolition, of any public improvement the total overall project cost of which is fairly estimated by Federal or Ohio statutes to be more than \$4,000 and performed by other than full-time employees who have completed their probationary periods in the classified service of a public authority." To the extent Municipal Code Chapter 323 does not apply to this Agreement, Developer is not subject to the various reporting requirements described in this Section (F).

(ii) Requirement. The City has an aspirational goal that 30% of its total dollars spent for construction and 15% of its total dollars spent for supplies/services and professional services be spent with Small Business Enterprises ("SBE"s), which include SBEs owned by minorities and women. Accordingly, subject to clause (i) above, Developer and its general contractor shall use its best efforts and take affirmative steps to assure that SBEs are utilized as sources of supplies, equipment, construction, and services, with the goal of meeting 30% SBE participation for construction contracts and 15% participation for supplies/services and professional services contracts. An SBE means a consultant, supplier, contractor or subcontractor who is certified as an SBE by the City in accordance with Cincinnati Municipal Code ("CMC") Chapter 323. (A list of SBEs may be obtained from the Department of Economic Inclusion or from the City's web page, <http://cincinnati.diversitycompliance.com>.) Developer and its general contractor may refer interested firms to the Department of Economic Inclusion for review and possible certification as an SBE, and applications may also be obtained from such web page. If the SBE program is applicable to this Agreement, as described in clause (i) above, Developer agrees to take (or cause its general contractor to take) at least the following affirmative steps:

(1) Including qualified SBEs on solicitation lists.

(2) Assuring that SBEs are solicited whenever they are potential sources. Contractor must advertise, on at least two separate occasions, both in local minority publications and in other local newspapers of general circulation, invitations to SBEs to provide services, to

supply materials or to bid on construction contracts for the Project. Contractor is encouraged to use the internet and similar types of advertising to reach a broader audience, but these additional types of advertising cannot be used as substitutes for the above.

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

(4) When needs permit, establishing delivery schedules that will encourage participation by SBEs.

(iii) Subject to clause (i) above, if any subcontracts are to be let, Developer shall require the prime contractor to take the above affirmative steps.

(iv) Subject to clause (i) above, Developer shall provide to the City, prior to commencement of the Project, a report listing all of the contractors and subcontractors for the Project, including information as to the owners, dollar amount of the contract or subcontract, and other information that may be deemed necessary by the City Manager. Developer or its general contractor shall update the report monthly by the 15th. Developer or its general contractor shall enter all reports required in this subsection via the City's web page referred to in clause (i) above or any successor site or system the City uses for this purpose. Upon execution of this Agreement, Developer and its general contractor shall contact the Department of Economic Inclusion to obtain instructions, the proper internet link, login information, and password to access the site and set up the necessary reports.

(v) Subject to clause (i) above, Developer and its general contractor shall periodically document its best efforts and affirmative steps to meet the above SBE participation goals by notarized affidavits executed in a form acceptable to the City, submitted upon the written request of the City. The City shall have the right to review records and documentation relevant to the affidavits. If affidavits are found to contain false statements, the City may prosecute the affiant pursuant to Section 2921.12, Ohio Revised Code.

(vi) Subject to clause (i) above, failure of Developer or its general contractor to take the affirmative steps specified above, to provide fair and equal opportunity to SBEs, or to provide technical assistance to SBEs as may be necessary to reach the minimum percentage goals for SBE participation as set forth in Cincinnati Municipal Code Chapter 323, may be construed by the City as failure of Developer to use best efforts, and, in addition to other remedies under this Agreement, may be a cause for the City to file suit in Common Pleas Court to enforce specific performance of the terms of this section.

(G) Equal Employment Opportunity.

(i) Applicability. Chapter 325 of the Cincinnati Municipal Code (Equal Employment Opportunity) applies (a) where the City expends more than \$5,000 under a non-construction contract, or (b) where the City spends or receives over \$5,000 to (1) employ another party to construct public improvements, (2) purchase services, or (3) lease any real or personal property to or from another party. Chapter 325 of the Municipal Code does not apply where the contract is (a) for the purchase of real or personal property to or from another party, (b) for the provision by the City of services to another party, (c) between the City and another governmental agency, or (d) for commodities such as utilities.

(ii) Requirement. If this Agreement is subject to the provisions of Chapter 325 of the Cincinnati Municipal Code (the City of Cincinnati's Equal Employment Opportunity Program), the provisions thereof are hereby incorporated by reference into this Agreement.

(H) Prevailing Wage. Developer shall comply, and shall cause all contractors working on the Project to comply, with all any prevailing wage requirements that may be applicable to the Project. In the event that the City is directed by the State of Ohio to make payments to construction workers based on violations of such requirements, Developer shall make such payments or reimburse the City for such

payments within twenty (20) days of demand therefor. A copy of the City's prevailing wage determination may be attached to this Exhibit as Addendum I to Additional Requirements Exhibit (City's Prevailing Wage Determination) hereto.

(I) Compliance with the Immigration and Nationality Act. In the performance of its construction obligations under this Agreement, Developer shall comply with the following provisions of the federal Immigration and Nationality Act: 8 U.S.C.A. 1324a(a)(1)(A) and 8 U.S.C.A. 1324a(a)(2). Compliance or noncompliance with those provisions shall be solely determined by final determinations resulting from the actions by the federal agencies authorized to enforce the Immigration and Nationality Act, or by determinations of the U.S.

(J) Prompt Payment. The provisions of Chapter 319 of the Cincinnati Municipal Code, which provides for a "Prompt Payment System", may apply to this Agreement. Municipal Code Chapter 319 also (i) provides certain requirements for invoices from contractors with respect to the Prompt Payment System, and (ii) obligates contractors to pay subcontractors for satisfactory work in a timely fashion as provided therein.

(K) Conflict of Interest. Pursuant to Ohio Revised Code 102.03, no officer, employee, or agent of the City who exercises any functions or responsibilities in connection with the planning or carrying out of the Project may have any personal financial interest, direct or indirect, in Developer or in the Project, and Developer shall take appropriate steps to assure compliance.

(L) Ohio Means Jobs. If this Agreement constitutes a construction contract (pursuant to the guidance with respect to the definition of that term provided in Section (A) above), then, pursuant to Ordinance No. 238-2010: To the extent allowable by law, Developer and its general contractor shall use its best efforts to post available employment opportunities with Developer, the general contractor's organization, or the organization of any subcontractor working with Developer or its general contractor with the OhioMeansJobs Center, 1916 Central Parkway, Cincinnati, Ohio 45214-2305, through its Employer Services Unit Manager at 513-946-7200.

(M) Wage Enforcement.

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

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

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

(b) If this contract is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this contract is required to include provisions in solicitations and contracts regarding a Development Site that all employers, Contractors or

Subcontractors performing or proposing to perform work on a Development Site provide an initial sworn and notarized "Affidavit Regarding Wage Theft and Payroll Fraud" on a form prescribed by the city manager or his or her designee and, within 30 days of an Adverse Determination or Complaint of Wage Theft or Payroll Fraud, shall provide an "Amended Affidavit Regarding Wage Theft and Payroll Fraud" on a form prescribed by the city manager or his or her designee.

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

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

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

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

(N) Americans With Disabilities Act; Accessibility.

(i) Applicability. Cincinnati City Council adopted Motion No. 201600188 on February 3, 2016 (the "**Accessibility Motion**"). This motion directs City administration, including DCED, to include language specifically requiring compliance with the Americans With Disabilities Act, together with any and all regulations or other binding directives promulgated pursuant thereto (collectively, the "**ADA**"), and imposing certain minimum accessibility standards on City-subsidized projects regardless of whether there are arguably exceptions or reductions in accessibility standards available under the ADA or State law.

(ii) Requirement. In furtherance of the policy objectives set forth in the Accessibility Motion, (A) the Project shall comply with the ADA, and (B) if (i) any building(s) within the Project is subject to the accessibility requirements of the ADA (e.g., by constituting a "place of public accommodation" or another category of structure to which the ADA is applicable) and (ii) such building(s) is not already required to meet the Contractual Minimum Accessibility Requirements (as defined below) pursuant to the ADA, applicable building code requirements, or by any other legal requirement, then Developer shall cause such building(s) to comply with the Contractual Minimum Accessibility Requirements in addition to any requirements pursuant to the ADA and the applicable building code or legal requirement. As used herein, "**Contractual Minimum Accessibility Requirements**" means that a building shall, at a minimum, include (1) at least one point of entry (as used in the ADA), accessible from a public right of way, with

respect to which all architectural barriers (as used in the ADA) to entry have been eliminated, and (2) if such accessible point of entry is not a building's primary point of entry, conspicuous signage directing persons to such accessible point of entry.

(O) Electric Vehicle Charging Stations in Garages.

(i) Applicability. Cincinnati City Council passed Ordinance No. 89-2017 on May 10, 2017. This ordinance requires all agreements in which the City provides any amount of "qualifying incentives" for projects involving the construction of a parking garage to include a provision requiring the inclusion of certain features in the garage relating to electric vehicles. The ordinance defines "qualifying incentives" as the provision of incentives or support for the construction of a parking garage in the form of (a) the provision of any City monies or monies controlled by the City including, without limitation, the provision of funds in the form of loans or grants; (b) the provision of service payments in lieu of taxes in connection with tax increment financing, including rebates of service payments in lieu of taxes; and (c) the provision of the proceeds of bonds issued by the City or with respect to which the City has provided any source of collateral security or repayment, including, but not limited to, the pledge of assessment revenues or service payments in lieu of taxes. For the avoidance of doubt, "qualifying incentives" does not include (1) tax abatements such as Community Reinvestment Area abatements pursuant to Ohio Revised Code 3735.67, et seq., or Job Creation Tax Credits pursuant to Ohio Revised Code 718.15; (2) the conveyance of City-owned real property for less than fair market value; and (3) any other type of City support in which the City provides non-monetary assistance to a project, regardless of value.

(ii) Requirement. If the applicability criteria of Ordinance No. 89-2017 are met, then the following requirements shall apply to any parking garage included within the Project: (a) at least one percent of parking spaces, rounding up to the nearest integer, shall be fitted with Level 2 minimum 7.2 kilowatt per hour electric car charging stations; provided that if one percent of parking spaces is less than two parking spaces, the minimum number of parking spaces subject to this clause shall be two parking spaces; and (b) the parking garage's electrical raceway to the electrical supply panel serving the garage shall be capable of providing a minimum of 7.2 kilowatts of electrical capacity to at least five percent of the parking spaces of the garage, rounding up to the nearest integer, and the electrical room supplying the garage must have the physical space for an electrical supply panel sufficient to provide 7.2 kilowatts of electrical capacity to at least five percent of the parking spaces of the garage, rounding up to the nearest integer.

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

Addendum I to Additional Requirements Exhibit

City's Prevailing Wage Determination

INTENTIONALLY OMITTED

EXHIBIT E
to Property Sale Development Agreement
Affordability Requirements

Following construction completion of the Residential Air Lots, as evidenced by a certificate of occupancy issued by the City's Department of Buildings and Inspections for the Residential Air Lots, and ending on the fifteenth (15th) anniversary thereof (the "**Affordability Period**"), Developer shall rent the Affordable Units or cause the Affordable Units to be rented on the Property in accordance with the requirements below. For the purposes of this Agreement, "**Monthly Rent**" shall mean the cumulative monthly amount that Developer charges to a tenant for residing in an Affordable Unit, including but not limited to any and all fees or other expenses paid by Developer and charged to a tenant on a monthly or annual basis. The Monthly Rent shall also include any amounts paid to Developer by third-parties or organizations on behalf of the tenant in exchange for tenant's occupancy of the subject Affordable Unit.

I. Rent and Income Limits.

A. 50% AMI or Below (three units). Developer, its successors, and assigns shall rent three (3) Affordable Units or cause three Affordable Units to be rented to tenants with an annual household income equal to or below 50% AMI, as established from time to time by HUD for the Cincinnati Metropolitan Area and based on the number of persons in the household ("**50% AMI Qualified Tenants**"). Developer, its successors, and assigns shall not charge a 50% AMI Qualified Tenant Monthly Rent for an Affordable Unit in an amount that exceeds the annual Low-Income Housing Tax Credit Rent and Income Rates for 50%, as published by the Ohio Housing Finance Agency, which rent limits may be adjusted from time to time, including adjustments for the number of bedrooms in the dwelling unit (the "**50% AMI Affordability Requirement**"). Developer shall ensure that three Affordable Units are rented to 50% AMI Qualified Tenants in compliance with the 50% AMI Affordability Requirement at the initial lease-up of the Property. If a 50% AMI Qualified Tenant's household income increases to an amount that exceeds the 50% AMI limit during the term of their lease, such increase in household income shall not prohibit Developer from extending or otherwise renewing the term of the tenant's lease agreement, so long as the tenant was a 50% AMI Qualified Tenant upon execution of their initial lease term.

B. 60% AMI or Below (three units). Developer, its successors, and assigns shall rent three (3) Affordable Units or cause three Affordable Units to be rented to tenants with an annual household income equal to or below 60% AMI, as established from time to time by HUD and based on the number of persons in the household ("**60% AMI Qualified Tenants**"). Developer, its successors, and assigns shall not charge a 60% AMI Qualified Tenant Monthly Rent for an Affordable Unit in an amount that exceeds the Low-Income Housing Tax Credit Rent and Income Rates for 60%, as published by the Ohio Housing Finance Agency, which rent limits may be adjusted from time to time, including adjustments for the number of bedrooms in the dwelling unit (the "**60% AMI Affordability Requirement**"). Developer shall ensure that three Affordable Units are rented to 60% AMI Qualified Tenants in compliance with the 60% AMI Affordability Requirement at the initial lease-up of the Property. If a 60% AMI Qualified Tenant's household income increases to an amount that exceeds the 60% AMI limit during the term of their lease, such increase in household income shall not prohibit Developer from extending or otherwise renewing the term of the tenant's lease agreement, so long as the tenant was a 60% AMI Qualified Tenant upon execution of their initial lease term.

II. Documentation. Pursuant to Section 9 of the Agreement, from the initial lease-up through the expiration of the Affordability Period, Developer shall collect, maintain, and furnish to the City upon the City's request such financial, administrative, operational and other reports, records, statements and information as may be requested by the City pertaining to the Project, this Agreement, and the Affordable Units including without limitation tenant household size, household income, and additional information pertinent to the determination of compliance with the affordability requirements and the Affordable Units.

March 8, 2023

To: Mayor and Members of City Council

From: Sheryl M.M. Long, City Manager

202300766

Subject: Emergency Ordinance – Approving And Authorizing CRA Tax Exemption Agreement with Moerlein Property LLC

Attached is an Emergency Ordinance captioned:

APPROVING AND AUTHORIZING the City Manager to execute a *Community Reinvestment Area Tax Exemption Agreement* with Moerlein Properties LLC, thereby authorizing a 12-year tax exemption for 100% of the value of improvements made to real property located at 115-125 W. McMillan Avenue and 124-142 Lyon Street in the CUF neighborhood of Cincinnati, in connection with the construction of a mixed-use development comprised of a parking garage, approximately 5,000 square feet of commercial space, and approximately 263,000 square feet of residential space, consisting of approximately 103 units, at a total construction cost of approximately \$33,000,000

BACKGROUND/CURRENT CONDITIONS

Moerlein Properties, LLC plans to construct a new building on the properties located at 115-125 W McMillan Avenue and 124-142 Lyon Street in the CUF neighborhood. The property currently consists of six vacant multifamily buildings and two surface parking lots.

DEVELOPER INFORMATION

Moerlein Properties, LLC is affiliated with Hallmark Communities. Hallmark Communities primarily develops low and mid-rise multi-family residential and student housing communities. They have experience with the construction of student housing throughout the region.

RECOMMENDATION

The Administration recommends approval of this Emergency Ordinance. This is an Emergency Ordinance because the developer is on a tight construction schedule to have the project completed by the start of the 2024 Fall semester.

Attachment: Project Outline

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

Project Outline

<u>Project Description Details</u>	<u>Explanation</u>
Project Name	Gateway Lofts CUF
Street Address	115-125 W McMillan Ave & 124-142 Lyon St
Property Condition	Six vacant multi-family buildings; Developer will acquire the buildings in 2023 upon closing of financing, in advance of CRA execution
Neighborhood	CUF
Incentive Application Process	Commercial CRA – Neighborhood VTICA (Non-LEED)
Recent or other projects by Developer	University Edge, Summit at Choates Run (Athens, OH), Marina Lofts (Toledo, OH) Gateway Lofts (Centerville, OH)
Approval at planning commission/Neighborhood support	Planning Commission N/A. Received letter of support from Clifton Heights CURC, CUF Neighborhood Association, and Clifton Heights Business Association.
Plan Cincinnati Goals	Achieves the Compete Initiative Area Goal 2 (pages 114-120) and Live Initiative Area Goal 2 and 3 (pages 157-178) and of Plan Cincinnati

Project Image



<u>Incentive Summary Category</u>	<u>Explanation</u>
Abatement Term and amount	12-year, net 52%
Construction Cost & Private investment committed	Estimated \$33 million construction cost at with an approximate \$50 million total development cost of which approximately \$40 million is proposed to be privately financed with the balance anticipated to coming from developer equity.
Sq. Footage by Use	263,000 sf – residential 5,000 sf - commercial
Number of units and rental ranges	103 residential units at market rate rents: 1 BR / 1 BA \$1,100 2 BR / 2 BA \$2,000 3 BR / 3 BA \$2,850 4 BR / 4 BA \$3,600 5 BR / 5 BA \$4,500
Jobs created/retained and payroll (living wage)	Projected to create 4 FTE positions at \$300,000 in annual payroll (avg. of \$75,000 annually per job)
“But For”	This project as presented would not receive a market rate of return even with the tax abatement. The tax abatement allows for a better rate of return.
Cash on Cash Return for developer (Market return between 8-12%, depends on investment risk)	Without Abatement: Year 5: estimated at 3% (stabilized vacancy) With Abatement: Year 5: estimated at 5% (stabilized vacancy)
LEED or other environmental build	Non-LEED
Neighborhood VTICA	Neighborhood VTICA – 15%
Total Public Benefit (Benefits Realized vs Taxes Forgone)	Estimated \$1.02 of new CPS/VTICA/Income taxes for each \$1 forgone
Projected Income Tax Revenue	\$368,325
MBE/WBE Goals	17% MBE & 10% WBE
Transit Access/Walkability	Sits along Metro Bus Route 31 and is only a block away from Routes 46 and 78; also sits in the Clifton Heights Business District
Geography	Located one block south of the University of Cincinnati campus boundary.
Historic Preservation/Existing Building Renovation	N/A
Public Infrastructure Improvements	N/A

Rent	Affordable to Salary	City Jobs (Min Salary exceeds affordable salary)
\$1,100	\$44,000	Firefighter/Paramedic 1; Fleet Services Supervisor; Parking Services Supervisor; Casework Associate; Diesel Mechanic; Housing Services Coordinator; Pool Manager; Surveyor
\$2,000	\$80,000	Nursing Supervisor; Senior Building Plans Examiner; Supervisor of Urban Forestry; Engineering Geologist; Risk Manager; City Purchasing Agent; Paramedic Training Officer
\$2,850	\$114,000	Mayor; Fire District Chief; Police Captain; Sewers Director; Retirement Director; Finance Director; Law Chief of Staff
\$3,600	\$144,000	Assistant Police Chief; Public Health Practitioner; Dentist; Director of Water and Sewers
\$4,500	\$180,000	Exceeds salary of Most Department Directors

** DCED anticipates that all residential units within this project will be rented to university students and the rent will likely exceed 30% of their income as a student. Multiple students will likely split the larger units but the chart above assumes affordability to a family and the associated job it would be affordable to for the entire unit.*

AMI	1	2	3	4	5	6	7	8
30%	\$20,100	\$22,950	\$25,800	\$28,650	\$32,470	\$37,190	\$49,910	\$46,360
50%	\$33,450	\$38,200	\$43,000	\$47,750	\$51,600	\$55,400	\$49,250	\$63,050
60%	\$40,140	\$45,840	\$51,600	\$57,300	\$61,920	\$66,480	\$59,100	\$75,660
80%	\$53,520	\$61,120	\$68,800	\$76,400	\$82,560	\$88,640	\$78,800	\$100,880

EMERGENCY

EVK

- 2023

APPROVING AND AUTHORIZING the City Manager to execute a *Community Reinvestment Area Tax Exemption Agreement* with Moerlein Properties LLC, thereby authorizing a 12-year tax exemption for 100% of the value of improvements made to real property located at 115-125 W. McMillan Avenue and 124-142 Lyon Street in the CUF neighborhood of Cincinnati, in connection with the construction of a mixed-use development comprised of a parking garage, approximately 5,000 square feet of commercial space, and approximately 263,000 square feet of residential space, consisting of approximately 103 units, at a total construction cost of approximately \$33,000,000.

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

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

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

WHEREAS, Moerlein Properties LLC (the “Company”) desires to construct a mixed-use development comprised of a parking garage, approximately 5,000 square feet of commercial space, and approximately 263,000 square feet of residential space, consisting of approximately 103 units, all on real property at 115-125 W. McMillan Avenue and 124-142 Lyon Street located within the corporate boundaries of the City of Cincinnati (the “Improvements”), provided that the appropriate development incentives are available to support the economic viability of the Improvements; and

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

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

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

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

WHEREAS, the City’s Department of Community and Economic Development estimates that the real property tax exemption for the Improvements will provide an annual net benefit to the Company in the amount of approximately \$302,643; and

WHEREAS, the Company has represented that it has entered into (or will enter into) a voluntary tax incentive contribution agreement with a third-party organization for amounts equal to 15% of the exempt real property taxes, which funds shall be committed by the third-party organization to facilitate permanent improvements and neighborhood services furthering urban redevelopment in the neighborhood of the Improvements and to support affordable housing on a City-wide basis; and

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

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

Section 1. That Council approves a *Community Reinvestment Area Tax Exemption Agreement* with Moerlein Properties LLC (the “Agreement”), thereby authorizing a 12-year tax exemption for 100% of the assessed value of improvements to be made to real property located at 115-125 W. McMillan Avenue and 124-142 Lyon Street in Cincinnati, as calculated by the Hamilton County Auditor, in connection with the construction of a mixed-use development comprised of a parking garage, approximately 5,000 square feet of commercial space, and approximately 263,000 square feet of residential space, consisting of approximately 103 units, to be completed at a total construction cost of approximately \$33,000,000.

Section 2. That Council authorizes the City Manager:

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

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

Passed: _____, 2023

Aftab Pureval, Mayor

Attest: _____
Clerk

Community Reinvestment Area Tax Exemption Agreement

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

Recitals:

- A. The City, through the adoption of Ordinance No. 274-2017 on September 27, 2017, designated the entire City of Cincinnati as a Community Reinvestment Area to encourage the development of real property and the acquisition of personal property in that area, pursuant to Ohio Revised Code Sections 3735.65 through 3735.70 (the "Statute").
- B. In accordance with the Statute, the Ohio Director of Development has forwarded to the City the Director's determination dated October 23, 2017, stating that the findings contained in Ordinance No. 274-2017 are valid and that the entire City is a Community Reinvestment Area under the Statute. By such determination, the Director of Development of the State of Ohio determined that the area within the corporate boundaries of the City of Cincinnati contains the characteristics set forth in the Statute and confirmed such area as a Community Reinvestment Area under the Statute.
- C. The Council of the City of Cincinnati has also passed Ordinance No. 275-2017 as of September 27, 2017, as amended by Ordinance No. 339-2018, passed on October 31, 2018, Ordinance No. 370-2020, passed on November 12, 2020, and Ordinance No. 24-2022, passed on February 2, 2022 (as amended, the "Commercial Policy Ordinance"), which sets forth certain additional policies, conditions and limitations regarding newly constructed or remodeled commercial and residential structures in the Community Reinvestment Area.
- D. The Company is the sole owner of certain real property within the City, located at 115-125 W. McMillan Avenue and 124-142 Lyon Street, Cincinnati, Ohio 45219 (the "Property"), as further described in Exhibit A (Legal Description of Property) hereto. Notwithstanding the foregoing, the Property shall not include any residential condominiums being developed in connection with the Project (as defined below) (the "Excluded Property"), and the Company acknowledges and agrees that the City's Community Reinvestment Area program entails separate applications by the owner of any residential condominium units included within the Project. For the avoidance of doubt, the Excluded Property shall not be exempt under this Agreement; however, this provision shall not be deemed to prohibit any owners from time to time of any Excluded Property from separately applying for a tax abatement in accordance with applicable law.
- E. The Company has proposed the construction of a complex located on the Property within the boundaries of the City of Cincinnati, as more fully described in Section 1 herein (the "Project"); provided that the appropriate development incentives are available to support the economic viability of the Project.
- F. The Statute provides that if any part of a project is to be used for commercial or industrial purposes, including projects containing five or more dwelling units, in order to be eligible for tax exemption the City and the Company must enter into an agreement pursuant to Ohio Revised Code Section 3735.671 prior to commencement of construction or remodeling.
- G. The City, having appropriate authority under the Statute for this type of project, agrees (as provided herein and subject to all conditions herein) to provide the Company with the tax exemption incentives stated herein, available under the Statute, for development of the Project.

- H. The Company has submitted to the City an application for this tax exemption agreement (the "Application"), a copy of which is attached hereto as Exhibit B, has remitted with the Application (i) the City application fee of One Thousand Two Hundred Fifty Dollars (\$1,250) made payable to the City and (ii) in accordance with Ohio Revised Code Section 3735.672(C), the state application fee of Seven Hundred Fifty Dollars (\$750) made payable to the Ohio Development Services Agency ("ODSA"), to be forwarded to the ODSA with an executed copy of this Agreement.
- I. The Director of the City's Department of Community and Economic Development has recommended approval of the Application on the basis that the Company is qualified by financial responsibility and business experience to create and preserve employment opportunities and improve the economic climate of the City.
- J. The Board of Education of the Cincinnati City School District (the "Board of Education"), pursuant to that certain *Tax Incentive Agreement* effective as of April 28, 2020, has approved exemptions of up to one hundred percent (100%) of Community Reinvestment Area projects, waived advance notice and right to review such projects, and waived sharing or allocation of municipal income taxes in connection with such projects.
- K. The Company has entered into (or will enter into) an agreement with the Board of Education requiring the Company to pay the Board of Education amounts equal to thirty-three percent (33%) of the full amount of exempt real property taxes that would have been paid to Hamilton County if this Agreement were not in effect (the "Board of Education Agreement").
- L. The Company represents and warrants to the City that the Company and its major tenants, if any, do not intend to relocate part or all of their operations to the City from another county or municipal corporation in the State of Ohio (the "State").
- M. The Company represents that within the past five (5) years neither the Company, any related member of the Company, nor any entity to which the Company is a successor has discontinued operations at a project site in the State during the term of a property tax exemption agreement (under Ohio Revised Code Section 3735.671, 5709.62, 5709.63 or 5709.632) applicable to that site, and the Company acknowledges that misrepresentation hereunder will result in voiding of this Agreement.
- N. The Company represents and warrants to the City that the Company is not subject to an Enterprise Zone Agreement with the City of Cincinnati for the Property or the Project.
- O. The Company acknowledges that the CUF neighborhood is a rising neighborhood in need of resources for development, neighborhood improvements, amenities, and organizations oriented towards neighborhood services. The Company anticipates that future development, improvements, amenities and organizations will contribute to the quality and vitality of the neighborhood, therefore increasing the value of the Property and directly and indirectly contributing to the Project's success. The Project's success, in turn, will benefit the neighborhood. Although this feedback effect will promote the revitalization and redevelopment of the City, it could also impact the affordability of property in the area. Therefore, in support of the CUF neighborhood and with the intention of preserving and improving the availability of quality, reliable affordable housing on a City-wide basis, as a material inducement to the City to enter into this Agreement, the Company hereby represents to the City that it will enter into a voluntary tax incentive contribution agreement ("VTICA") with a City-designated third-party non-profit administrative organization (the "Third-Party Administrator") to contribute to the Third-Party Administrator an amount equal to fifteen percent (15%) of the real property taxes that would have been payable on the abated property but for the City-authorized tax abatement (the "VTICA Contribution"). Half of such VTICA Contribution is to be committed by the Third-Party Administrator to facilitate permanent improvements and neighborhood services furthering urban redevelopment in the CUF neighborhood and the other half of such VTICA Contribution is to be committed by the Third-Party Administrator in supporting quality affordable housing on a City-

wide basis. The Company hereby represents and warrants that it will pay the VTICA Contribution for the full term of the abatement.

P. This Agreement has been authorized by Ordinance No. _____-2023, passed by Cincinnati City Council on _____, 2023.

Q. In determining to recommend and authorize this Agreement, the Department of Community and Economic Development and City Council, respectively, have acted in material reliance on the Company's representations in the Application and herein regarding the Project including, but not limited to, representations relating to the number of jobs to be created and/or retained by the Company, the Board of Education Agreement, the VTICA Contribution, and the Project's effect in promoting the general welfare of the people of Cincinnati by, for example, encouraging the development of real property located in the Community Reinvestment Area and thereby promoting economic growth and vitality in Cincinnati.

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

Section 1. Project. Upon issuance of the necessary zoning and building approvals, the Company agrees to construct a complex with a parking garage into approximately, 263,000 square feet of residential space, consisting of approximately 103 units, and approximately 5,000 square feet of commercial space on the Property (the "Improvements") at an estimated aggregate cost of Thirty-Three Million Dollars (\$33,000,000) to commence after the execution of this Agreement and to be completed no later than December 31, 2025; *provided*, however, that the Director of the Department of Community and Economic Development (the "Housing Officer") may, in his or her discretion, extend such deadline for a period of up to 12 months by written notice if, in the Director's judgment, the Company is proceeding in good faith towards completion. The construction shall be in compliance with applicable building code requirements and zoning regulations. In addition to the foregoing, (A) the Project shall comply with the Americans with Disabilities Act, together with any and all regulations or other binding directives promulgated pursuant thereto (collectively, the "**ADA**"), and (B) if (i) any building(s) within the Project is subject to the accessibility requirements of the ADA (e.g., by constituting a "place of public accommodation" or another category of structure to which the ADA is applicable) and (ii) such building(s) is not already required to meet the Contractual Minimum Accessibility Requirements (as defined below) pursuant to the ADA, applicable building code requirements, or by any other legal requirement, then the Company shall cause such building(s) to comply with the Contractual Minimum Accessibility Requirements in addition to any requirements pursuant to the ADA and the applicable building code or legal requirement. As used herein, "**Contractual Minimum Accessibility Requirements**" means that a building shall, at a minimum, include (1) at least one point of entry (as used in the ADA), accessible from a public right of way, with respect to which all architectural barriers (as used in the ADA) to entry have been eliminated, and (2) if such accessible point of entry is not a building's primary point of entry, conspicuous signage directing persons to such accessible point of entry.

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

architectural significance as designated by the City, state or federal government, that the appropriateness of the construction has been certified in writing by the appropriate agency. If the required verification is made, the Housing Officer will forward the exemption application to the Hamilton County Auditor with the necessary certification by the Housing Officer. Subject to the conditions set forth in this Agreement, the exemption commences the first tax year for which the Improvements would first be taxable were the Improvements not exempted from taxation. The dates provided in this paragraph refer to tax years in which the subject property is assessed, as opposed to years in which taxes are billed. No exemption shall commence after tax year 2026 nor extend beyond the earlier of (i) tax year 2037 or (ii) the end of the twelfth (12th) year of exemption.

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

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

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

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

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

Section 8. City Cooperation. As required by Ohio Revised Code Section 3735.671(C)(4), upon specific request from the Company, the City shall perform such acts as are reasonably necessary or

appropriate to effect, claim, reserve and maintain exemptions from taxation granted under this Agreement including, without limitation, joining in the execution of all documentation and providing any necessary certificates required in connection with such exemptions.

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

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

Section 11. Business Enterprise Program.¹

A. Compliance with Business Enterprise Program. The policy of the City is that a fair share of contracts be awarded to Small Business Enterprises (as such term is defined in Cincinnati Municipal Code (“CMC”) Section 323-1-S, “SBEs”), which includes SBEs owned by minorities and women (“MBEs” and “WBEs”, respectively, as used within CMC Chapter 324, and collectively with SBEs, “Certified Firms”). Pursuant to CMC Section 323-11, the City’s annual goal for SBE participation shall be thirty percent (30%) of the City’s total dollars spent for construction (as such term is defined in CMC Section 323-1-C4), supplies (as such term is defined in CMC Section 323-1-S5), services (as such term is defined in CMC Section 323-1-S) and professional services (as such term is defined in CMC Section 323-1-P2). Accordingly, the Company shall use its best efforts and take affirmative steps to achieve (i) the City’s goal of voluntarily meeting thirty percent (30%) SBE participation, and (ii) a sub-goal, being the Company’s Project-specific voluntary commitment, of meeting the City’s economic inclusion program goals to achieve a standard of no less than: seventeen percent (17%) MBE participation; and 10% WBE participation. A list of SBEs, MBEs, and WBEs may be obtained from the City’s Department of Economic Inclusion. The Company may refer interested firms to the City’s Department of Economic Inclusion for review and possible certification as an SBE, MBE, or WBE. The Company shall comply with the provisions of CMC Chapters 323 and 324, including without limitation taking at least the following affirmative steps:

- (i) Including qualified Certified Firms on solicitation lists.
- (ii) Assuring that Certified Firms are solicited whenever they are potential sources. The Company must advertise, on at least two separate occasions, both in local minority publications and in other local newspapers of general circulation, invitations to Certified Firms to provide services, to supply materials, or to bid on construction contracts, as applicable.
- (iii) When economically feasible, dividing total requirements into small tasks or quantities so as to permit maximum Certified Firm participation.
- (iv) If any subcontracts are to be let, the Company shall require the prime contractor (if different from the Company) to take the above affirmative steps.
- (v) Prior to the commencement of work under any subcontracts, the Company shall provide to the City a list of such subcontractors, including information as to the dollar amount of the subcontracts and such other information as may be requested by the City. The Company shall update the report monthly.

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

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

B. Remedies for Noncompliance with Business Enterprise Program. Failure of the Company or its contractors and subcontractors to take the affirmative steps specified above, to provide fair and equal opportunity to Certified Firms, or to provide technical assistance to Certified Firm as may be necessary to reach Certified Firm participation as set out in CMC Chapters 323 and 324 may be construed by the City as failure of the Company to use its best efforts, and, in addition to other remedies under this Agreement, may be a cause for the City to file suit in Common Pleas Court to enforce specific performance of the terms of this Section. The provisions of CMC Sections 323-99 and 324-99 are hereby incorporated by reference into this Agreement.

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

Section 13. Job Creation and Retention.

A. Jobs to be Created by Company. The Company agrees to use its best efforts to create (i) 4 full-time permanent jobs, and (ii) 150 full-time temporary construction jobs, at the Property in connection with the Project. In the case of the construction jobs, the job creation and retention period shall be concurrent with construction, and in the case of the other jobs described herein, the job creation period shall begin upon completion of construction and shall end three (3) years thereafter.

B. Company's Estimated Payroll Increase. The Company's increase in the number of employees will result in approximately (i) \$300,000 of additional annual payroll with respect to the full-time permanent jobs, and (ii) \$10,650,000 of additional annual payroll prior to the completion of the Project with respect to the full-time temporary construction jobs.

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

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

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

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

Section 16. Default. As provided in Ohio Revised Code Section 3735.671(C)(6), if the Company materially fails to fulfill its obligations under this Agreement, or if the City determines that the certification as to delinquent taxes required by this Agreement (Section 6 hereof) or the covenant of satisfaction of tax and other obligations (Section 7 hereof) is fraudulent, the City may terminate or modify the exemptions from taxation granted or authorized under this Agreement and may require the repayment by the Company of the amount of taxes that would have been payable had the Improvements not been exempted from taxation pursuant to this Agreement. A modification of exemption may be in the form of reduction in the number of years that eligible property is exempt and/or a reduction in the exemption percentage. The City shall provide written notice to the Company prior to finding the Company in default under this section. The notice shall provide the Company with not less than thirty (30) days to cure the default prior to City termination or modification of the exemptions under this Agreement. The City may extend the cure period as reasonably necessary under the circumstances. In the event of such termination or modification, the City is authorized to so notify the appropriate taxing authorities in order to effect the termination or modification. If repayment of previously exempt taxes is required by the City under this Section, such amount shall be paid as directed by the City within thirty (30) days of written demand. The City may secure repayment of such taxes by a lien on the Property in the amount required to be repaid. Such a lien shall attach, and may be perfected, collected, and enforced, in the same manner as a mortgage lien on real property, and shall otherwise have the same force and effect as a mortgage lien on real property. Amounts due and not paid when due under this Section 16 shall bear interest at the rate specified in Ohio Revised Code Section 1343.03(A) (as in effect on the date of the City's payment demand).

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

Section 18. Revocation.

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

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

Ohio Revised Code Section 3735.671) has violated the prohibition against entering into this Agreement under division (E) of Ohio Revised Code Section 3735.671 or under Ohio Revised Code Sections 5709.62 or 5709.63 prior to the time prescribed by that division or either of those sections.

Section 19. False Statements; Penalties; Material Representations.

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

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

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

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

Section 22. Discontinued Operations. As provided in Ohio Revised Code Section 3735.671(E), if, prior to the expiration of the term of this Agreement, the Company discontinues operations at the Project so that the Property is no longer being used for the purposes described in Section 1 hereof, then the Company, its successors, and any related member shall not enter into an

agreement under Ohio Revised Code Sections 3735.671, 5709.62, 5709.63 or 5709.632, and no legislative authority shall enter into such an agreement with the Company, its successors or any related member prior to the expiration of five (5) years after the discontinuation of operations. As used in this Section 22, "successors" and "related member" shall have the meanings set forth in Ohio Revised Code Section 3735.671(E).

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

To the City:

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

To the Company:

Moerlein Properties LLC
c/o Hallmark Campus Communities
Attention: William Kirk
150 E. Broad Street
Columbus, Ohio 43215

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 36. Wage Enforcement.

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

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

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

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

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

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

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

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

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

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

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

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

CITY OF CINCINNATI,
an Ohio municipal corporation

MOERLEIN PROPERTIES LLC,
an Ohio limited liability company

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

Date: _____, 2023

By: _____

Printed Name: _____

Title: _____

Date: _____, 2023

Authorized by resolution dated _____

Approved as to Form:

Assistant City Solicitor

Certified Date: _____

Fund/Code: _____

Amount: _____

By: _____
Karen Alder, City Finance Director

Exhibit A to CRA Agreement

LEGAL DESCRIPTION OF PROPERTY

Property Address: 115-125 W. McMillan Avenue, Cincinnati, Ohio 45202
Auditor's Parcel No.: 100-0003-0001, -0002, -0003, -0004, -0005, -0006, and -0007

PARCEL NOS. 100-0003-0004 and 0005 (cons.):

Situate in the City of Cincinnati, Hamilton County, Ohio on the south side of McMillan Street, between Ohio Avenue and Moerlein Avenue, being 40 feet front by 97.51 feet deep, and being Lot No. 21, and 15 feet off of the east side of Lot No. 22 on a plat of subdivision made by the heirs of Adeline L. Brashear of the north part of Lot 1 of Barr, Graham and Lewis Subdivision, which said plat is recorded in Plat Book 8, Volume 2, Page 11, in the office of the Recorder of Deeds of Hamilton County, Ohio.

PARCEL NO. 100-0003-0003:

Situate in the City of Cincinnati, Hamilton County, Ohio, and being Lot 23 and the West 10 feet of Lot 22 of the Subdivision made by the heirs of Adeline L. Brashear, of the North part of Lot 1 of Barr, Graham and Lewis Subdivision, a plat of which is recorded in Plat Book 8, Volume 2, Page 11 of the Plat Records of Hamilton County, Ohio, said Lot 23 and the West 10 feet of Lot 22 of said Subdivision as aforesaid fronting 35 feet on the South side of McMillan Street and having a depth between parallel lines of 97.51 feet.

PARCEL NO. 100-0003-0001 and 0002 (cons.):

Situate in the City of Cincinnati, County of Hamilton, State of Ohio, and being Lots Nos. 24 and 25 on a plat of Subdivision made by heirs of Adeline L. Brashear of part of Lot No. 1 of Barr, Graham and Lewis' Subdivision, recorded in Plat Book 8, Volume 2, Page 11, of the Plat Records of the Recorder's Office of Hamilton County, Ohio; said lots being on the south side of McMillan Street between Ohio Avenue and Moerlein Avenue in said City of Cincinnati.

PARCEL NOS. 100-0003-0006 and 0007 (cons.):

Situated in the State of Ohio, County of Hamilton and in the City of Cincinnati and being more particularly described as follows:

Being Lots Numbers Nineteen (19) and Twenty (20) on a plat of subdivision made by the heirs of Adeline I. Brashear of the north part of Lot Number One (1) of Barr, Graham and Lewis Subdivision, as the same is numbered and delineated upon the recorded plat thereof, of record in Plat Book 8, Volume 2, Page 11, Recorder's Office, Hamilton County, Ohio.

Property Address: 142 W. Lyon Street, Cincinnati, Ohio 45202
Auditor's Parcel No.: 100-0003-0026

Situate in Section 13, T3, FR2, Millcreek Township, City of Cincinnati, Hamilton County, Ohio and formerly being all of Lots Twenty-one (21), Twenty-two (22) and the east 5.00 feet of Lot Twenty-three (23) of the Estate of John Smith, subdivided by Barr, Graham and Lewis as now recorded in Plat Book 2, page 281 in the Recorder's Office and being more particularly described as follows:

Beginning at an Iron pin set with cap S-7133 at the Northeast corner of Lyon Street and Moerlein Avenue; thence North 8 degrees, 18' 48" East along the East line of Moerlein Avenue-152.00 feet to a set 1/2" iron pin with cap S-7133; thence North 89 degrees, 00', 00" East-parallel to the South line of McMillan Avenue along the south line of Adeline Brashaer's Heir's Subdivision as recorded in Plat Book 8, Volume 2, Page 11 R.O.-65.00 feet to a set 1/2" iron pin with cap S-7133; thence South 8 degrees, 18' 48" West-along the west line of Lot Twenty (20) of said John Smith's Estate Subdivision-152.00 feet to a point on the North line of Lyon Street (witnessed by a set cross notch on a 5.00 feet offset line South 8 degrees, 18' 48" West-5.07 feet); thence South 89 degrees, 00' 00" West- along the North line of Lyon Street-65.00 feet to the point of beginning, containing 0.2238 acres, more or less.

Bearings based on monuments found on the North line of McMillan Avenue-North 89 degrees, 00', 00" East assumed.

Based on a survey by George Armstrong, P.S. S-7133 dated 1/20/2000.

Property Address: 124-126 Lyon Street, Cincinnati, Ohio 45202
Auditor's Parcel No.: 100-0003-0034 and -0035

ALL THOSE CERTAIN LOTS OF GROUND, SITUATED ON THE NORTH SIDE OF LYON STREET, IN THE CITY OF CINCINNATI, COUNTY OF HAMILTON AND STATE OF OHIO, KNOWN AND DESIGNATED AS LOTS NO. FOURTEEN (14) AND FIFTEEN (15) ON THE PLAT OF SUBDIVISION OF THE ESTATE OF JOHN SMITH DECEASED, RECORDED IN PLAT BOOK 2, PAGE 281, IN THE RECORDER'S OFFICE OF HAMILTON COUNTY, OHIO; COMMENCING AT THE SOUTHWEST CORNER OF LOT NO. THIRTEEN (13) ON SAID PLAT OF SUBDIVISION, THENCE WEST ALONG THE NORTH SIDE OF LYON STREET, 60 FEET TO THE EAST LINE OF LOT NO. SIXTEEN (16); THENCE NORTH WITH SAID EAST LINE OF LOT NO. SIXTEEN (16), 150 FEET; THENCE EAST ON A LINE PARALLEL WITH LYON STREET, 60 FEET TO THE EAST LINE OF LOT NO. FOURTEEN (14); THENCE SOUTH WITH SAID EAST LINE OF LOT NO. FOURTEEN (14), 150 FEET TO LYON STREET, THE PLACE OF BEGINNING.

Property Address: 138 Lyon Street, Cincinnati, Ohio 45202
Auditor's Parcel No.: 100-0003-0029

SITUATE AND BEING ALL OF LOT NUMBER TWENTY (20) OF JOHN SMITH'S ESTATE SUBDIVISION OF PART OF BLOCK NO. 1 OF BARR, GRAHAM AND LEWIS SUBDIVISION AS MADE IN CASE NO. 1065 OF THE PROBATE COURT OF HAMILTON COUNTY, OHIO, A PLAT OF WHICH SUBDIVISION IS RECORDED IN PLAT BOOK 2, PAGE 281, HAMILTON COUNTY, OHIO RECORDS.

Property Address: 136 Lyon Street, Cincinnati, Ohio 45202
Auditor's Parcel No.: 100-0003-0030 and -0031 (cons.)

SITUATED IN THE CITY OF CINCINNATI, COUNTY OF HAMILTON AND STATE OF OHIO, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEING LOT NO. 19 AND THE WESTERLY 20 FEET OF LOT NO. 18 OF JOHN SMITH, DECEASED, SUBDIVISION OF LOT NO. 1 OF BARR, GRAHAM AND LEWIS SUBDIVISION; FRONTING 50 FEET ON THE NORTH SIDE OF LYON STREET AND EXTENDING BACK NORTHWARDLY BETWEEN PARALLEL LINES A DISTANCE OF 150 FEET.

Property Address: 132 Lyon Street, Cincinnati, Ohio 45202
Auditor's Parcel No.: 100-0003-0032

All those certain lots of ground situated on the north side of Lyon Street, in the City of Cincinnati, County of Hamilton and State of Ohio, known and designated as Lot number 17 and 10 feet off the easterly side of Lot number 18 on the plat of the subdivision of the Estate of John Smith, deceased, commencing at a point 409.17 feet west of Ohio Avenue; thence west along the north line of Lyon Street, 40 feet; thence north on a line parallel with the west line of said lot number 18, 150 feet; thence east on a line parallel with Lyon Street, 40 feet to the east line of Lot number 17 on said plat of subdivision, thence south with said east line of lot number 17, 150 feet to Lyon Street, the place of beginning.

Property Address: 128 Lyon Street, Cincinnati, Ohio 45202
Auditor's Parcel No.: 100-0003-0033

Situated in the City of Cincinnati, State of Ohio and County of Hamilton, and being located on the north side of Lyon Street, known and designated as Lot no. 16 on the plat of subdivision of the Estate of John Smith, deceased, commencing at the a point 379.17 feet west of Ohio Avenue; thence west along the north line of Lyon Street 30 feet; thence north along the east line of Lot no. 17, 150 feet; thence east on a line parallel with Lyon Street 30 feet; thence south along the west line of lot no. 15, 150 feet to the place of beginning.

Exhibit B to CRA Agreement
APPLICATION FOR TAX EXEMPTION

TO BE ATTACHED

March 15, 2023

To: Mayor and Members of City Council

202300831

From: Sheryl M. M. Long, City Manager

Subject: Ordinance – Health: Get Vaccinated OHIO Grant

Attached is an Ordinance captioned:

AUTHORIZING the City Manager to apply for, accept, and appropriate a grant in the amount of \$298,344 from the Get Vaccinated OHIO Public Health Initiative for the purpose of supporting activities that will increase immunization rates in children under two years of age, school aged children, and adolescents; and **AUTHORIZING** the Finance Director to deposit the grant funds into Immunization Action Plan Fund revenue account no. 415x8556.

This Ordinance would authorize the City Manager to apply for, accept, and appropriate a grant in the amount of \$298,344 from the Get Vaccinated OHIO Public Health Initiative for the purpose of supporting activities that will increase immunization rates in children under two years of age, school aged children, and adolescents. This Ordinance would also authorize the Finance Director to deposit the grant funds into Immunization Action Plan Fund revenue account no. 415x8556.

The Get Vaccinated Ohio Project is a state funded competitive grant designed to support activities to increase immunization rates in children under two years of age, school aged children and adolescents. Grant activities will include immunization assessment, targeted reminders and recall, identifying disparities of low immunization levels, educational activities involving families and providers, assuring schools report vaccination rates and school education, and assuring the vaccination of high-risk infants exposed to hepatitis B disease as methods of increasing immunization rates for both public and private immunization providers.

No new FTEs are associated with the grant, and the grant does not require matching funds. The Cincinnati Health Department applied for this grant on February 15, 2023, but grant funding will not be accepted without the approval of the City Council.

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).

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 in the amount of \$298,344 from the Get Vaccinated OHIO Public Health Initiative for the purpose of supporting activities that will increase immunization rates in children under two years of age, school-aged children, and adolescents; and **AUTHORIZING** the Finance Director to deposit the grant funds into Immunization Action Plan Fund revenue account no. 415x8556.

WHEREAS, a grant is available in the amount of \$298,344 from the Get Vaccinated OHIO Public Health Initiative to be awarded to the City of Cincinnati Health Department (“CHD”) for the purpose of supporting activities that will increase immunization rates in children under two years of age, school-aged children, and adolescents; and

WHEREAS, grant objectives include immunization assessment, targeted reminders and recall, identifying disparities of low immunization levels, educational activities involving families and providers, assuring schools report on vaccination rates and school education, and assuring the vaccination of high-risk infants exposed to hepatitis B disease as methods of increasing immunization rates for both public and private immunization providers; and

WHEREAS, no additional FTEs are associated with this grant, and no matching funds are required; and

WHEREAS, CHD applied for this grant on February 15, 2023, but grant funding will not be accepted without the approval of Council; and

WHEREAS, this grant is in accordance with the “Sustain” goal to “[b]ecome a healthier Cincinnati,” as described on page 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 hereby authorized to apply for, accept, and appropriate a grant in the amount of \$298,344 from the Get Vaccinated OHIO Public Health Initiative for the purpose of supporting activities that will increase immunization rates in children under two years of age, school-aged children, and adolescents.

Section 2. That the Finance Director is hereby authorized to receive and deposit the grant funds into Immunization Action Plan revenue account no. 415x8556.

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

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

Passed: _____, 2023

Aftab Pureval, Mayor

Attest: _____
Clerk

March 15, 2023

To: Mayor and Members of City Council 202300835

From: Sheryl M. M. Long, City Manager

Subject: **Ordinance – DOTE: COTF Grant for Wasson Way Trail Phase 6A**

Attached is an Ordinance captioned:

ESTABLISHING new capital improvement program project account no. 980x232x232315, “Wasson Way 6A 2023 ODNR COTF Grant,” for the purpose of providing resources for the construction of Phase 6A of the Wasson Way Trail; **AUTHORIZING** the City Manager to accept and appropriate a grant in an amount up to \$500,000 from the Clean Ohio Trails Fund program as awarded by the Ohio Department of Natural Resources to newly established capital improvement program project account no. 980x232x232315, “Wasson Way 6A 2023 ODNR COTF Grant;” **AUTHORIZING** the Director of Finance to deposit the grant resources into newly established capital improvement program project account no. 980x232x232315, “Wasson Way 6A 2023 ODNR COTF Grant”; and **AUTHORIZING** the City Manager to execute any agreements necessary for the receipt and administration of these grant resources.

Approval of this Ordinance authorizes the City Manager to accept and appropriate a grant in an amount up to \$500,000 from the Clean Ohio Trail Fund (COTF) program awarded by the Ohio Department of Natural Resources (ODNR) to newly established capital improvement program project account no. 980x232x232315, “Wasson Way 6A 2023 ODNR COTF Grant,” for the purpose of providing resources for the construction of Phase 6A of the Wasson Way Trail. This Ordinance also authorizes the City Manager to execute any agreements necessary for the receipt and administration of these grant resources.

On March 24, 2021, the City Council approved Ordinance No. 0088-2021, which authorized the City Manager to apply for grant resources from the COTF grant program in an amount up to \$500,000 for the construction of Phase 6A of the Wasson Way Trail project. The City received the grant award, and City Council authorization is required to accept and appropriate the grant resources. The grant requires matching resources of up to approximately \$166,667, which will be made available from existing “Wasson Way Trail” capital improvement program project account nos. 980x232x212371, 980x232x222371, and 980x232x232371. No new FTEs are required.

The Wasson Way Trail Network is in accordance with the “Connect” goal to “[d]evelop an efficient multi-modal transportation system that supports neighborhood livability” as well as with strategies to “[e]xpand options for non-automotive travel”

and to “[p]lan, design, and implement a safe and sustainable transportation system,” as described on pages 129-138 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. 980x232x232315, “Wasson Way 6A 2023 ODNR COTF Grant,” for the purpose of providing resources for the construction of Phase 6A of the Wasson Way Trail; **AUTHORIZING** the City Manager to accept and appropriate a grant in an amount up to \$500,000 from the Clean Ohio Trails Fund program as awarded by the Ohio Department of Natural Resources to newly established capital improvement program project account no. 980x232x232315, “Wasson Way 6A 2023 ODNR COTF Grant”; **AUTHORIZING** the Director of Finance to deposit the grant resources into newly established capital improvement program project account no. 980x232x232315, “Wasson Way 6A 2023 ODNR COTF Grant”; and **AUTHORIZING** the City Manager to execute any agreements necessary for the receipt and administration of these grant resources.

WHEREAS, the planned Wasson Way Trail is a shared-use path for bicycles and pedestrians extending from the intersection of Martin Luther King Jr. Drive and Reading Road in Avondale eastward through the City of Norwood, the Cincinnati neighborhoods of Evanston, Hyde Park, Oakley, and Mount Lookout, through the Village of Fairfax, and ending east of Wooster Road near its intersection with Red Bank Road in Columbia Township; and

WHEREAS, Council approved Ordinance No. 0088-2021 on March 24, 2021, which authorized the City Manager to apply for grant resources from the Clean Ohio Trails Fund grant program to be awarded by the Ohio Department of Natural Resources in an amount up to \$500,000 for the purpose of providing resources for the construction of Phase 6A of the Wasson Way Trail project; and

WHEREAS, the City received the grant award, and Council authorization is required to accept and appropriate the grant resources; and

WHEREAS, the grant requires matching funds of up to approximately \$166,667, which will be made available from existing “Wasson Way Trail” capital improvement program project account nos. 980x232x212371, 980x232x222371, and 980x232x232371; and

WHEREAS, there are no new FTEs associated with this grant; and

WHEREAS, the construction of the Wasson Way Trail is in accordance with the “Connect” goal to “[d]evelop an efficient multi-modal transportation system that supports neighborhood livability,” as well as the strategies to “[e]xpand options for non-automotive travel,” and “[p]lan, design, and implement a safe and sustainable transportation system,” as described on pages 129-138 of Plan Cincinnati (2012); now, therefore,

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

Section 1. That new capital improvement program project account no. 980x232x232315, “Wasson Way 6A 2023 ODNR COTF Grant,” is hereby established for the purpose of providing resources for the construction of Phase 6A of the Wasson Way Trail project.

Section 2. That the City Manager is authorized to accept and appropriate grant resources in an amount up to \$500,000 from the Clean Ohio Trails Fund program as awarded by the Ohio Department of Natural Resources to newly established capital improvement program project account no. 980x232x232315, “Wasson Way 6A 2023 ODNR COTF Grant,” for the purpose of providing resources for Phase 6A of the Wasson Way Trail project.

Section 3. That the Director of Finance is authorized to deposit the grant resources into newly established capital improvement program project account no. 980x232x232315, “Wasson Way 6A 2023 ODNR COTF Grant.”

Section 4. That the City Manager is hereby authorized to execute any agreements necessary for the receipt and administration of these grant resources.

Section 5. 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 through 4 hereof.

Section 6. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed: _____, 2023

Aftab Pureval, Mayor

Attest: _____
Clerk

March 15, 2023

To: Mayor and Members of City Council 202300837

From: Sheryl M. M. Long, City Manager

Subject: **Ordinance – Department of Economic Inclusion (DEI): 2023 Business Enterprise Expo Donations**

Attached is an Ordinance captioned:

AUTHORIZING the City Manager and employees of the Department of Economic Inclusion to solicit and accept donations of money, in-kind contributions, participation fees, and other things of value from the business community, individual benefactors, and other appropriate sources for the City of Cincinnati’s 2023 Business Enterprise Expo; and **AUTHORIZING** the Finance Director to deposit the donated funds into Special Events Fund 314.

This Ordinance authorizes the City Manager and employees of the Department of Economic Inclusion (DEI) to solicit and accept donations of money, in-kind contributions, participation fees, and other things of value from the Cincinnati business community, individual benefactors, and other appropriate sources for the purpose of providing resources to support the City of Cincinnati’s 2023 Business Enterprise Expo. This Ordinance also authorizes the Finance Director to deposit donated resources into Special Events Fund 314.

The 2023 Enterprise Business Expo will be hosted by DEI on September 29, 2023, at the Duke Energy Convention Center (DECC). This event will allow DEI-certified businesses to meet larger businesses within the City, promote peer-to-peer networking, and strengthen the relationship between DEI and the City’s business community. DEI will also certify new businesses at the 2023 Business Enterprise Expo.

DEI’s 2022 inaugural Expo had over 300 attendees and 70 business participants. Certification activities increased during the months of August, September, and October related to the 2022 Expo.

The 2023 Business Enterprise Expo is in accordance with the “Compete” goal to “[f]oster a climate conducive to growth, investment, stability, and opportunity” and the strategy to “[b]uild a streamlined and cohesive development process” as described on pages 103-113 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 and employees of the Department of Economic Inclusion to solicit and accept donations of money, in-kind contributions, participation fees, and other things of value from the business community, individual benefactors, and other appropriate sources for the City of Cincinnati's 2023 Business Enterprise Expo; and **AUTHORIZING** the Finance Director to deposit the donated funds into Special Events Fund 314.

WHEREAS, the 2023 Business Enterprise Expo will be hosted by the City of Cincinnati's Department of Economic Inclusion ("DEI") on September 29, 2023 at the Duke Energy Convention Center; and

WHEREAS, the 2023 Business Enterprise Expo will allow DEI-certified businesses (subcontractors) to meet larger businesses (prime contractors) within the City, promote peer-to-peer networking, and strengthen the relationship between DEI and the City's business community; and

WHEREAS, DEI will certify new businesses at the 2023 Business Enterprise Expo; and

WHEREAS, the 2022 inaugural Expo had over 300 attendees and 70 business participants, which increased certification activities during the months of August, September, and October; and

WHEREAS, the 2023 Business Enterprise Expo is in accordance with the "Compete" goal to "[f]oster a climate conducive to growth, investment, stability, and opportunity" and the strategy to "[b]uild a streamlined and cohesive development process" as described on pages 103-113 of Plan Cincinnati (2012); now, therefore,

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

Section 1. That the City Manager and employees of the Department of Economic Inclusion are hereby authorized to solicit and accept donations of money, in-kind contributions, participation fees, and other things of value from the business community, individual benefactors, and other appropriate sources for the City of Cincinnati's 2023 Business Enterprise Expo.

Section 2. That the Finance Director is hereby authorized to deposit the funds donated to the City of Cincinnati into Special Events Fund 314.

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

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

Passed: _____, 2023

Aftab Pureval, Mayor

Attest: _____
Clerk

March 15, 2023

To: Mayor and Members of City Council 202300829

From: Sheryl M. M. Long, City Manager

Subject: **Emergency Ordinance – Cincinnati Recreation Commission (CRC): Mid-Year Budget Adjustments**

Attached is an Emergency Ordinance captioned:

AUTHORIZING the transfer of the sum of \$85,000 within the General Fund from and to various Cincinnati Recreation Commission (“CRC”) operating budget accounts in accordance with Schedule A of the attached Schedule of Transfer, for the purpose of realigning resources to address programmatic needs; and **AUTHORIZING** the transfer and appropriation of the sum of \$1,400,000 from the unappropriated surplus of Municipal Golf Fund 105 to CRC’s Golf Administration non-personnel operating budget account in accordance with Schedule B of the attached Schedule of Transfer, for the purpose of providing resources for costs associated with increased golf activities, including utilities, drainage and equipment repairs, and safety enhancements; **AUTHORIZING** the transfer and appropriation of the sum of \$720,000 within Recreation Special Activities Fund 323 in accordance with Schedule C of the attached Schedule of Transfer, for the purpose of realigning resources and providing resources to address programmatic needs; and **AUTHORIZING** the transfer and appropriation of the sum of \$75,000 from the unappropriated surplus of Recreation Special Activities Fund 323 to CRC capital improvement program project account no. 980x199x211900, “Outdoor Facilities Renovation,” for the purpose of renovating underutilized recreation spaces in Avondale as part of the 2021 Community Makeover program.

Approval of this Emergency Ordinance authorizes the transfer of \$85,000 within the General Fund from and to various Cincinnati Recreation Commission (CRC) operating budget accounts for the purpose of realigning resources to address programmatic needs. This Emergency Ordinance further authorizes the transfer and appropriation of \$1,400,000 from the unappropriated surplus of Municipal Golf Fund 105 to CRC’s Golf Administration non-personnel operating budget account for the purpose of providing resources for costs associated with increased golf activities, including utilities, drainage and equipment repairs, and safety enhancements. Additionally, this Emergency Ordinance authorizes the transfer and appropriation of \$720,000 within Recreation Special Activities Fund 323 from and to various CRC operating budget accounts and the unappropriated surplus of Recreation Special Activities Fund 323 for the purpose of realigning resources and providing resources to address programmatic needs. Finally, this Emergency Ordinance authorizes the

transfer and appropriation of \$75,000 from the unappropriated surplus of Recreation Special Activities Fund 323 to existing CRC capital improvement program project account no. 980x199x211900, "Outdoor Facilities Renovation," for the purpose of renovating underutilized recreation spaces in Avondale as part of the 2021 Community Makeover program.

General Fund 050

CRC is transferring \$85,000 of existing General Fund operating budget resources from and to various accounts for the purpose of realigning resources for programmatic needs.

Municipal Golf Fund 105

CRC municipal golf courses have seen increased utilization during Fiscal Year 2023, which has increased associated costs, including expert services, utilities, drainage and equipment repairs, and safety enhancements. A total of \$1,400,000 in supplemental resources is required to continue operations through the end of Fiscal Year 2023.

Municipal Golf Fund 105 is an enterprise fund supported by resources generated from the operations of municipal golf courses, including greens fees, driving ranges, and concessions. Sufficient resources are available in the fund to support this supplemental appropriation. Golf revenue is currently projected to exceed budgeted expectations which will offset the supplemental appropriation.

Recreation Special Activities Fund 323

A supplemental operating budget appropriation of \$500,000 is required from Recreation Special Activities Fund 323 to CRC non-personnel operating budget accounts to provide resources for a new E-Sports program, the CRC Lifeguard Academy, teen program contracts, a budget shortfall in the Summer 2022 3-on-3 Basketball Tournament, and various technology upgrades.

Recreation Special Activities Fund 323 is a restricted fund that accounts for receipts and operating expenditures of recreation facility rentals, day camps, swimming pools, the Schmidt boat ramp, concessions, and recreation center contract classes. Sufficient resources are available in the fund to support this \$500,000 supplemental appropriation.

Additionally, CRC is transferring \$220,000 of existing Recreation Special Activities Fund 323 operating budget resources from and to various accounts for the purpose of realigning resources for programmatic needs.

Capital Improvement Program Project Account Appropriation

On October 6, 2021, the City Council approved Ordinance No. 0386-2021, which authorized CRC to apply for, accept, and appropriate a grant in the amount of \$75,000 from the ESPN RePlay program, via the Cincinnati Recreation Foundation, for the purpose of renovating underutilized recreation spaces in Avondale. The grant resources will be used to reimburse expenses CRC incurred implementing recreation

area enhancements in the Avondale neighborhood. A transfer and appropriation from Recreation Special Activities Fund 323 to existing capital improvement program project account no. 980x199x211900, “Outdoor Facilities Renovation,” is required to properly utilize the grant resources.

This budget adjustment ordinance is in accordance with the “Sustain” goal to “[m]anage our financial resources” and strategy to “[s]pend public funds more strategically,” as described on pages 199 – 205 of Plan Cincinnati (2012).

The reason for the emergency is the immediate need to transfer resources to avoid a delay in service delivery.

The Administration recommends passage of this Emergency Ordinance.

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



Attachment

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AUTHORIZING the transfer of the sum of \$85,000 within the General Fund from and to various Cincinnati Recreation Commission (“CRC”) operating budget accounts in accordance with Schedule A of the attached Schedule of Transfer, for the purpose of realigning resources to address programmatic needs; **AUTHORIZING** the transfer and appropriation of the sum of \$1,400,000 from the unappropriated surplus of Municipal Golf Fund 105 to CRC’s Golf Administration non-personnel operating budget account in accordance with Schedule B of the attached Schedule of Transfer, for the purpose of providing resources for costs associated with increased golf activities, including utilities, drainage and equipment repairs, and safety enhancements; **AUTHORIZING** the transfer and appropriation of the sum of \$720,000 within Recreation Special Activities Fund 323 from and to various CRC operating budget accounts and the unappropriated surplus of Recreation Special Activities Fund 323 in accordance with Schedule C of the attached Schedule of Transfer, for the purpose of realigning resources and providing resources to address programmatic needs; and **AUTHORIZING** the transfer and appropriation of the sum of \$75,000 from the unappropriated surplus of Recreation Special Activities Fund 323 to CRC capital improvement program project account no. 980x199x211900, “Outdoor Facilities Renovation,” for the purpose of renovating underutilized recreation spaces in Avondale as part of the 2021 Community Makeover program.

WHEREAS, a need has arisen since the beginning of Fiscal Year 2023 to transfer \$85,000 of available General Fund resources from and to various Cincinnati Recreation Commission (“CRC”) operating budget accounts in order to realign and provide resources for CRC’s ongoing programmatic needs; and

WHEREAS, CRC municipal golf courses experienced increased utilization during Fiscal Year 2023, which has increased associated costs, including the costs of utilities, drainage and equipment repairs, and safety enhancements; and

WHEREAS, a total of \$1,400,000 in additional resources is required to continue operation of CRC municipal golf courses through the end of the fiscal year, and those resources are available in Municipal Golf Fund 105 for supplemental appropriation; and

WHEREAS, this supplemental appropriation from Municipal Golf Fund 105 is expected to be offset by increased golf revenue, which is projected to exceed budgeted estimates; and

WHEREAS, a supplemental operating budget appropriation of \$500,000 is required from Recreation Special Activities Fund 323 to CRC non-personnel operating budget accounts in order to provide resources for a new E-Sports program, the CRC Lifeguard Academy, teen program contracts, a budget shortfall in the Summer 2022 3-on-3 Basketball Tournament, and various technology upgrades; and

WHEREAS, sufficient resources are available in Recreation Special Activities Fund 323 for this supplemental appropriation; and

WHEREAS, a need has also arisen since the beginning of Fiscal Year 2023 to transfer \$220,000 of existing Recreation Special Activities Fund resources from and to various CRC operating budget accounts for the purpose of realigning resources to address programmatic needs; and

WHEREAS, on October 6, 2021, City Council approved Ordinance No. 386-2021, which authorized CRC to apply for, accept, and appropriate a grant in the amount of \$75,000 from the ESPN RePlay program, via the Cincinnati Recreation Foundation, for the purpose of renovating underutilized recreation spaces in Avondale; and

WHEREAS, the grant resources are eligible to be used for reimbursing expenses CRC has previously incurred implementing recreation area enhancements in the Avondale neighborhood; and

WHEREAS, the grant resources need to be transferred and appropriated to CRC capital improvement program project account no. 980x199x211900, “Outdoor Facilities Renovation,” so that they may be used for this purpose; and

WHEREAS, this budget adjustment ordinance is in accordance with the “Sustain” goal to “[m]anage our financial resources” and strategy to “[s]pend public funds more strategically,” as described on pages 199 – 205 of Plan Cincinnati (2012); now, therefore,

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

Section 1. That the transfer of the sum of \$85,000 within the General Fund from and to various Cincinnati Recreation Commission (“CRC”) operating budget accounts, in accordance with Schedule A of the Schedule of Transfer attached hereto and by reference made a part hereof, is hereby authorized for the purpose of realigning resources to address programmatic needs.

Section 2. That the transfer and appropriation of the sum of \$1,400,000 from the unappropriated surplus of Municipal Golf Fund 105 to CRC’s Golf Administration non-personnel operating budget account, in accordance with Schedule B of the attached Schedule of Transfer, is hereby authorized for the purpose of the providing resources for costs associated with increased golf activities, including utilities, drainage and equipment repairs, and safety enhancements.

Section 3. That the transfer and appropriation of the sum of \$720,000 within Recreation Special Activities Fund 323, from and to various CRC operating budget accounts and the unappropriated surplus of Recreation Special Activities Fund 323, in accordance with Schedule C of the attached Schedule of Transfer, is hereby authorized for the purpose of realigning resources and providing resources to address programmatic needs.

Section 4. That the transfer and appropriation of the sum of \$75,000 from the unappropriated surplus of Recreation Special Activities Fund 323 to CRC capital improvement program project account no. 980x199x211900, "Outdoor Facilities Renovation," is hereby authorized for the purpose of renovating underutilized recreation spaces in Avondale as part of the 2021 Community Makeover program.

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

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 transfer resources to avoid a delay in service delivery.

Passed: _____, 2023

Aftab Pureval, Mayor

Attest: _____
Clerk

CRC FY 2023 MID-YEAR ADJUSTMENT SCHEDULE OF TRANSFER

Schedule A - General Fund 050

<i>REDUCTIONS</i>					<i>INCREASES</i>				
	Fund	Agency	Appropriation Unit	\$ Amount		Fund	Agency	Appropriation Unit	\$ Amount
TRANSFERS WITHIN APPROPRIATIONS					TRANSFERS WITHIN APPROPRIATIONS				
SOURCE ACCOUNTS					USE ACCOUNTS				
CINCINNATI RECREATION COMMISSION					CINCINNATI RECREATION COMMISSION				
WEST REGION	050	191	7100	18,800	WEST REGION	050	191	7200	20,000
WEST REGION	050	191	7500	1,200	EAST REGION	050	192	7200	20,000
EAST REGION	050	192	7100	18,800	CENTRAL REGION	050	193	7200	25,000
EAST REGION	050	192	7500	1,200	ATHLETICS	050	197	7200	20,000
CENTRAL REGION	050	193	7100	23,550					
CENTRAL REGION	050	193	7500	1,450					
ATHLETICS	050	197	7100	18,800					
ATHLETICS	050	197	7500	1,200					
TOTAL FUND 050 REDUCTIONS				85,000	TOTAL FUND 050 INCREASES				85,000

CRC FY 2023 MID-YEAR ADJUSTMENT SCHEDULE OF TRANSFER

Schedule B - Municipal Golf Fund 105

<i>REDUCTIONS</i>					<i>INCREASES</i>				
	Fund	Agency	Appropriation Unit	\$ Amount		Fund	Agency	Appropriation Unit	\$ Amount
SUPPLEMENTAL APPROPRIATIONS					SUPPLEMENTAL APPROPRIATIONS				
SOURCE ACCOUNTS					USE ACCOUNTS				
UNAPPROPRIATED SURPLUS					CINCINNATI RECREATION COMMISSION				
	105			1,400,000	GOLF ADMINISTRATION	105	195	7200	1,400,000
TOTAL FUND 105 REDUCTIONS				1,400,000	TOTAL FUND 105 INCREASES				1,400,000

March 15, 2023

To: Mayor and Members of City Council 202300832
From: Sheryl M. M. Long, City Manager
Subject: **Emergency Ordinance – Cincinnati Fire Department: Moral Obligation Payment to Axon Enterprise**

Attached is an Emergency Ordinance captioned:

AUTHORIZING the payment of \$2,723.96 from Cincinnati Fire Department General Fund non-personnel operating budget account no. 050x272x3300x7299 as a moral obligation to Axon Enterprise for TASERS and holsters for the Fire Investigation Unit, which represents the balance due to Axon based on Axon’s original invoice of \$5,232.96 less the City’s payment of \$2,500 with a purchase card.

Approval of this Emergency Ordinance will authorize the payment \$2,723.96 from Cincinnati Fire Department non-personnel operating budget account no. 050x272x3300x7299 as a moral obligation to Axon Enterprise for TASERS and holsters for the Fire Investigation Unit. This amount represents a total invoice of \$5,232.96 less a partial payment of \$2,500 made on a purchase card (p-card).

The Cincinnati Police Department's agreement with Axon for TASERS and holsters was amended to include the Cincinnati Fire Department (CFD). Axon Enterprise billed for TASERS and holsters ordered by CFD in July of 2021 in the amount of \$5,232.96, but Cincinnati Fire Department Finance Management staff did not receive the invoice at that time. In January 2023, Axon followed up about the past due invoice. The total invoice exceeds the State of Ohio’s \$3,000 threshold for purchases requiring a certification, necessitating a moral obligation. A partial payment of \$2,500 was made on a p-card, but the remaining balance of \$2,732.96 is still owed to the vendor.

To avoid moral obligations in the future, Cincinnati Fire Department staff have been notified of the state laws and finance policies that apply to the procurement of goods. CFD will continue to work with the Office of Procurement and the Finance Department to ensure proper certifications are in place prior to the purchase of equipment.

The reason for the emergency is the immediate need to make payment to Axon Enterprise for outstanding charges for goods provided to the Cincinnati Fire Department.

The Administration recommends passage of this Emergency Ordinance.

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

Attachment

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AUTHORIZING the payment of \$2,723.96 from Cincinnati Fire Department General Fund non-personnel operating budget account no. 050x272x3300x7299 as a moral obligation to Axon Enterprise for TASERS and holsters for the Fire Investigation Unit, which represents the balance due to Axon based on Axon’s original invoice of \$5,232.96 less the City’s payment of \$2,500 with a purchase card.

WHEREAS, the Cincinnati Police Department’s contract with Axon Enterprise (“Axon”) for TASERS and holsters was amended to allow the Cincinnati Fire Department (“CFD”) to purchase equipment; and

WHEREAS, Axon billed CFD \$5,232.96 for TASERS and holsters ordered by CFD in 2021, but CFD Finance Management staff did not receive the invoice at that time, and in January 2023 Axon followed up about the past due invoice; and

WHEREAS, CFD has made a partial payment of \$2,500 via a purchase card to Axon, but the remaining balance of \$2,732.96 is still owed to Axon; and

WHEREAS, sufficient funds are available in CFD General Fund non-personnel operating budget account no. 050x272x3300x7299 for the outstanding payment to Axon; and

WHEREAS, Council desires to provide the remaining payment to Axon for CFD’s purchase of TASERS and holsters in an amount of \$2,732.96; now, therefore,

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

Section 1. That the Finance Director is hereby authorized to make a payment of \$2,732.96 from Cincinnati Fire Department General Fund non-personnel operating budget account no. 050x272x3300x7299 as a moral obligation to Axon Enterprise for TASERS and holsters for the Fire Investigation Unit, based on a total invoice amount of \$5,232.96, of which \$2,500 was previously paid with a purchase card.

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

Section 3. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to make payment to Axon Enterprise for outstanding charges for goods provided to the Cincinnati Fire Department.

Passed: _____, 2023

Aftab Pureval, Mayor

Attest: _____
Clerk

March 15, 2023

To: Mayor and Members of City Council 202300836
From: Sheryl M. M. Long, City Manager
Subject: Emergency Ordinance – DOTE: Prus Construction Moral Obligation

Attached is an Emergency Ordinance captioned:

AUTHORIZING a payment in the amount of \$46,506.90 to Prus Construction as a moral obligation of the City of Cincinnati for professional services completed for the Downtown Fiber Optic Cable project.

This Emergency Ordinance authorizes the payment in the amount of \$46,506.90 to Prus Construction for professional services related to the Downtown Fiber Optic Cable project as a moral obligation for services provided to the City.

The City of Cincinnati entered into a contract with Prus Construction for professional services for the Downtown Fiber Optic Cable project. The City certified resources to contract CT 239 171C009031, and a payment was to be made to Prus Construction as part of a contract contingency. An administrative error resulted in the contract contingency amount being overspent, and the contract certification amount was insufficient to pay Prus Construction.

Sufficient resources are available in existing capital improvement program project account no. 980x239x3000x7671x232341, “Computerized Traffic Signal System,” to pay Prus Construction for services provided to the City.

The reason for the emergency is the immediate need to pay Prus Construction in a timely manner for services provided to the City of Cincinnati.

The Administration recommends passage of this Emergency Ordinance.

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

Attachment

EMERGENCY

MSS

- 2023

AUTHORIZING a payment in the amount of \$46,506.90 to Prus Construction as a moral obligation of the City of Cincinnati for professional services completed for the Downtown Fiber Optic Cable project.

WHEREAS, the City of Cincinnati entered into a contract with Prus Construction for professional services for the Downtown Fiber Optic Cable project; and

WHEREAS, the City certified resources to contract CT 239 171C009031, and a payment was to be made to Prus Construction as part of a contract contingency; and

WHEREAS, an administrative error resulted in the contract contingency amount being overspent, and thus the contract certification amount was insufficient to pay Prus Construction; and

WHEREAS, sufficient resources are available in existing capital improvement program project account no. 980x239x3000x7671x232341, "Computerized Traffic Signal System," to pay Prus Construction for services provided to the City; and

WHEREAS, the Cincinnati City Council desires to provide payment for such services in the amount of \$46,506.90 to Prus Construction; now, therefore,

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

Section 1. That the Finance Director is authorized to make a payment in the amount of \$46,506.90 from capital improvement program project account no. 980x239x3000x7671x232341, "Computerized Traffic Signal System," to Prus Construction as a moral obligation of the City of Cincinnati for professional services completed for the Downtown Fiber Optic Cable project.

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

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

of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to pay Prus Construction in a timely manner for services provided to the City of Cincinnati.

Passed: _____, 2023

Aftab Pureval, Mayor

Attest: _____
Clerk

**PETITION FOR SPECIAL ASSESSMENTS FOR
SPECIAL ENERGY IMPROVEMENT PROJECTS**

A PETITION TO THE CITY OF CINCINNATI, OHIO SEEKING THE IMPOSITION OF SPECIAL ASSESSMENTS TO PAY THE COSTS OF VARIOUS SPECIAL ENERGY IMPROVEMENT PROJECTS AGAINST PROPERTY OWNED BY THE PETITIONER AND SPECIALLY BENEFITED THEREBY, INCLUDING A WAIVER OF ALL RIGHTS TO NOTICES, HEARINGS AND APPEALS RESPECTING THE REQUESTED SPECIAL ASSESSMENTS

To: The City Manager and City Council of the City of Cincinnati, Ohio

830 Main Street LLC, an Ohio limited liability company (the "Petitioner"), is the owner of 100% of the property described on **Exhibit A** attached to this Petition (the "Property"). The Petitioner will implement special energy improvement projects on the Property (the "Authorized Improvements," as further described in **Exhibit B**).

The Board of Directors of the City of Cincinnati, Ohio Energy Special Improvement District, Inc. (the "Corporation"), an Ohio nonprofit corporation formed to govern the City of Cincinnati, Ohio Energy Special Improvement District (the "District"), created within the boundaries of the City of Cincinnati, Ohio (the "City") has approved a plan (the "Program Plan") for the purpose of developing and implementing special energy improvement projects, as defined in Ohio Revised Code Section 1710.01(I). The Program Plan is attached to this Petition as **Exhibit C**.

Pursuant to the Program Plan, the Corporation has caused special energy improvement projects to be provided from time to time. In accordance with Ohio Revised Code Chapter 1710 and the Program Plan, the Program Plan may be amended from time to time by supplemental plans (the "Supplemental Plans") (the Program Plan and every Supplemental Plan together constituting the "Plan") to provide for additional special energy improvement projects, and the District may be enlarged from time to time to include additional property so long as at least one special energy improvement project is designated for each parcel of real property within the additional territory added to the District.

The Board of Directors of the Corporation has received the Supplemental Plan attached to this Petition as **Exhibit B**, including the description of the Authorized Improvements, and related materials in support of the expansion of the District to include the Property.

As required by Ohio Revised Code Section 1710.02, the Petitioner, as the owner of the Property, being 100% of the area proposed to be added to the District and 100% of the area proposed to be assessed for the Authorized Improvements, hereby (a) petitions the City Council (the "Council") to (i) approve the addition of the Property to the District and (ii) approve an amendment and supplement to the Plan by the Supplemental Plan to include the Authorized Improvements and (b) request that (i) Authorized Improvements be undertaken by the District, and

(ii) the total cost of those Authorized Improvements be assessed on the Property in proportion to the special benefits that will result from the Authorized Improvements.

In connection with this Petition and in furtherance of its purposes, the Petitioner acknowledges that it has reviewed or caused to be reviewed (i) the Plan and the Supplemental Plan, (ii) the plans, specifications and profiles for the Authorized Improvements, (iii) the estimate of cost for the Authorized Improvements included in **Exhibit B** and (iv) the schedule of estimated special assessments to be levied for the Authorized Improvements also included in **Exhibit B**. The Petitioner acknowledges that the estimated special assessment for each parcel is in proportion to the benefits that may result from the financing of the Authorized Improvements.

Accordingly, the Petitioner hereby petitions for the construction of the Authorized Improvements identified in this Petition and the Supplemental Plan attached to this Petition as **Exhibit B**, as authorized under Ohio Revised Code Chapter 1710, and for the imposition of the special assessments identified in this Petition and authorized under Ohio Revised Code Chapters 727 and 1710 (the "Special Assessments") to pay the costs of the Authorized Improvements.

In consideration of the City's acceptance of this Petition and the imposition of the requested Special Assessments, the Petitioner consents and agrees that the Property as identified in **Exhibit A** shall be assessed for all of the costs of the Authorized Improvements, including any and all architectural, engineering, legal, insurance, consulting, energy auditing, planning, acquisition, installation, construction, survey, testing and inspection costs; the amount of any damages resulting from the Authorized Improvements and the interest on such damages amount; the costs incurred in connection with the preparation, levy and collection of the special assessments; the cost of purchasing and otherwise acquiring any real estate or interests in real estate; expenses of legal services; costs of labor and material; trustee fees and other financing costs incurred in connection with the issuance, sale, and servicing of securities to pay costs of the Authorized Improvements in anticipation of the receipt of the special assessments, capitalized interest on, and financing reserve funds for, such securities or other obligations; and any program administration fees or financing servicing fees; together with all other necessary expenditures. The Petitioner agrees to pay the Special Assessments in a timely manner whether or not the Petitioner receives annual and timely notices of the Special Assessments.

In consideration of the Authorized Improvements, the Petitioner, for itself and its grantees and other successors with respect to the Property, agrees to pay promptly all Special Assessments as they become due, and agrees that the determination by the Council of the Special Assessments in accordance with the terms hereof will be final, conclusive and binding upon the Petitioner and the Property. In further consideration of the Authorized Improvements, the Petitioner covenants and agrees to disclose, upon the transfer of the Property or any portion of the Property to be assessed for the actual costs of the Authorized Improvements set forth in **Exhibit B**, in the deed to the transferee or in a separate instrument recorded with respect to the Property the existence of any outstanding Special Assessment for the Authorized Improvements and to require that transferee covenant to disclose the existence of any outstanding Special Assessment for the Authorized Improvements in any subsequent deed or in a separate instrument recorded with respect to the Property at the time of the subsequent transfer so long as the Special Assessments remain unpaid. As a condition to each subsequent transfer while the Special Assessments remain unpaid, the

Petitioner further covenants and agrees to provide expressly in the deed to any transferee or in a separate instrument recorded with respect to the Property at the time of the subsequent transfer (i) for the acquisition by the transferee of the Property subject to any outstanding Special Assessment and the transferee's assumption of responsibility for payment thereof and for waiver by the transferee of any rights that the Petitioner has waived pursuant to this Petition, and (ii) the requirement that each transferee from time to time of the Property covenant to include in the deed to any subsequent transferee or in a separate instrument recorded with respect to the Property at the time of the subsequent transfer the conditions described in clause (i) so long as the Special Assessments remain unpaid.

The Petitioner further acknowledges and confirms that the Special Assessments set forth in this Petition and in **Exhibit B** are in proportion to, and do not exceed, the special benefits to be conferred on the Property by the financing of the Authorized Improvements. The Petitioner further consents to the levying of the Special Assessment against the Property by the Council. The Petitioner acknowledges that these Special Assessments are fair, just and equitable and being imposed at the Petitioner's specific request.

The Petitioner hereby waives notice and publication of all resolutions, legal notices and hearings provided for in the Ohio Revised Code with respect to the Authorized Improvements and the Special Assessments, particularly those in Ohio Revised Code Chapters 727 and 1710, and consents to proceeding with the Authorized Improvements. Without limiting the foregoing, the Petitioner specifically waives any notices and rights under the following Ohio Revised Code Sections:

- The right to notice of the adoption of the Resolution of Necessity under Ohio Revised Code Sections 727.13 and 727.14;
- The right to limit the amount of the Special Assessments under Ohio Revised Code Sections 727.03 and 727.06, including the right to consider the Special Assessments authorized by this Petition within the limitations contained in Ohio Revised Code Sections 727.03 and 727.06 applicable to the Special Assessments and any other special assessments properly levied now or in the future;
- The right to file an objection to the Special Assessments under Ohio Revised Code Section 727.15;
- The right to the establishment of, and any proceedings by and any notice from an Assessment Equalization Board under Ohio Revised Code Sections 727.16 and 727.17;
- The right to file any claim for damages under Ohio Revised Code Sections 727.18 through 727.22 and Ohio Revised Code Section 727.43;
- The right to notice that bids or quotations for the Authorized Improvements may exceed estimates by 15%;
- The right to seek a deferral of payments of Special Assessments under Ohio Revised Code Section 727.251; and
- The right to notice of the passage of the Assessing Ordinance under Ohio Revised Code Section 727.26.

The Petitioner, in accordance with Ohio Revised Code Section 1710.02(A), further agrees that the Property may be included in more than one district formed under Ohio Revised Code

Chapter 1710. The Petitioner further agrees not to take any actions, or cause to be taken any actions, to place any of the Property in an agricultural district as provided for in Ohio Revised Code Chapter 929, and if any of the Property is in an agricultural district, the Petitioner, in accordance with Ohio Revised Code Section 929.03, hereby grants permission to collect any Special Assessments levied against such Property.

The Petitioner further agrees and consents to the Council promptly proceeding with all actions necessary to facilitate the acquisition, installation, equipment, and improvement of the Authorized Improvements and to impose the Special Assessments.

The Petitioner acknowledges that the Special Assessments set forth in this Petition and in the Exhibits to this Petition are based upon an estimate of costs, and that the final Special Assessments shall be calculated in the same manner, which, regardless of any statutory limitation on the Special Assessments, may be more or less than the respective estimated Special Assessments for the Authorized Improvements. In the event the final assessments exceed the estimated assessments, the Petitioner, without limitation of the other waivers contained in this Petition, also waives any rights it may now or in the future have to object to those assessments, any notice provided for in Ohio Revised Code Chapters 727 and 1710, and any rights of appeal provided for in such Chapters or otherwise. The Petitioner further acknowledges and represents that the respective final assessments may be levied at such time as determined by the City and regardless of whether or not any of the parts or portions of the Authorized Improvements have been completed.

The Petitioner further acknowledges that the final Special Assessments for the Authorized Improvements, when levied against the Property, will be payable in cash within thirty (30) days from the date of passage of the ordinance confirming and levying the final assessments and that if any of such assessments are not paid in cash they will be certified to the Auditor of the County, as provided by law, to be placed on the tax list and duplicate and collected as other taxes are collected. Notwithstanding the foregoing, however, the Petitioner hereby waives the right to pay the final assessments for the Authorized Improvements in cash within thirty (30) days from the passage of the ordinance confirming and levying the final assessments and requests that the unpaid final assessments for the Authorized Improvements shall be payable in 58 semi-annual installments.

Pursuant to Ohio Revised Code Section 1710.03(C), the Petitioner hereby appoints as its designee to carry out the rights and responsibilities of District members under Ohio Revised Code Chapter 1710 such representative as may be duly appointed by the Petitioner from time to time, which designation shall not expire unless and until Petitioner shall notify the Secretary of the District that said designation is no longer in effect or that Petitioner has made a new designation to replace said designation.

The Petitioner further waives any and all questions as to the constitutionality of the laws under which the Authorized Improvements shall be acquired, installed, or constructed or the proceedings relating to the acquisition, installation, or construction of the Authorized Improvements, the jurisdiction of the City acting in connection with the acquisition, installation, or construction of the Authorized Improvements, all irregularities, errors and defects, if any, procedural or otherwise, in the levying of the assessments or the undertaking of the Authorized

Improvements, and specifically waives any and all rights of appeal, including any right of appeal as provided in Ohio Revised Code Title 7, and specifically but without limitation, Ohio Revised Code Chapters 727 and 1710, as well as all such similar rights under the Constitution of the State of Ohio and the Charter of the City of Cincinnati, Ohio. The Petitioner represents that it will not contest, in a judicial or administrative proceeding, the undertaking of the Authorized Improvements, the estimated assessments, the final assessments, and any Special Assessments levied against the Property for the Authorized Improvements, or any other matters related to the foregoing.

The Petitioner acknowledges and understands that the City and the Corporation will be relying upon this Petition in taking actions pursuant to it and expending resources. This Petition therefore shall be irrevocable and shall be binding upon the Petitioner, any successors or assigns of the Petitioner, the Property, and any grantees, mortgagees, lessees, or transferees of the Property. The Petitioner acknowledges that they have had an opportunity to be represented by legal counsel in this undertaking and has knowingly waived the rights identified in this Petition.

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EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

The real property subject to this Petition is located at the commonly used mailing address 830 Main Street, Cincinnati, Ohio, having Hamilton County Auditor Parcel ID No. 079-0004-0287-00, and the following legal description:

Situated in Section 18, Town 4, Fractional Range 1, City of Cincinnati, Hamilton County, Ohio, being part of Lots 43 and 44 of North Square, recorded in Deed Book G-1, Page 275 and Deed Book 29, Page 445 and further being part of the property conveyed to DTK Ninth & Main LLC by deed recorded in Official Record 9886, Page 3234 (all references to recorded documents made herein are to those of the Hamilton County Recorder's Office in Cincinnati, Ohio) and being more particularly described as follows:

Beginning at the corner of an existing building at the intersection of the Southerly line of Ninth Street (66') and the Easterly line of Main Street (66');

Thence with the Southerly line of Ninth Street, North 73 deg. 58' 30" East, a distance of 130.00 feet to the corner of an existing building at the intersection of said Southerly line with the Westerly line of Pancoast Alley (12');

Thence with the Westerly line of Pancoast Alley, South 16 deg. 00' 00" East, a distance of 56.00 feet to the corner of an existing building;

Thence through the grantor's property, on new division lines, for the following Three (3) courses:

1. South 73 deg. 58' 30" West, a distance of 35.80 feet to the corner of an existing building;
2. North 16 deg. 00' 00" West, a distance of 16.00 feet to the corner of an existing building;
3. South 73 deg. 58' 30" West, a distance of 94.20 feet to the corner of an existing building in the Easterly line of Main Street;

Thence with the Easterly line of Main Street, North 16 deg. 00' 00" West, a distance of 40.00 feet to the Point of Beginning;

Containing 0.133 acre, more or less.
PPN: 079-0004-0287

EXHIBIT B

**CITY OF CINCINNATI, OHIO ENERGY SPECIAL IMPROVEMENT DISTRICT
PROGRAM PLAN**

SUPPLEMENT TO PLAN FOR 830 MAIN STREET PROJECT

As more fully provided by the City of Cincinnati, Ohio Special Improvement District Program Plan (together with all previously approved supplemental plans, the "Plan"), the City of Cincinnati, Ohio Energy Special Improvement District (the "District") has undertaken the administration of a property assessed clean energy ("PACE") program (the "Program"). The Program will provide financing secured by special assessments on real property for special energy improvement projects.

Through a Petition submitted in connection with this Supplemental Plan, the undersigned (the "Property Owner") has requested and consented to certain special assessments by the District with respect to certain real property owned by the Property Owner and located at 830 Main Street, Cincinnati, Ohio, having Hamilton County Auditor Parcel ID No. 079-0004-0287-00 (the "Property"). A schedule for special assessments to be assessed against the Property to pay the costs of the Authorized Improvements is attached hereto as Attachment A.

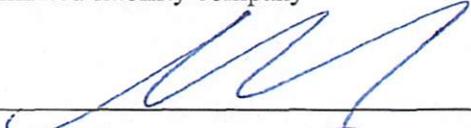
The Authorized Improvements applicable to the Property will include energy efficient lighting improvements, window improvements, wall, thermal moisture protection and reduction improvements, HVAC improvements, plumbing improvements resulting in energy savings, elevator improvements, and related improvements. As required by Ohio Revised Code Section 1710.01(K), said Authorized Improvements are anticipated to reduce or support the reduction of energy consumption, allow for reduction in demand, or support the production of clean, renewable energy. A detailed description of the Authorized Improvements is attached to this Supplemental Plan as Attachment B. The Property Owner hereby acknowledges and agrees that the special benefit to be provided to the Property under this Supplemental Plan is the consummation of the financing to pay, finance, and refinance costs of the Authorized Improvements, which shall be conferred immediately upon the consummation of the financing, and that the benefits are in proportion to and do not exceed the amount of the Special Assessments to be levied to pay the costs of the financing.

The Property Owner will cause this Supplemental Plan promptly to be filed with the Board of Directors of the District and with the Clerk of the City Council of Cincinnati, Ohio.

The undersigned owner of real property to be located within the District acknowledge that the District is subject to Ohio public records laws, including Ohio Revised Code Section 149.43 *et seq.* The undersigned property owner agrees to the disclosure of certain property owner information by the District to the extent required by law.

BY EXECUTING THIS SUPPLEMENTAL PLAN, THE PROPERTY OWNER IDENTIFIED BELOW HEREBY AUTHORIZES AND CONSENTS TO THIS SUPPLEMENTAL PLAN, AND ALL DISTRICT DOCUMENTS (AS DEFINED IN THE PLAN) AND AGREES TO PERFORM THE OBLIGATIONS OF THE PROPERTY OWNER CONTAINED IN THIS SUPPLEMENTAL PLAN.

PROPERTY OWNER:
830 MAIN STREET LLC
an Ohio limited liability company

By: 
Name: Anthony W Birkla
Title: Manager

Address for notices to Property Owner: 830 Main Street LLC
120 W. Carmel Dr., Suite 101
Carmel, Indiana 46032
C/O Birkla Investment Partners LLC

With A Copy To: _____

Description of Real Property Subject to this Supplemental Plan:

The real property subject to this Supplemental Plan is located at the commonly used mailing 830 Main Street, Cincinnati, Ohio, having Hamilton County Auditor Parcel ID No. 079-0004-0287-00.

SUPPLEMENTAL PLAN—ATTACHMENT A

Schedule of Special Assessments

The Property will be subject to special assessments for the Authorized Improvements in accordance with Ohio Revised Code Chapter 1710.

Total assessment costs:	\$4,140,482.00
Estimated semi-annual special assessments for 29 years:	\$ 170,029.89
Number of semi-annual assessments:	58
First semi-annual installment due:	January 31, 2024

The schedule of Special Assessments for the Authorized Improvements is as follows:

Special Assessment Payment Date ¹	Special Assessment Installment Amount ²
1/31/2024	\$170,029.89
7/31/2024	170,029.89
1/31/2025	170,029.89
7/31/2025	170,029.89
1/31/2026	170,029.89
7/31/2026	170,029.89
1/31/2027	170,029.89
7/31/2027	170,029.89
1/31/2028	170,029.89
7/31/2028	170,029.89
1/31/2029	170,029.89
7/31/2029	170,029.89
1/31/2030	170,029.89
7/31/2030	170,029.89
1/31/2031	170,029.89
7/31/2031	170,029.89
1/31/2032	170,029.89
7/31/2032	170,029.89
1/31/2033	170,029.89
7/31/2033	170,029.89
1/31/2034	170,029.89
7/31/2034	170,029.89
1/31/2035	170,029.89
7/31/2035	170,029.89

¹ Pursuant to Ohio Revised Code Chapter 323, the Special Assessment Payment Dates identified herein are subject to adjustment under certain conditions.

² Pursuant to Ohio Revised Code Section 727.36, the Hamilton County Auditor may charge and collect a fee in addition to the amounts listed in this Attachment A.

Special Assessment Payment Date ¹	Special Assessment Installment Amount ²
1/31/2036	\$170,029.89
7/31/2036	170,029.89
1/31/2037	170,029.89
7/31/2037	170,029.89
1/31/2038	170,029.89
7/31/2038	170,029.89
1/31/2039	170,029.89
7/31/2039	170,029.89
1/31/2040	170,029.89
7/31/2040	170,029.89
1/31/2041	170,029.89
7/31/2041	170,029.89
1/31/2042	170,029.89
7/31/2042	170,029.89
1/31/2043	170,029.89
7/31/2043	170,029.89
1/31/2044	170,029.89
7/31/2044	170,029.89
1/31/2045	170,029.89
7/31/2045	170,029.89
1/31/2046	170,029.89
7/31/2046	170,029.89
1/31/2047	170,029.89
7/31/2047	170,029.89
1/31/2048	170,029.89
7/31/2048	170,029.89
1/31/2049	170,029.89
7/31/2049	170,029.89
1/31/2050	170,029.89
7/31/2050	170,029.89
1/31/2051	170,029.89
7/31/2051	170,029.89
1/31/2052	170,029.89
7/31/2052	170,029.89

SUPPLEMENTAL PLAN—ATTACHMENT B

Description of Authorized Improvements

The Authorized Improvements are expected to consist of the following energy efficiency elements:

Summary of Measures						
Measure Number	Measure Description	Electricity Savings (kWh)	Electricity Savings (\$)	Gas/Fuel Savings (Therms)	Gas/Fuel Savings (\$)	Cost Savings (\$)
ECM 1	Lighting Improvements	122,969	\$ 15,371	(2,333)	\$ (1,967)	\$ 13,404
ECM 2	Window Improvements	4,966	621	3,033	2,557	\$ 3,178
ECM 3	Improved Wall, Thermal Moisture Protection and Infiltration Reduction	17,271	\$ 2,159	8,253	\$ 6,957	\$ 9,116
ECM 4	HVAC	33,614	\$ 4,202	-	\$ -	\$ 4,202
ECM 5	Plumbing	44,572	\$ 5,572	-	\$ -	\$ 5,572
ECM 6	Elevators	60,627	\$ 7,578	-	\$ -	\$ 7,578
Totals		284,019	\$ 35,502	8,953	\$ 7,547	\$ 43,050

Item #	Improvement Description	Expected Useful Life in Years	Subtotal	Cost
1	Lighting Improvements (includes battery LED Egress Lighting and Occupancy Sensors)	20		\$ 470,000.00
2	Window Improvements (Price Increase)	35		\$ 646,112.08
3	Building Envelope: Exterior Wall finishes (Paint and installation of new Furred Walls) , Thermal Moisture Protection and Infiltration Reduction.	40		\$ 536,127.26
4	HVAC	25		\$ 1,167,095.02
	4A. HVAC Equipment and Labor	20	\$ 865,095.02	
	4B. HVAC Related Electrical	40	\$ 302,000.00	
5	Plumbing	26		\$ 350,000.00
	5A. Plumbing (includes Low flow devices excluding water closets, Apt DW heaters, Pipe Insulation, Booster Pumps with VFDs)	20	\$ 240,000.00	
	5B. Plumbing Related Electrical	40	\$ 110,000.00	
6	Elevators	21		\$ 140,314.76
	6A. Elevator Cab, Motor and Controls	20	\$ 135,108.00	
	6B. Elevator Related Electrical	40	\$ 5,206.76	
	Subtotal			\$ 3,309,649.12
	General Conditions and Overhead	14%		\$ 463,350.88
	Contingency	0%		\$ -
	Total Direct Costs			\$ 3,773,000.00
	Weighted Average Life	29	Years	

EXHIBIT C

**CITY OF CINCINNATI, OHIO ENERGY SPECIAL IMPROVEMENT DISTRICT
PROGRAM PLAN**

[See Attached]

**CITY OF CINCINNATI, OHIO ENERGY SPECIAL IMPROVEMENT DISTRICT
PROGRAM PLAN**

The City of Cincinnati, Ohio Energy Special Improvement District (the "District") will administer a property assessed clean energy ("PACE") program (the "Program"). The Program will provide financing secured by special assessments on real property for special energy improvement projects. The District authorizes and adopts this plan for the Program (as the same may be amended and supplemented from time to time as provided herein, the "Plan") to provide for the Program's administration and to set forth the terms and conditions of participation in the Program. The Port of Greater Cincinnati Development Authority, as the initial property owner owning real property within the District, as well as in its capacity as a party with interests aligned with the City of Cincinnati (the "City") with respect to the formation of the District, authorizes and consents to this Plan.

The District is established pursuant to the special energy improvement district provisions of Chapter 1710 of the Ohio Revised Code. This Plan refers to Chapter 1710 and any and all future amendments to the special energy improvement district provisions of Chapter 1710 as the "Act." Any specific statutory reference contained in this Plan shall also refer to any succeeding or amending statutory provision.

Participation in the District's Program is limited to property owners who have agreed to add their property to the District and who otherwise meet the Program's terms and conditions. These terms and conditions are addressed in this Plan, and include, without limitation, an application, a petition, a schedule of assessments to be made on included property ("Assessment Schedule"), and the governing documents forming the District. The District's governing documents include its Articles of Incorporation, Code of Regulations, resolutions duly adopted by the board of directors of the District, and the applicable resolutions and ordinances of the participating political subdivision where the real property is located (collectively, the "Governing Documents"). As a condition to participation in the District and the Program, each property owner must review and agree to the Governing Documents and further must review, agree to, and execute this Plan, an application, a petition, and an Assessment Schedule. The Governing Documents, this Plan, the applications, the petitions, and the Assessment Schedules are referred to herein collectively as the "District Documents."

The District Documents establish the terms and conditions of the Program. The Program terms and conditions may be amended from time to time as described in Part X of this Plan. By agreeing to and executing the District Documents, each property owner consents to the terms and conditions of all District Documents.

I. Purpose of the Program

The Program is intended to assist property owners, whether private or public, who own real property within participating political subdivisions to obtain financing for special energy

improvement projects, as that term is defined in the Act (the "Authorized Improvements"). Obligations, including but not limited to special assessment reimbursement agreements, special assessment revenue bonds and revenue notes, loan obligations or other evidences of indebtedness, or nonprofit corporation securities (collectively, the "Program Obligations") may be issued by the District or on behalf of the District by a third party. Program Obligations or the proceeds from the sale of the Program Obligations may be used to finance Authorized Improvements that benefit properties within the District and any costs incurred by the District in connection with the issuance of Program Obligations. Participating political subdivisions shall levy special assessments on real property included in the District, the payment of which may pay the Program Obligations and the costs of administering the Program. Special assessment payments levied to finance Authorized Improvements will be due and payable by property owners at the same time real property taxes are due; provided, that certain Program Obligations may require special assessments to be due and payable by property owners only to the extent that such property owners fail to pay an obligation of the property owner secured by special assessments, such as a loan, in which case special assessments will only be due and payable by property owners if actually levied.

Nothing in this Plan shall be construed as a representation on the part of any participating political subdivision, the District, the Board, or any of the directors, officers, agents, members, independent contractors, or employees of the District or Board that the Program is the best financing option for every situation. Property owners are advised to conduct independent research to determine the best course of action.

II. The District's Governance, Program Administrator, and Conduit Financing Entity

The District shall be governed, pursuant to the District Documents and the Act, by the Board of Directors ("Board") of the City of Cincinnati, Ohio Energy Special Improvement District, Inc., a nonprofit corporation organized under the laws of the State of Ohio (the "Corporation") to govern the District.

Pursuant to the Act, other Ohio law, and the Code of Regulations of the Corporation, the Board may from time to time, and under such conditions as the Board determines, delegate any or all of the authority contained in this Plan to its sub-committee or to an agent, independent contractor, or employee of the District or the Board.

This Plan specifically contemplates that, as authorized in the Act, Greater Cincinnati Energy Alliance will serve as the District's "Program Administrator" and render program administration services to the District and the Port of Greater Cincinnati Development Authority will serve as the District's "Conduit Financing Entity" and render conduit financing services to the District.

The District is authorized to contract with Greater Cincinnati Energy Alliance for program administration services rendered to the District. The program administration services rendered by the Program Administrator may include, without limitation (i) pursuant to Part III of this Plan, developing and administering eligibility guidelines, creating and administering an application,

setting criteria and developing a list of pre-approved contractors, procuring resources or cooperating with property owners to procure resources, and administering referrals, (ii) pursuant to Part IV of this Plan, marketing, program design, cooperating with property owners to implement Authorized Improvements, and other administrative services, and (iii) the establishment and administration of a revolving loan facility providing financing for certain special energy improvement projects.

The District is authorized to contract with the Port of Greater Cincinnati Development Authority for conduit financing services rendered to the District. The conduit financing services rendered by the Conduit Financing Entity may include, without limitation (i) pursuant to Part III of this Plan, financing Authorized Improvement and cooperating with property owners to obtain financing, (ii) pursuant to Part IV of this Plan, tracking and administering Program Obligations, administering special assessments, budgeting, and conducting or overseeing the audit process, (iii) assistance with marketing efforts relating to the District, and (iv) tracking compliance with respect to the Economic Inclusion Plan established by the Port of Greater Cincinnati Development Authority.

III. Program Eligibility, Approvals, Financing, and Procurement

The Board is hereby authorized to create, administer, amend, and abolish a process by which property owners join the Program. The process by which property owners join the Program may include, without limitation, the following requirements:

- (A) **Eligibility.** The Board is hereby authorized to create, administer, amend, and abolish eligibility requirements for the Program. The Board is further authorized to determine, in each individual case, whether property is eligible for participation in the Program.

To be eligible for participation in the Program, each property owner must file a petition with the Board requesting to add its property to the District and requesting the levy of special assessments to be used to pay or secure Program Obligations issued or used to finance Authorized Improvements. Each parcel of real property added to the District must have at least one Authorized Improvement. The petition to add property to the District shall be considered by the District in accordance with this Plan and the other District Documents. If the District approves the petition, it shall submit the petition to the executive officer and legislative body of the participating political subdivision in which the real property is located. A property owner may file more than one petition and may amend or withdraw any petition filed at any time before the petition is approved by the legislative body of the participating political subdivision in which the real property is located. Petitions shall conform to the requirements of Ohio Revised Code Chapter 1710 and any requirements of the Board.

To be eligible for participation in the Program, each property owner must agree to be bound by the terms of this Plan. The Plan for the District may be amended and supplemented from time to time in accordance with its terms, including,

specifically, by supplements to the Plan which identify additional Authorized Improvements within the District to be subject to the Plan or add property to the District and subject such additional property to the Plan. To be eligible for participation in the Program, each property owner must file a supplement to this Plan (the "Plan Supplement") with the Board and the clerk of the legislative body of the participating political subdivision in which the real property is located identifying the Authorized Improvements to be undertaken as part of the Plan applicable to real property within the District or to be added to the district. Plan Supplements shall include such other information as may be required by the Board. Plan Supplements shall conform to the requirements of Ohio Revised Code Chapter 1710 and any requirements of the Board.

To be eligible for participation in the Program, each property owner must agree to and must execute an Affidavit on Facts Relating to Title under Section 5301.252 of the Ohio Revised Code to be recorded with respect to the real property to be added to the District and filed with the clerk of the legislative body of the participating political subdivision in which the real property is located, which Affidavit on Facts Relating to Title shall state that the property owner has consented to include such real property in the District and that the property owner consents to, and will take all actions necessary to place upon such property, any subsequent special improvement district formed under Ohio Revised Code Chapter 1710 that includes such real property as long as the statutory conditions for forming the subsequent special improvement district are otherwise satisfied.

- (B) Application. The Board is hereby authorized to create, administer, amend, and abolish an application, including a pre-application, for participation in the Program. The Board further may set the terms and conditions for the application's use and evaluation.
- (C) Contractors. The Board is hereby authorized to require property owners to complete Authorized Improvements through the work of pre-approved contractors. The Board is further authorized to create criteria for the approval of contractors, including but not limited to compliance with the Economic Inclusion Plan adopted by the Port of Greater Cincinnati Development Authority, and to determine which contractors meet the criteria and are approved. The Board may communicate which contractors have been pre-approved to property owners by any means the Board deems appropriate, and the Board shall determine whether property owners comply with its pre-approved contractor's requirements.

Nothing in this Plan or the District Documents shall be construed to be a recommendation or guarantee of reliability of pre-approved contractors by any participating political subdivision, the District, the Board, or any of the directors, officers, agents, members, independent contractors, or employees of the District or Board.

- (D) Procurement and Referrals. The Board is hereby authorized to procure supplies, services, contracts, financing, and other resources related to the completion of Authorized Improvements. The Board is further authorized to refer property owners to suppliers, service providers, contractors, lenders, and the providers of other resources related to the completion of Authorized Improvements and the administration of District activities.

Pursuant to the Act, the Board shall adopt written rules prescribing competitive bidding procedures for the District and for Authorized Improvements undertaken by the District on behalf of property owners, which competitive bidding procedures may differ from competitive bidding procedures applicable to the City or the procedures in Chapter 735 of the Ohio Revised Code and may specify conditions under which competitive bidding is not required. Except as specified in the Act and in this Plan, the District Documents shall not be construed to eliminate or alter the competitive bidding procedures applicable to the City as a participating political subdivision.

- (E) Financing. The Board is hereby authorized to finance Authorized Improvements through the use or issuance of Program Obligations. The Board may hire such legal and financial professionals as may be required to successfully finance Authorized Improvements through the use or issuance of Program Obligations.

IV. Services Plan

The Board is hereby authorized to provide ongoing services to the District, its property, and the property owners. All services provided under this Plan shall be deemed to be services provided in furtherance of Authorized Improvements provided under this Plan. Such services, without limitation, may include the following:

- (A) Program Design. The Board is hereby authorized to design comprehensive services to establish and maintain the Program's legal and programmatic framework.
- (B) Program Administration. The Board is hereby authorized to educate the public on the Program and its purposes, market the program to the public, process applications, verify aspects of the Authorized Improvements, assure the Program's overall quality and the quality of Authorized Improvements, serve customers, and assist property owners in the origination and closing processes.
- (C) Marketing. The Board is hereby authorized to market the Program and promote the District's image through means such as developing literature and brochures, conducting public relations, collecting data, managing information, cooperating with members, creating electronic and print marketing materials, and holding special events.

- (D) Authorized Improvement Implementation. The Board is hereby authorized to cooperate with property owners for the implementation of Authorized Improvements, including cooperating with property owners for the addition of property to the District and the approval of petitions and Plan Supplements by participating political subdivisions and the Board.
- (E) Tracking and Administration of Program Obligations. The Board is hereby authorized to create, administer, amend, and abolish procedures for the tracking and administration of Program Obligations issued or used to finance Authorized Improvements. Without limitation, the administration of special assessments may include reporting delinquent special assessments, following-up with delinquent property owners, and coordinating with delinquent property owners. The Board may hire such professionals as may be required to successfully track and administer Program Obligations.
- (F) Administering Special Assessments. The Board is hereby authorized to create, administer, amend, and abolish procedures for the administration of special assessments levied pursuant to the District Documents. Without limitation, the administration of special assessments may include calculating the amount of special assessments, preparing certifications of special assessments for the county auditor, billing the special assessments, and considering property owners' claims regarding the calculation or billing of special assessments. The Board may hire such professionals as may be required to successfully administer special assessments.
- (G) Budgeting. The Board shall provide for the production of an annual report describing the District's budget, services delivered, revenues received, expenditures made, and other information about the District's activities. The annual report shall be made available to the Board and to the District's members. The Board may hire such professionals as may be required to successfully account for all District finances.
- (H) Auditing. The Board is hereby authorized to provide for an audit of the District in such manner as the Board deems appropriate. The Board may hire such professionals as may be required to successfully audit the District.
- (I) Other Services. The Board is hereby authorized to provide any other services authorized by the Act.

V. Fees

Program Costs. The Board is hereby authorized to charge to property owners, as costs of administering the Program, any costs permitted by the Act. Such costs may include, without limitation, the following:

- (A) The cost of creating and operating the District, including creating and operating City of Cincinnati, Energy Special Improvement District, Inc., hiring employees and professional services, contracting for insurance, and purchasing or leasing office space or office equipment;
- (B) The cost of planning, designing, and implementing Authorized Improvements or services under this Plan, including payment of architectural, engineering, legal, appraisal, insurance, consulting, energy auditing, and planning fees and expenses, and, for services under this Plan, the management, protection, and maintenance costs of public or private facilities;
- (C) Any court costs incurred by the District in implementing this Plan or any Plan Supplements;
- (D) Any damages resulting from implementing the public improvements or public services plan;
- (E) The costs of issuing, monitoring, paying interest on, and redeeming or refunding Program Obligations issued or used to finance Authorized Improvements or services under this Plan; and
- (F) The costs associated with the sale, lease, lease with an option to purchase, conveyance of other interests in, or other contracts for the acquisition, construction, maintenance, repair, furnishing, equipping, operation, or improvement of the District's territory, or between the District and any owner of property in the District on which an Authorized Improvement has been acquired, installed, equipped, or improved.

Pursuant to the Act, such Program costs may be included in the special assessments levied on real property within the District.

Application Fee. The Board is hereby authorized to set and charge an application fee for Program services provided by the District. The application fee may be non-refundable. The application fee may be credited to the cost of Authorized Improvements if the application is approved and an Authorized Improvement is made to the property for which application was made.

VI. Energy Efficiency and Renewable Energy Regulations and Requirements

Energy Efficiency Reporting Requirements. Ohio Revised Code Section 1710.061 requires the Board to submit a quarterly report to each electric distribution utility ("EDU") with a District Authorized Improvement within the EDU's certified territory. The quarterly report submitted to the EDU must include the total number and a description of each new and ongoing District Authorized Improvement that produces energy efficiency savings or reduction in demand and other additional information that the EDU needs to obtain credit under Ohio Revised Code

Section 4928.66 for energy efficiency savings or reduction in demand from such projects. The Board is hereby authorized to submit quarterly reports due required under Ohio Revised Code Section 1710.061. Property owners shall comply with Board requirements for information gathering and reporting to ensure Board compliance with Ohio Revised Code Section 1710.061.

Energy Efficiency Credits. The Board is hereby authorized to adopt rules governing energy efficiency credits associated with Authorized Improvements financed with Program Obligations or the proceeds of Program Obligations. Property owners shall comply with Board requirements in furtherance of energy efficiency credit programs.

Renewable Energy Credits. The Board is hereby authorized to adopt rules governing renewable energy credits associated with Authorized Improvements financed with Program Obligations or the proceeds of Program Obligations. Property owners shall comply with Board requirements in furtherance of renewable energy credit programs.

Monetizing Other Energy Efficiency or Renewable Energy Attributes. The Board is hereby authorized to adopt rules governing the monetization of any energy efficiency or renewable energy attributes of any Authorized Improvements financed with Program Obligations or the proceeds of Program Obligations. Property owners shall comply with Board requirements in furtherance of the monetization of such attributes.

VII. Statutory Requirements

As provided in the District Documents:

- (A) Additional territory may be added to the District in accordance with the Act and the rules established by the Board pursuant to Part III of this Plan.
- (B) The District Documents may be amended or supplemented in accordance with their terms.
- (C) As described in this Plan, the Board is authorized to implement and amend this Plan, any Supplemental Plan, and any other plans for Authorized Improvements, public improvements, and public services, all in accordance with the Act.
- (D) The public improvements to be provided by the District are the Authorized Improvements identified in each petition and Plan Supplement. The area where the Authorized Improvements will be undertaken will be the area identified in each petition requesting formation of the District or requesting addition of real property to the District. The method of assessment shall be in proportion to the special benefits received by each property owner within the District as a result of Authorized Improvements.

- (E) For the purpose of levying an assessment, the Board may combine levies for Authorized Improvements and public services into one special assessment to be levied against each specially benefited property in the District.

VIII. Changes in State and Federal Law

The ability to issue or use Program Obligations to finance Authorized Improvements is subject to a variety of state and federal laws. If these laws change after property owners have applied to the District for financing, the District may be unable to fulfill its obligations under this Plan. **The District shall not be obligated to implement any provision of this Plan which is contrary to state or federal law. The District shall not be liable for any inability to finance Authorized Improvements as a result of state and federal law or any changes in state and federal law which reduce or eliminate the effectiveness of financing Authorized Improvements through the District's Program.**

IX. Releases and Indemnification

The District has been created with the approval of the City of Cincinnati, Ohio, as a participating political subdivision, for the purposes of implementing this Plan and administering the Program. The District and any participating political subdivision shall be neither responsible nor liable for the installation, operation, financing, refinancing, or maintenance of Authorized Improvements. Property owners will be solely responsible for the installation, operation, financing, refinancing, and maintenance of the Authorized Improvements. Participation in the Program does not in any way obligate the District or any participating political subdivision to ensure the viability of Authorized Improvements. Owners of assessed real property must pay the special assessments regardless of whether the Authorized Improvements are properly installed or operate as expected.

By agreeing to and executing this Plan, each owner of real property included in the District (other than any political subdivision that owns real property included in the District) agrees to release, defend, indemnify, and hold harmless the District and the participating political subdivisions, including their directors, officers, members, agents, independent contractors, and employees, from and against any claims, actions, demands, costs, damages or lawsuits, arising out of or connected with participation in the Program. Any political subdivision that owns real property included in the District agrees to release and hold harmless the District and the participating political subdivisions, including their directors, officers, members, agents, independent contractors, and employees, from and against any claims, actions, demands, costs, damages or lawsuits, arising out of or connected with the political subdivision's participation in the Program in its capacity as a property owner.

X. Changes in the Program Terms; Severability

Participation in the Program is subject to the District Document terms and conditions in effect from time to time during participation. The District reserves the right to change this Plan and the

terms and conditions of the District Documents at any time without notice. No such change will affect a property owner's obligation to pay special assessments as set forth in the District Documents.

If any provision of the District Documents is determined to be unlawful, void, or for any reason unenforceable, that provision shall be severed from these District Documents and shall not affect the validity and enforceability of any remaining provisions.

XI. Disclosure of Property Owner Information

The District and any participating political subdivision may disclose information of the District to any agent of the District or to third parties when such disclosure is essential either to the conduct of the District's business or to provide services to property owners, including but not limited to where such disclosure is necessary to (i) comply with the law (ii) enable the District and participating political subdivisions and their agents to provide services or otherwise perform their duties, and (iii) obtain and provide credit reporting information. In order to receive funding for the Program and to enable communication regarding the State of Ohio's energy programs, property owners' names and contact information may be disclosed to their current electric utilities. Property owners' names, contact information, and utility usage data further may be disclosed to the District and its agents for the purpose of conducting surveys and evaluating the Program. The District shall not disclose personal information to third parties for telemarketing, e-mail, or direct mail solicitation unless required to by law or court order.

Each owner of real property located within the District acknowledges that the District is subject to Ohio public records laws, including Ohio Revised Code Section 149.43 *et seq.* Each property owner that executes this Plan agrees to the disclosure of certain property owner information as stated in this Part.

BY EXECUTING THIS PLAN, THE PROPERTY OWNER IDENTIFIED BELOW HEREBY AUTHORIZES AND CONSENTS TO THIS PLAN AND AGREES TO PERFORM THE OBLIGATIONS OF THE PROPERTY OWNER CONTAINED IN THIS PLAN.

Date: July 23, 2014

**Property Owner:
PORT OF GREATER CINCINNATI DEVELOPMENT AUTHORITY**

Authorized Signatory



Laura Brunner, as
President and Chief Executive Officer

Address for notices to Property Owner:

Port of Greater Cincinnati Development
Authority

299 East Sixth Street, Suite 2A

Cincinnati, Ohio 45202

Description of Real Property Subject to this Plan:

The real property subject to this Plan is located at the commonly used mailing address 1682 Seymour Avenue, Cincinnati, Ohio 45237. The front footage of the real property subject to this Plan is 233.00 feet, and its area is 0.418 acres. The Hamilton County Auditor Parcel ID for the real property subject to this Plan is 117-0007-0064-00. The following is the legal description for the real property subject to this Plan:

Parcel One

Situated in the City of Cincinnati, County of Hamilton, State of Ohio in Section 6, Township 3, Fractional Range 2, Millcreek Township and being Lot #1 of Shonae Subdivision, Block A, as recorded in Plat Book 105, Page 44, Hamilton County, Ohio Recorder's records.

Parcel Two

[Property Owner Consent to Plan]

The following described real estate situated in Section 6, Town 3, Fractional Range 2, Miami Purchase, in the City of Cincinnati, Hamilton County, Ohio, being part of Lot 2, Part 1, Block "B", Shonae Subdivision as recorded in Plat Book 120, Pages 49 and 50 of the Hamilton County, Ohio records.

Beginning in the Northwest corner of Block "A", Shonae Subdivision as recorded in Plat Book 105, Page 44 of the Hamilton County, Ohio Recorder's office;

Thence North 1 deg. 15' East, a distance of 21.75 feet; thence South 88 deg. 45' East, a distance of 146.46 feet to the Westerly line of Shona Drive; thence Southwardly along the Westerly line of Shona Drive on a curved line deflecting to the right with a radius of 220 feet a distance of 23.16 feet, chord of said curve bears South 21 deg. 16' 35" West, a distance of 23.14 feet to the Northeast corner of said Block "A", Shonae Subdivision, thence North 68 deg. 45' West, a distance of 138.53 feet to the place of beginning.

These parcels are not to be conveyed separately without prior approval of the governmental authority having jurisdiction.

[Property Owner Consent to Plan]

March 15, 2023

To: Mayor and Members of City Council 202300875

From: Sheryl M.M. Long, City Manager

**Subject: LEGISLATIVE RESOLUTION DECLARING THE NECESSITY OF
THE PACE ASSESSMENT PROJECT FOR 830 MAIN STREET**

Attached is an emergency Legislative Resolution captioned:

DECLARING by legislative resolution the necessity of the assessment project at 830 Main Street in the City of Cincinnati, Ohio involving the City of Cincinnati, Ohio Energy Special Improvement District.

BACKGROUND/CURRENT CONDITIONS

The Ohio PACE (Property Assessed Clean Energy) program allows commercial property owners to opt in to a special assessment which is added to the property tax bill to access long-term, fixed-rate financing for energy efficiency upgrades. 830 Main Street LLC, an affiliate of Birkla Investment Group has requested to have their property added to the Energy Special Improvement District (ESID) and special assessments levied on the property, for the purpose of accessing PACE financing for energy efficiency upgrades to their mixed-use redevelopment project.

DEVELOPER INFORMATION

The development entity is 830 Main Street, LLC, which is an affiliate of Birkla Investment Group. Birkla Investment Group, based out of Carmel, Indiana, has substantial experience in the new construction and renovation of existing properties, including their most recent development known as At580 (stylized @580) located at 580 Walnut Street in the Central Business District.

PROJECT DESCRIPTION

This project will include the conversion of former office space into 63,720 square feet of residential space consisting of 60 apartments and 5,000 square feet of commercial space square in the former Second National Bank building in the Central Business District. The construction cost is estimated to be \$6,000,000, and the total cost of the PACE eligible improvements is \$3,773,000.

PROPOSED INCENTIVE

DCED is recommending that the City amend the Energy Special Improvements District (ESID) boundaries to add this property to the ESID and levy special assessments on the property. This will allow the developer to access financing for energy efficiency upgrades to the building envelope, lighting, and plumbing.

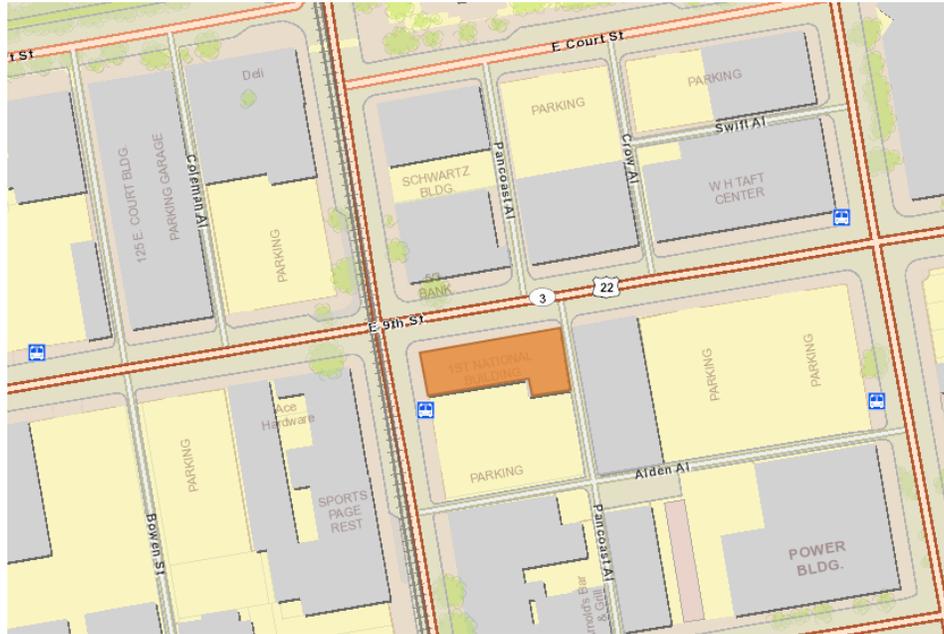
Pursuant to Ordinance 285-2019, City Council approved the Commercial CRA Incentive Agreement related to this project on June 26, 2019.

RECOMMENDATION

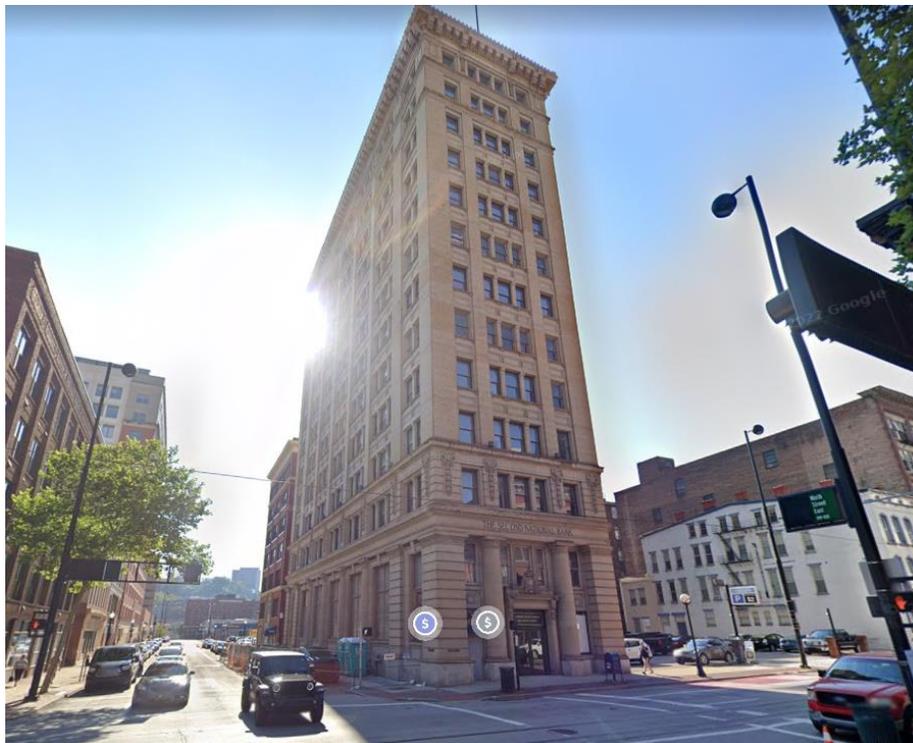
The Administration recommends approval of this emergency legislative resolution to allow the project financial closing to occur and the project to commence construction at the earliest possible time.

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

Attachment A: Location and Site Rendering



830 Main Street Location



830 Main Street Picture

EMERGENCY

Legislative Resolution

RESOLUTION NO. _____ - 2023

DECLARING by legislative resolution the necessity of the special assessment project at 830 Main Street in the City of Cincinnati, Ohio involving the City of Cincinnati, Ohio Energy Special Improvement District.

WHEREAS, Ohio Revised Code Section 1710.02(F) provides that a political subdivision that has approved a petition for special assessments for public improvements in a special improvement district pursuant to Ohio Revised Code Chapter 1710 shall levy said special assessments pursuant to Ohio Revised Code Chapter 727; and

WHEREAS, pursuant to Resolution No. 28-2014 passed on April 9, 2014, Council approved the Petition for the Creation of the City of Cincinnati, Ohio Energy Special Improvement District, together with the Articles of Incorporation of the City of Cincinnati, Ohio Energy Special Improvement District, Inc. and, following said approvals by Council, on July 23, 2014, the City of Cincinnati, Ohio Energy Special Improvement District, Inc. (hereinafter, the “ESID”) was formed as an ESID and is now duly authorized and operating pursuant to Ohio Revised Code Chapter 1710; and

WHEREAS, 830 Main Street LLC (together with all future owners of the Project Site, as defined below, the “Owner”), as the owner of one hundred percent (100%) of the lots and lands, including air parcels, to be assessed for the improvements described in this Resolution, has executed and filed with this Council a *Petition for Special Assessments for Special Energy Improvement Projects* dated as of March 2, 2023 (the “Petition”), including a *Supplement to Plan for 830 Main Street Project* (the “Supplemental Plan”), proposing the necessity of special assessments to pay the costs of special energy improvement projects (as more fully identified in the Petition and Supplemental Plan, the “Authorized Improvements”) to be located at 830 Main Street in Cincinnati (the “Assessed Property”); and

WHEREAS, the Petition and the Supplemental Plan are on file with the Clerk of Council, and copies thereof are attached to this Resolution as Attachment A; and

WHEREAS, in the Petition, the Owner requests that the Authorized Improvements be paid for by special assessments assessed upon the Assessed Property (the “Special Assessments”) in an amount sufficient to pay the costs of the Authorized Improvements and other related costs of financing the Authorized Improvements, which include, without limitation, the payment of principal of, interest on, and financing, credit enhancement, and issuance expenses related to, any bonds, notes, loans, or other financing provided to pay the costs of the Authorized Improvements, and requests that the Authorized Improvements be undertaken cooperatively by the City, the ESID,

and the Owner, in accordance with the Standing Assignment Agreement dated as of February 28, 2017 by and among the City, the Port of Greater Cincinnati Development Authority, and the ESID (the “Standing Assignment Agreement”); and

WHEREAS, in order to provide for the assignment and transfer of the Special Assessments, the ESID has requested that the City execute and deliver an Addendum to the Standing Assignment Agreement substantially in the form now on file with the Clerk of Council; and

WHEREAS, (i) the Special Assessments are conducive to the public health, convenience and welfare of this City and the inhabitants of the City; (ii) the Assessed Property is specially benefited by the Special Assessments; and (iii) the Special Assessments have been petitioned for by the owner of 100% of the Assessed Property; now, therefore,

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

Section 1. That the recitals hereof are hereby incorporated by reference, and each capitalized term not otherwise defined in this Resolution or by reference to another document shall have the meaning assigned to it in the *Petition for Special Assessments for Special Energy Improvement Projects* dated March 2, 2023 (the “Petition”), which Petition, together with a *Supplement to Plan for 830 Main Street Project* (the “Supplemental Plan”), are hereby approved and accepted, and copies of which are attached to this Resolution as Attachment A.

Section 2. That this Council hereby approves and authorizes the City Manager to execute an Addendum to the Standing Assignment Agreement substantially in the form now on file with the Clerk of Council, together with any modifications as may be necessary to effectuate the purpose of the Petition and Ohio Revised Code Chapter 1710, provided that any such modifications shall not, in the judgment of the City Manager, be adverse to the City.

Section 3. That it is hereby declared necessary, and a vital and essential public purpose of the City, to improve the real property located at 830 Main Street, Cincinnati, Ohio (the “Assessed Property”), by providing for special energy improvement projects as more fully identified in the Petition and Supplemental Plan (the “Authorized Improvements”) on the Assessed Property, including any and all costs and expenses in connection with or otherwise related thereto as described

in the Petition (collectively, the “Assessment Project”), which Assessment Project is described in the plans, specifications, profiles, and estimates of costs included in the Petition and on file in the office of the Clerk of Council.

Section 4. That the plans and specifications and total cost of the Assessment Project now on file in the office of the Clerk of Council are approved, subject to changes as provided for in the Standing Assignment Agreement among the City, the Port of Greater Cincinnati Development Authority, and the City of Cincinnati, Ohio Energy Special Improvement District, Inc. (the “ESID”), and as permitted by Ohio Revised Code Chapter 727. The Assessment Project shall be made in accordance with the plans, specifications, profiles, and estimates for the Assessment Project.

Section 5. That this Council finds and determines that: (i) the Assessment Project is conducive to the public health, convenience, and welfare of this City and the inhabitants thereof, and that it is an essential and vital public, governmental purpose of the City as a Special Energy Improvement Project as defined in Ohio Revised Code Section 1710.01(I); (ii) the Assessed Property is specially benefited by the Assessment Project; and (iii) the Assessment Project has been petitioned for by the owner of 100% of the Assessed Property. It is hereby determined that the Assessment Project’s elements are so situated in relation to each other that in order to complete the acquisition and improvement of the Assessment Project’s elements in the most practical and economical manner, they should be acquired and improved at the same time, with the same kind of materials, and in the same manner, and that the Assessment Project’s elements shall be treated as a single improvement pursuant to Ohio Revised Code Section 727.09.

Section 6. That pursuant to Ohio Revised Code Section 1710.02(G)(4), Council hereby determines that the Assessment Project is not required to be owned exclusively by the City. Council accordingly hereby authorizes the board of directors of the ESID to act as its agent to sell, transfer, lease, or convey the Assessment Project. The board of directors of the ESID must obtain from any sale, transfer, lease, or conveyance of the Assessment Project any consideration greater than or equal to \$1.00.

Section 7. That the costs of the Assessment Project, as set forth in the Petition, shall be assessed in proportion to the benefits upon the Assessed Property, and the assessment for such purpose (the “Special Assessments”) shall be assessed and paid as specified in the Petition. The portion of the costs of the Assessment Project allocable to the City will be 0%. The City does not intend to issue securities in anticipation of the levy of the Special Assessments.

Section 8. That the City’s Finance Director and/or his or her designee is authorized to cause to be prepared and filed in the office of the Clerk of Council the estimated Special Assessments and the cost of the Assessment Project in accordance with the method of assessment set forth in the Petition and this Resolution.

Section 9. That the Special Assessments shall be levied and paid in fifty-eight (58) semi-annual installments pursuant to the list of estimated Special Assessments set forth in the Petition. The Owner has waived the right to pay the Special Assessment in cash within thirty (30) days after the first publication of the notice of the assessing ordinance.

Section 10. That the Owner has waived notice of the adoption of this Resolution and the filing of the estimated Special Assessments upon the filing of the estimated Special Assessments with the Clerk of Council under Ohio Revised Code Section 727.13.

Section 11. That pursuant to and subject to the provisions of a valid Petition signed by the Owner, as the owner of one hundred percent (100%) of the Assessed Property, which Petition is hereby accepted, the entire cost of the Assessment Project shall be paid by the Special Assessments levied against the Assessed Property, which is the benefited property.

Section 12. That this Council hereby accepts and approves the waivers contained in the Petition of all further notices, hearings, claims for damages, rights to appeal and other rights of property owners under the law, including, but not limited to, those specified in the Ohio Constitution, Ohio Revised Code Chapter 727, Ohio Revised Code Chapter 1710, and the Charter of the City of Cincinnati, Ohio, and consents to the immediate imposition of the Special Assessments upon the Assessed Property.

Section 13. That the City's Finance Director and/or his or her designee is authorized, pursuant to Ohio Revised Code Section 727.12, to cause the Special Assessments to be levied and collected at the earliest possible time including, if applicable, prior to the completion of the acquisition and construction of the Assessment Project.

Section 14. That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Ohio Revised Code Section 121.22.

Section 15. That this resolution 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 ensure that the board of directors of the ESID may proceed with the Assessment Project as soon as possible so that work thereon may commence or continue without delay.

Passed: _____, 2023

Aftab Pureval, Mayor

Attest: _____
Clerk

**PETITION FOR SPECIAL ASSESSMENTS FOR
SPECIAL ENERGY IMPROVEMENT PROJECTS**

A PETITION TO THE CITY OF CINCINNATI, OHIO SEEKING THE IMPOSITION OF SPECIAL ASSESSMENTS TO PAY THE COSTS OF VARIOUS SPECIAL ENERGY IMPROVEMENT PROJECTS AGAINST PROPERTY OWNED BY THE PETITIONER AND SPECIALLY BENEFITED THEREBY, INCLUDING A WAIVER OF ALL RIGHTS TO NOTICES, HEARINGS AND APPEALS RESPECTING THE REQUESTED SPECIAL ASSESSMENTS

To: The City Manager and City Council of the City of Cincinnati, Ohio

830 Main Street LLC, an Ohio limited liability company (the "Petitioner"), is the owner of 100% of the property described on **Exhibit A** attached to this Petition (the "Property"). The Petitioner will implement special energy improvement projects on the Property (the "Authorized Improvements," as further described in **Exhibit B**).

The Board of Directors of the City of Cincinnati, Ohio Energy Special Improvement District, Inc. (the "Corporation"), an Ohio nonprofit corporation formed to govern the City of Cincinnati, Ohio Energy Special Improvement District (the "District"), created within the boundaries of the City of Cincinnati, Ohio (the "City") has approved a plan (the "Program Plan") for the purpose of developing and implementing special energy improvement projects, as defined in Ohio Revised Code Section 1710.01(I). The Program Plan is attached to this Petition as **Exhibit C**.

Pursuant to the Program Plan, the Corporation has caused special energy improvement projects to be provided from time to time. In accordance with Ohio Revised Code Chapter 1710 and the Program Plan, the Program Plan may be amended from time to time by supplemental plans (the "Supplemental Plans") (the Program Plan and every Supplemental Plan together constituting the "Plan") to provide for additional special energy improvement projects, and the District may be enlarged from time to time to include additional property so long as at least one special energy improvement project is designated for each parcel of real property within the additional territory added to the District.

The Board of Directors of the Corporation has received the Supplemental Plan attached to this Petition as **Exhibit B**, including the description of the Authorized Improvements, and related materials in support of the expansion of the District to include the Property.

As required by Ohio Revised Code Section 1710.02, the Petitioner, as the owner of the Property, being 100% of the area proposed to be added to the District and 100% of the area proposed to be assessed for the Authorized Improvements, hereby (a) petitions the City Council (the "Council") to (i) approve the addition of the Property to the District and (ii) approve an amendment and supplement to the Plan by the Supplemental Plan to include the Authorized Improvements and (b) request that (i) Authorized Improvements be undertaken by the District, and

(ii) the total cost of those Authorized Improvements be assessed on the Property in proportion to the special benefits that will result from the Authorized Improvements.

In connection with this Petition and in furtherance of its purposes, the Petitioner acknowledges that it has reviewed or caused to be reviewed (i) the Plan and the Supplemental Plan, (ii) the plans, specifications and profiles for the Authorized Improvements, (iii) the estimate of cost for the Authorized Improvements included in **Exhibit B** and (iv) the schedule of estimated special assessments to be levied for the Authorized Improvements also included in **Exhibit B**. The Petitioner acknowledges that the estimated special assessment for each parcel is in proportion to the benefits that may result from the financing of the Authorized Improvements.

Accordingly, the Petitioner hereby petitions for the construction of the Authorized Improvements identified in this Petition and the Supplemental Plan attached to this Petition as **Exhibit B**, as authorized under Ohio Revised Code Chapter 1710, and for the imposition of the special assessments identified in this Petition and authorized under Ohio Revised Code Chapters 727 and 1710 (the "Special Assessments") to pay the costs of the Authorized Improvements.

In consideration of the City's acceptance of this Petition and the imposition of the requested Special Assessments, the Petitioner consents and agrees that the Property as identified in **Exhibit A** shall be assessed for all of the costs of the Authorized Improvements, including any and all architectural, engineering, legal, insurance, consulting, energy auditing, planning, acquisition, installation, construction, survey, testing and inspection costs; the amount of any damages resulting from the Authorized Improvements and the interest on such damages amount; the costs incurred in connection with the preparation, levy and collection of the special assessments; the cost of purchasing and otherwise acquiring any real estate or interests in real estate; expenses of legal services; costs of labor and material; trustee fees and other financing costs incurred in connection with the issuance, sale, and servicing of securities to pay costs of the Authorized Improvements in anticipation of the receipt of the special assessments, capitalized interest on, and financing reserve funds for, such securities or other obligations; and any program administration fees or financing servicing fees; together with all other necessary expenditures. The Petitioner agrees to pay the Special Assessments in a timely manner whether or not the Petitioner receives annual and timely notices of the Special Assessments.

In consideration of the Authorized Improvements, the Petitioner, for itself and its grantees and other successors with respect to the Property, agrees to pay promptly all Special Assessments as they become due, and agrees that the determination by the Council of the Special Assessments in accordance with the terms hereof will be final, conclusive and binding upon the Petitioner and the Property. In further consideration of the Authorized Improvements, the Petitioner covenants and agrees to disclose, upon the transfer of the Property or any portion of the Property to be assessed for the actual costs of the Authorized Improvements set forth in **Exhibit B**, in the deed to the transferee or in a separate instrument recorded with respect to the Property the existence of any outstanding Special Assessment for the Authorized Improvements and to require that transferee covenant to disclose the existence of any outstanding Special Assessment for the Authorized Improvements in any subsequent deed or in a separate instrument recorded with respect to the Property at the time of the subsequent transfer so long as the Special Assessments remain unpaid. As a condition to each subsequent transfer while the Special Assessments remain unpaid, the

Petitioner further covenants and agrees to provide expressly in the deed to any transferee or in a separate instrument recorded with respect to the Property at the time of the subsequent transfer (i) for the acquisition by the transferee of the Property subject to any outstanding Special Assessment and the transferee's assumption of responsibility for payment thereof and for waiver by the transferee of any rights that the Petitioner has waived pursuant to this Petition, and (ii) the requirement that each transferee from time to time of the Property covenant to include in the deed to any subsequent transferee or in a separate instrument recorded with respect to the Property at the time of the subsequent transfer the conditions described in clause (i) so long as the Special Assessments remain unpaid.

The Petitioner further acknowledges and confirms that the Special Assessments set forth in this Petition and in **Exhibit B** are in proportion to, and do not exceed, the special benefits to be conferred on the Property by the financing of the Authorized Improvements. The Petitioner further consents to the levying of the Special Assessment against the Property by the Council. The Petitioner acknowledges that these Special Assessments are fair, just and equitable and being imposed at the Petitioner's specific request.

The Petitioner hereby waives notice and publication of all resolutions, legal notices and hearings provided for in the Ohio Revised Code with respect to the Authorized Improvements and the Special Assessments, particularly those in Ohio Revised Code Chapters 727 and 1710, and consents to proceeding with the Authorized Improvements. Without limiting the foregoing, the Petitioner specifically waives any notices and rights under the following Ohio Revised Code Sections:

- The right to notice of the adoption of the Resolution of Necessity under Ohio Revised Code Sections 727.13 and 727.14;
- The right to limit the amount of the Special Assessments under Ohio Revised Code Sections 727.03 and 727.06, including the right to consider the Special Assessments authorized by this Petition within the limitations contained in Ohio Revised Code Sections 727.03 and 727.06 applicable to the Special Assessments and any other special assessments properly levied now or in the future;
- The right to file an objection to the Special Assessments under Ohio Revised Code Section 727.15;
- The right to the establishment of, and any proceedings by and any notice from an Assessment Equalization Board under Ohio Revised Code Sections 727.16 and 727.17;
- The right to file any claim for damages under Ohio Revised Code Sections 727.18 through 727.22 and Ohio Revised Code Section 727.43;
- The right to notice that bids or quotations for the Authorized Improvements may exceed estimates by 15%;
- The right to seek a deferral of payments of Special Assessments under Ohio Revised Code Section 727.251; and
- The right to notice of the passage of the Assessing Ordinance under Ohio Revised Code Section 727.26.

The Petitioner, in accordance with Ohio Revised Code Section 1710.02(A), further agrees that the Property may be included in more than one district formed under Ohio Revised Code

Chapter 1710. The Petitioner further agrees not to take any actions, or cause to be taken any actions, to place any of the Property in an agricultural district as provided for in Ohio Revised Code Chapter 929, and if any of the Property is in an agricultural district, the Petitioner, in accordance with Ohio Revised Code Section 929.03, hereby grants permission to collect any Special Assessments levied against such Property.

The Petitioner further agrees and consents to the Council promptly proceeding with all actions necessary to facilitate the acquisition, installation, equipment, and improvement of the Authorized Improvements and to impose the Special Assessments.

The Petitioner acknowledges that the Special Assessments set forth in this Petition and in the Exhibits to this Petition are based upon an estimate of costs, and that the final Special Assessments shall be calculated in the same manner, which, regardless of any statutory limitation on the Special Assessments, may be more or less than the respective estimated Special Assessments for the Authorized Improvements. In the event the final assessments exceed the estimated assessments, the Petitioner, without limitation of the other waivers contained in this Petition, also waives any rights it may now or in the future have to object to those assessments, any notice provided for in Ohio Revised Code Chapters 727 and 1710, and any rights of appeal provided for in such Chapters or otherwise. The Petitioner further acknowledges and represents that the respective final assessments may be levied at such time as determined by the City and regardless of whether or not any of the parts or portions of the Authorized Improvements have been completed.

The Petitioner further acknowledges that the final Special Assessments for the Authorized Improvements, when levied against the Property, will be payable in cash within thirty (30) days from the date of passage of the ordinance confirming and levying the final assessments and that if any of such assessments are not paid in cash they will be certified to the Auditor of the County, as provided by law, to be placed on the tax list and duplicate and collected as other taxes are collected. Notwithstanding the foregoing, however, the Petitioner hereby waives the right to pay the final assessments for the Authorized Improvements in cash within thirty (30) days from the passage of the ordinance confirming and levying the final assessments and requests that the unpaid final assessments for the Authorized Improvements shall be payable in 58 semi-annual installments.

Pursuant to Ohio Revised Code Section 1710.03(C), the Petitioner hereby appoints as its designee to carry out the rights and responsibilities of District members under Ohio Revised Code Chapter 1710 such representative as may be duly appointed by the Petitioner from time to time, which designation shall not expire unless and until Petitioner shall notify the Secretary of the District that said designation is no longer in effect or that Petitioner has made a new designation to replace said designation.

The Petitioner further waives any and all questions as to the constitutionality of the laws under which the Authorized Improvements shall be acquired, installed, or constructed or the proceedings relating to the acquisition, installation, or construction of the Authorized Improvements, the jurisdiction of the City acting in connection with the acquisition, installation, or construction of the Authorized Improvements, all irregularities, errors and defects, if any, procedural or otherwise, in the levying of the assessments or the undertaking of the Authorized

Improvements, and specifically waives any and all rights of appeal, including any right of appeal as provided in Ohio Revised Code Title 7, and specifically but without limitation, Ohio Revised Code Chapters 727 and 1710, as well as all such similar rights under the Constitution of the State of Ohio and the Charter of the City of Cincinnati, Ohio. The Petitioner represents that it will not contest, in a judicial or administrative proceeding, the undertaking of the Authorized Improvements, the estimated assessments, the final assessments, and any Special Assessments levied against the Property for the Authorized Improvements, or any other matters related to the foregoing.

The Petitioner acknowledges and understands that the City and the Corporation will be relying upon this Petition in taking actions pursuant to it and expending resources. This Petition therefore shall be irrevocable and shall be binding upon the Petitioner, any successors or assigns of the Petitioner, the Property, and any grantees, mortgagees, lessees, or transferees of the Property. The Petitioner acknowledges that they have had an opportunity to be represented by legal counsel in this undertaking and has knowingly waived the rights identified in this Petition.

[Balance of Page Intentionally Left Blank]

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

The real property subject to this Petition is located at the commonly used mailing address 830 Main Street, Cincinnati, Ohio, having Hamilton County Auditor Parcel ID No. 079-0004-0287-00, and the following legal description:

Situated in Section 18, Town 4, Fractional Range 1, City of Cincinnati, Hamilton County, Ohio, being part of Lots 43 and 44 of North Square, recorded in Deed Book G-1, Page 275 and Deed Book 29, Page 445 and further being part of the property conveyed to DTK Ninth & Main LLC by deed recorded in Official Record 9886, Page 3234 (all references to recorded documents made herein are to those of the Hamilton County Recorder's Office in Cincinnati, Ohio) and being more particularly described as follows:

Beginning at the corner of an existing building at the intersection of the Southerly line of Ninth Street (66') and the Easterly line of Main Street (66');

Thence with the Southerly line of Ninth Street, North 73 deg. 58' 30" East, a distance of 130.00 feet to the corner of an existing building at the intersection of said Southerly line with the Westerly line of Pancoast Alley (12');

Thence with the Westerly line of Pancoast Alley, South 16 deg. 00' 00" East, a distance of 56.00 feet to the corner of an existing building;

Thence through the grantor's property, on new division lines, for the following Three (3) courses:

1. South 73 deg. 58' 30" West, a distance of 35.80 feet to the corner of an existing building;
2. North 16 deg. 00' 00" West, a distance of 16.00 feet to the corner of an existing building;
3. South 73 deg. 58' 30" West, a distance of 94.20 feet to the corner of an existing building in the Easterly line of Main Street;

Thence with the Easterly line of Main Street, North 16 deg. 00' 00" West, a distance of 40.00 feet to the Point of Beginning;

Containing 0.133 acre, more or less.
PPN: 079-0004-0287

EXHIBIT B

**CITY OF CINCINNATI, OHIO ENERGY SPECIAL IMPROVEMENT DISTRICT
PROGRAM PLAN**

SUPPLEMENT TO PLAN FOR 830 MAIN STREET PROJECT

As more fully provided by the City of Cincinnati, Ohio Special Improvement District Program Plan (together with all previously approved supplemental plans, the "Plan"), the City of Cincinnati, Ohio Energy Special Improvement District (the "District") has undertaken the administration of a property assessed clean energy ("PACE") program (the "Program"). The Program will provide financing secured by special assessments on real property for special energy improvement projects.

Through a Petition submitted in connection with this Supplemental Plan, the undersigned (the "Property Owner") has requested and consented to certain special assessments by the District with respect to certain real property owned by the Property Owner and located at 830 Main Street, Cincinnati, Ohio, having Hamilton County Auditor Parcel ID No. 079-0004-0287-00 (the "Property"). A schedule for special assessments to be assessed against the Property to pay the costs of the Authorized Improvements is attached hereto as Attachment A.

The Authorized Improvements applicable to the Property will include energy efficient lighting improvements, window improvements, wall, thermal moisture protection and reduction improvements, HVAC improvements, plumbing improvements resulting in energy savings, elevator improvements, and related improvements. As required by Ohio Revised Code Section 1710.01(K), said Authorized Improvements are anticipated to reduce or support the reduction of energy consumption, allow for reduction in demand, or support the production of clean, renewable energy. A detailed description of the Authorized Improvements is attached to this Supplemental Plan as Attachment B. The Property Owner hereby acknowledges and agrees that the special benefit to be provided to the Property under this Supplemental Plan is the consummation of the financing to pay, finance, and refinance costs of the Authorized Improvements, which shall be conferred immediately upon the consummation of the financing, and that the benefits are in proportion to and do not exceed the amount of the Special Assessments to be levied to pay the costs of the financing.

The Property Owner will cause this Supplemental Plan promptly to be filed with the Board of Directors of the District and with the Clerk of the City Council of Cincinnati, Ohio.

The undersigned owner of real property to be located within the District acknowledge that the District is subject to Ohio public records laws, including Ohio Revised Code Section 149.43 *et seq.* The undersigned property owner agrees to the disclosure of certain property owner information by the District to the extent required by law.

BY EXECUTING THIS SUPPLEMENTAL PLAN, THE PROPERTY OWNER IDENTIFIED BELOW HEREBY AUTHORIZES AND CONSENTS TO THIS SUPPLEMENTAL PLAN, AND ALL DISTRICT DOCUMENTS (AS DEFINED IN THE PLAN) AND AGREES TO PERFORM THE OBLIGATIONS OF THE PROPERTY OWNER CONTAINED IN THIS SUPPLEMENTAL PLAN.

PROPERTY OWNER:
830 MAIN STREET LLC
an Ohio limited liability company

By: _____

Name: _____

Title: _____


Anthony W Birkla
Manager

Address for notices to Property Owner:

830 Main Street LLC
120 W. Carmel Dr., Suite 101
Carmel, Indiana 46032
C/O Birkla Investment Partners LLC

With A Copy To:

Description of Real Property Subject to this Supplemental Plan:

The real property subject to this Supplemental Plan is located at the commonly used mailing 830 Main Street, Cincinnati, Ohio, having Hamilton County Auditor Parcel ID No. 079-0004-0287-00.

SUPPLEMENTAL PLAN—ATTACHMENT A

Schedule of Special Assessments

The Property will be subject to special assessments for the Authorized Improvements in accordance with Ohio Revised Code Chapter 1710.

Total assessment costs:	\$4,140,482.00
Estimated semi-annual special assessments for 29 years:	\$ 170,029.89
Number of semi-annual assessments:	58
First semi-annual installment due:	January 31, 2024

The schedule of Special Assessments for the Authorized Improvements is as follows:

Special Assessment Payment Date ¹	Special Assessment Installment Amount ²
1/31/2024	\$170,029.89
7/31/2024	170,029.89
1/31/2025	170,029.89
7/31/2025	170,029.89
1/31/2026	170,029.89
7/31/2026	170,029.89
1/31/2027	170,029.89
7/31/2027	170,029.89
1/31/2028	170,029.89
7/31/2028	170,029.89
1/31/2029	170,029.89
7/31/2029	170,029.89
1/31/2030	170,029.89
7/31/2030	170,029.89
1/31/2031	170,029.89
7/31/2031	170,029.89
1/31/2032	170,029.89
7/31/2032	170,029.89
1/31/2033	170,029.89
7/31/2033	170,029.89
1/31/2034	170,029.89
7/31/2034	170,029.89
1/31/2035	170,029.89
7/31/2035	170,029.89

¹ Pursuant to Ohio Revised Code Chapter 323, the Special Assessment Payment Dates identified herein are subject to adjustment under certain conditions.

² Pursuant to Ohio Revised Code Section 727.36, the Hamilton County Auditor may charge and collect a fee in addition to the amounts listed in this Attachment A.

Special Assessment Payment Date ¹	Special Assessment Installment Amount ²
1/31/2036	\$170,029.89
7/31/2036	170,029.89
1/31/2037	170,029.89
7/31/2037	170,029.89
1/31/2038	170,029.89
7/31/2038	170,029.89
1/31/2039	170,029.89
7/31/2039	170,029.89
1/31/2040	170,029.89
7/31/2040	170,029.89
1/31/2041	170,029.89
7/31/2041	170,029.89
1/31/2042	170,029.89
7/31/2042	170,029.89
1/31/2043	170,029.89
7/31/2043	170,029.89
1/31/2044	170,029.89
7/31/2044	170,029.89
1/31/2045	170,029.89
7/31/2045	170,029.89
1/31/2046	170,029.89
7/31/2046	170,029.89
1/31/2047	170,029.89
7/31/2047	170,029.89
1/31/2048	170,029.89
7/31/2048	170,029.89
1/31/2049	170,029.89
7/31/2049	170,029.89
1/31/2050	170,029.89
7/31/2050	170,029.89
1/31/2051	170,029.89
7/31/2051	170,029.89
1/31/2052	170,029.89
7/31/2052	170,029.89

SUPPLEMENTAL PLAN—ATTACHMENT B

Description of Authorized Improvements

The Authorized Improvements are expected to consist of the following energy efficiency elements:

Summary of Measures						
Measure Number	Measure Description	Electricity Savings (kWh)	Electricity Savings (\$)	Gas/Fuel Savings (Therms)	Gas/Fuel Savings (\$)	Cost Savings (\$)
ECM 1	Lighting Improvements	122,969	\$ 15,371	(2,333)	\$ (1,967)	\$ 13,404
ECM 2	Window Improvements	4,966	621	3,033	2,557	\$ 3,178
ECM 3	Improved Wall, Thermal Moisture Protection and Infiltration Reduction	17,271	\$ 2,159	8,253	\$ 6,957	\$ 9,116
ECM 4	HVAC	33,614	\$ 4,202	-	\$ -	\$ 4,202
ECM 5	Plumbing	44,572	\$ 5,572	-	\$ -	\$ 5,572
ECM 6	Elevators	60,627	\$ 7,578	-	\$ -	\$ 7,578
Totals		284,019	\$ 35,502	8,953	\$ 7,547	\$ 43,050

Item #	Improvement Description	Expected Useful Life in Years	Subtotal	Cost
1	Lighting Improvements (includes battery LED Egress Lighting and Occupancy Sensors)	20		\$ 470,000.00
2	Window Improvements (Price Increase)	35		\$ 646,112.08
3	Building Envelope: Exterior Wall finishes (Paint and installation of new Furred Walls) , Thermal Moisture Protection and Infiltration Reduction.	40		\$ 536,127.26
4	HVAC	25		\$ 1,167,095.02
	4A. HVAC Equipment and Labor	20	\$ 865,095.02	
	4B. HVAC Related Electrical	40	\$ 302,000.00	
5	Plumbing	26		\$ 350,000.00
	5A. Plumbing (includes Low flow devices excluding water closets, Apt DW heaters, Pipe Insulation, Booster Pumps with VFDs)	20	\$ 240,000.00	
	5B. Plumbing Related Electrical	40	\$ 110,000.00	
6	Elevators	21		\$ 140,314.76
	6A. Elevator Cab, Motor and Controls	20	\$ 135,108.00	
	6B. Elevator Related Electrical	40	\$ 5,206.76	
	Subtotal			\$ 3,309,649.12
	General Conditions and Overhead	14%		\$ 463,350.88
	Contingency	0%		\$ -
	Total Direct Costs			\$ 3,773,000.00
	Weighted Average Life	29	Years	

EXHIBIT C

**CITY OF CINCINNATI, OHIO ENERGY SPECIAL IMPROVEMENT DISTRICT
PROGRAM PLAN**

[See Attached]

**CITY OF CINCINNATI, OHIO ENERGY SPECIAL IMPROVEMENT DISTRICT
PROGRAM PLAN**

The City of Cincinnati, Ohio Energy Special Improvement District (the "District") will administer a property assessed clean energy ("PACE") program (the "Program"). The Program will provide financing secured by special assessments on real property for special energy improvement projects. The District authorizes and adopts this plan for the Program (as the same may be amended and supplemented from time to time as provided herein, the "Plan") to provide for the Program's administration and to set forth the terms and conditions of participation in the Program. The Port of Greater Cincinnati Development Authority, as the initial property owner owning real property within the District, as well as in its capacity as a party with interests aligned with the City of Cincinnati (the "City") with respect to the formation of the District, authorizes and consents to this Plan.

The District is established pursuant to the special energy improvement district provisions of Chapter 1710 of the Ohio Revised Code. This Plan refers to Chapter 1710 and any and all future amendments to the special energy improvement district provisions of Chapter 1710 as the "Act." Any specific statutory reference contained in this Plan shall also refer to any succeeding or amending statutory provision.

Participation in the District's Program is limited to property owners who have agreed to add their property to the District and who otherwise meet the Program's terms and conditions. These terms and conditions are addressed in this Plan, and include, without limitation, an application, a petition, a schedule of assessments to be made on included property ("Assessment Schedule"), and the governing documents forming the District. The District's governing documents include its Articles of Incorporation, Code of Regulations, resolutions duly adopted by the board of directors of the District, and the applicable resolutions and ordinances of the participating political subdivision where the real property is located (collectively, the "Governing Documents"). As a condition to participation in the District and the Program, each property owner must review and agree to the Governing Documents and further must review, agree to, and execute this Plan, an application, a petition, and an Assessment Schedule. The Governing Documents, this Plan, the applications, the petitions, and the Assessment Schedules are referred to herein collectively as the "District Documents."

The District Documents establish the terms and conditions of the Program. The Program terms and conditions may be amended from time to time as described in Part X of this Plan. By agreeing to and executing the District Documents, each property owner consents to the terms and conditions of all District Documents.

I. Purpose of the Program

The Program is intended to assist property owners, whether private or public, who own real property within participating political subdivisions to obtain financing for special energy

improvement projects, as that term is defined in the Act (the "Authorized Improvements"). Obligations, including but not limited to special assessment reimbursement agreements, special assessment revenue bonds and revenue notes, loan obligations or other evidences of indebtedness, or nonprofit corporation securities (collectively, the "Program Obligations") may be issued by the District or on behalf of the District by a third party. Program Obligations or the proceeds from the sale of the Program Obligations may be used to finance Authorized Improvements that benefit properties within the District and any costs incurred by the District in connection with the issuance of Program Obligations. Participating political subdivisions shall levy special assessments on real property included in the District, the payment of which may pay the Program Obligations and the costs of administering the Program. Special assessment payments levied to finance Authorized Improvements will be due and payable by property owners at the same time real property taxes are due; provided, that certain Program Obligations may require special assessments to be due and payable by property owners only to the extent that such property owners fail to pay an obligation of the property owner secured by special assessments, such as a loan, in which case special assessments will only be due and payable by property owners if actually levied.

Nothing in this Plan shall be construed as a representation on the part of any participating political subdivision, the District, the Board, or any of the directors, officers, agents, members, independent contractors, or employees of the District or Board that the Program is the best financing option for every situation. Property owners are advised to conduct independent research to determine the best course of action.

II. The District's Governance, Program Administrator, and Conduit Financing Entity

The District shall be governed, pursuant to the District Documents and the Act, by the Board of Directors ("Board") of the City of Cincinnati, Ohio Energy Special Improvement District, Inc., a nonprofit corporation organized under the laws of the State of Ohio (the "Corporation") to govern the District.

Pursuant to the Act, other Ohio law, and the Code of Regulations of the Corporation, the Board may from time to time, and under such conditions as the Board determines, delegate any or all of the authority contained in this Plan to its sub-committee or to an agent, independent contractor, or employee of the District or the Board.

This Plan specifically contemplates that, as authorized in the Act, Greater Cincinnati Energy Alliance will serve as the District's "Program Administrator" and render program administration services to the District and the Port of Greater Cincinnati Development Authority will serve as the District's "Conduit Financing Entity" and render conduit financing services to the District.

The District is authorized to contract with Greater Cincinnati Energy Alliance for program administration services rendered to the District. The program administration services rendered by the Program Administrator may include, without limitation (i) pursuant to Part III of this Plan, developing and administering eligibility guidelines, creating and administering an application,

setting criteria and developing a list of pre-approved contractors, procuring resources or cooperating with property owners to procure resources, and administering referrals, (ii) pursuant to Part IV of this Plan, marketing, program design, cooperating with property owners to implement Authorized Improvements, and other administrative services, and (iii) the establishment and administration of a revolving loan facility providing financing for certain special energy improvement projects.

The District is authorized to contract with the Port of Greater Cincinnati Development Authority for conduit financing services rendered to the District. The conduit financing services rendered by the Conduit Financing Entity may include, without limitation (i) pursuant to Part III of this Plan, financing Authorized Improvement and cooperating with property owners to obtain financing, (ii) pursuant to Part IV of this Plan, tracking and administering Program Obligations, administering special assessments, budgeting, and conducting or overseeing the audit process, (iii) assistance with marketing efforts relating to the District, and (iv) tracking compliance with respect to the Economic Inclusion Plan established by the Port of Greater Cincinnati Development Authority.

III. Program Eligibility, Approvals, Financing, and Procurement

The Board is hereby authorized to create, administer, amend, and abolish a process by which property owners join the Program. The process by which property owners join the Program may include, without limitation, the following requirements:

- (A) Eligibility. The Board is hereby authorized to create, administer, amend, and abolish eligibility requirements for the Program. The Board is further authorized to determine, in each individual case, whether property is eligible for participation in the Program.

To be eligible for participation in the Program, each property owner must file a petition with the Board requesting to add its property to the District and requesting the levy of special assessments to be used to pay or secure Program Obligations issued or used to finance Authorized Improvements. Each parcel of real property added to the District must have at least one Authorized Improvement. The petition to add property to the District shall be considered by the District in accordance with this Plan and the other District Documents. If the District approves the petition, it shall submit the petition to the executive officer and legislative body of the participating political subdivision in which the real property is located. A property owner may file more than one petition and may amend or withdraw any petition filed at any time before the petition is approved by the legislative body of the participating political subdivision in which the real property is located. Petitions shall conform to the requirements of Ohio Revised Code Chapter 1710 and any requirements of the Board.

To be eligible for participation in the Program, each property owner must agree to be bound by the terms of this Plan. The Plan for the District may be amended and supplemented from time to time in accordance with its terms, including,

specifically, by supplements to the Plan which identify additional Authorized Improvements within the District to be subject to the Plan or add property to the District and subject such additional property to the Plan. To be eligible for participation in the Program, each property owner must file a supplement to this Plan (the "Plan Supplement") with the Board and the clerk of the legislative body of the participating political subdivision in which the real property is located identifying the Authorized Improvements to be undertaken as part of the Plan applicable to real property within the District or to be added to the district. Plan Supplements shall include such other information as may be required by the Board. Plan Supplements shall conform to the requirements of Ohio Revised Code Chapter 1710 and any requirements of the Board.

To be eligible for participation in the Program, each property owner must agree to and must execute an Affidavit on Facts Relating to Title under Section 5301.252 of the Ohio Revised Code to be recorded with respect to the real property to be added to the District and filed with the clerk of the legislative body of the participating political subdivision in which the real property is located, which Affidavit on Facts Relating to Title shall state that the property owner has consented to include such real property in the District and that the property owner consents to, and will take all actions necessary to place upon such property, any subsequent special improvement district formed under Ohio Revised Code Chapter 1710 that includes such real property as long as the statutory conditions for forming the subsequent special improvement district are otherwise satisfied.

- (B) Application. The Board is hereby authorized to create, administer, amend, and abolish an application, including a pre-application, for participation in the Program. The Board further may set the terms and conditions for the application's use and evaluation.
- (C) Contractors. The Board is hereby authorized to require property owners to complete Authorized Improvements through the work of pre-approved contractors. The Board is further authorized to create criteria for the approval of contractors, including but not limited to compliance with the Economic Inclusion Plan adopted by the Port of Greater Cincinnati Development Authority, and to determine which contractors meet the criteria and are approved. The Board may communicate which contractors have been pre-approved to property owners by any means the Board deems appropriate, and the Board shall determine whether property owners comply with its pre-approved contractor's requirements.

Nothing in this Plan or the District Documents shall be construed to be a recommendation or guarantee of reliability of pre-approved contractors by any participating political subdivision, the District, the Board, or any of the directors, officers, agents, members, independent contractors, or employees of the District or Board.

- (D) Procurement and Referrals. The Board is hereby authorized to procure supplies, services, contracts, financing, and other resources related to the completion of Authorized Improvements. The Board is further authorized to refer property owners to suppliers, service providers, contractors, lenders, and the providers of other resources related to the completion of Authorized Improvements and the administration of District activities.

Pursuant to the Act, the Board shall adopt written rules prescribing competitive bidding procedures for the District and for Authorized Improvements undertaken by the District on behalf of property owners, which competitive bidding procedures may differ from competitive bidding procedures applicable to the City or the procedures in Chapter 735 of the Ohio Revised Code and may specify conditions under which competitive bidding is not required. Except as specified in the Act and in this Plan, the District Documents shall not be construed to eliminate or alter the competitive bidding procedures applicable to the City as a participating political subdivision.

- (E) Financing. The Board is hereby authorized to finance Authorized Improvements through the use or issuance of Program Obligations. The Board may hire such legal and financial professionals as may be required to successfully finance Authorized Improvements through the use or issuance of Program Obligations.

IV. Services Plan

The Board is hereby authorized to provide ongoing services to the District, its property, and the property owners. All services provided under this Plan shall be deemed to be services provided in furtherance of Authorized Improvements provided under this Plan. Such services, without limitation, may include the following:

- (A) Program Design. The Board is hereby authorized to design comprehensive services to establish and maintain the Program's legal and programmatic framework.
- (B) Program Administration. The Board is hereby authorized to educate the public on the Program and its purposes, market the program to the public, process applications, verify aspects of the Authorized Improvements, assure the Program's overall quality and the quality of Authorized Improvements, serve customers, and assist property owners in the origination and closing processes.
- (C) Marketing. The Board is hereby authorized to market the Program and promote the District's image through means such as developing literature and brochures, conducting public relations, collecting data, managing information, cooperating with members, creating electronic and print marketing materials, and holding special events.

- (D) Authorized Improvement Implementation. The Board is hereby authorized to cooperate with property owners for the implementation of Authorized Improvements, including cooperating with property owners for the addition of property to the District and the approval of petitions and Plan Supplements by participating political subdivisions and the Board.
- (E) Tracking and Administration of Program Obligations. The Board is hereby authorized to create, administer, amend, and abolish procedures for the tracking and administration of Program Obligations issued or used to finance Authorized Improvements. Without limitation, the administration of special assessments may include reporting delinquent special assessments, following-up with delinquent property owners, and coordinating with delinquent property owners. The Board may hire such professionals as may be required to successfully track and administer Program Obligations.
- (F) Administering Special Assessments. The Board is hereby authorized to create, administer, amend, and abolish procedures for the administration of special assessments levied pursuant to the District Documents. Without limitation, the administration of special assessments may include calculating the amount of special assessments, preparing certifications of special assessments for the county auditor, billing the special assessments, and considering property owners' claims regarding the calculation or billing of special assessments. The Board may hire such professionals as may be required to successfully administer special assessments.
- (G) Budgeting. The Board shall provide for the production of an annual report describing the District's budget, services delivered, revenues received, expenditures made, and other information about the District's activities. The annual report shall be made available to the Board and to the District's members. The Board may hire such professionals as may be required to successfully account for all District finances.
- (H) Auditing. The Board is hereby authorized to provide for an audit of the District in such manner as the Board deems appropriate. The Board may hire such professionals as may be required to successfully audit the District.
- (I) Other Services. The Board is hereby authorized to provide any other services authorized by the Act.

V. Fees

Program Costs. The Board is hereby authorized to charge to property owners, as costs of administering the Program, any costs permitted by the Act. Such costs may include, without limitation, the following:

- (A) The cost of creating and operating the District, including creating and operating City of Cincinnati, Energy Special Improvement District, Inc., hiring employees and professional services, contracting for insurance, and purchasing or leasing office space or office equipment;
- (B) The cost of planning, designing, and implementing Authorized Improvements or services under this Plan, including payment of architectural, engineering, legal, appraisal, insurance, consulting, energy auditing, and planning fees and expenses, and, for services under this Plan, the management, protection, and maintenance costs of public or private facilities;
- (C) Any court costs incurred by the District in implementing this Plan or any Plan Supplements;
- (D) Any damages resulting from implementing the public improvements or public services plan;
- (E) The costs of issuing, monitoring, paying interest on, and redeeming or refunding Program Obligations issued or used to finance Authorized Improvements or services under this Plan; and
- (F) The costs associated with the sale, lease, lease with an option to purchase, conveyance of other interests in, or other contracts for the acquisition, construction, maintenance, repair, furnishing, equipping, operation, or improvement of the District's territory, or between the District and any owner of property in the District on which an Authorized Improvement has been acquired, installed, equipped, or improved.

Pursuant to the Act, such Program costs may be included in the special assessments levied on real property within the District.

Application Fee. The Board is hereby authorized to set and charge an application fee for Program services provided by the District. The application fee may be non-refundable. The application fee may be credited to the cost of Authorized Improvements if the application is approved and an Authorized Improvement is made to the property for which application was made.

VI. Energy Efficiency and Renewable Energy Regulations and Requirements

Energy Efficiency Reporting Requirements. Ohio Revised Code Section 1710.061 requires the Board to submit a quarterly report to each electric distribution utility ("EDU") with a District Authorized Improvement within the EDU's certified territory. The quarterly report submitted to the EDU must include the total number and a description of each new and ongoing District Authorized Improvement that produces energy efficiency savings or reduction in demand and other additional information that the EDU needs to obtain credit under Ohio Revised Code

Section 4928.66 for energy efficiency savings or reduction in demand from such projects. The Board is hereby authorized to submit quarterly reports due required under Ohio Revised Code Section 1710.061. Property owners shall comply with Board requirements for information gathering and reporting to ensure Board compliance with Ohio Revised Code Section 1710.061.

Energy Efficiency Credits. The Board is hereby authorized to adopt rules governing energy efficiency credits associated with Authorized Improvements financed with Program Obligations or the proceeds of Program Obligations. Property owners shall comply with Board requirements in furtherance of energy efficiency credit programs.

Renewable Energy Credits. The Board is hereby authorized to adopt rules governing renewable energy credits associated with Authorized Improvements financed with Program Obligations or the proceeds of Program Obligations. Property owners shall comply with Board requirements in furtherance of renewable energy credit programs.

Monetizing Other Energy Efficiency or Renewable Energy Attributes. The Board is hereby authorized to adopt rules governing the monetization of any energy efficiency or renewable energy attributes of any Authorized Improvements financed with Program Obligations or the proceeds of Program Obligations. Property owners shall comply with Board requirements in furtherance of the monetization of such attributes.

VII. Statutory Requirements

As provided in the District Documents:

- (A) Additional territory may be added to the District in accordance with the Act and the rules established by the Board pursuant to Part III of this Plan.
- (B) The District Documents may be amended or supplemented in accordance with their terms.
- (C) As described in this Plan, the Board is authorized to implement and amend this Plan, any Supplemental Plan, and any other plans for Authorized Improvements, public improvements, and public services, all in accordance with the Act.
- (D) The public improvements to be provided by the District are the Authorized Improvements identified in each petition and Plan Supplement. The area where the Authorized Improvements will be undertaken will be the area identified in each petition requesting formation of the District or requesting addition of real property to the District. The method of assessment shall be in proportion to the special benefits received by each property owner within the District as a result of Authorized Improvements.

- (E) For the purpose of levying an assessment, the Board may combine levies for Authorized Improvements and public services into one special assessment to be levied against each specially benefited property in the District.

VIII. Changes in State and Federal Law

The ability to issue or use Program Obligations to finance Authorized Improvements is subject to a variety of state and federal laws. If these laws change after property owners have applied to the District for financing, the District may be unable to fulfill its obligations under this Plan. **The District shall not be obligated to implement any provision of this Plan which is contrary to state or federal law. The District shall not be liable for any inability to finance Authorized Improvements as a result of state and federal law or any changes in state and federal law which reduce or eliminate the effectiveness of financing Authorized Improvements through the District's Program.**

IX. Releases and Indemnification

The District has been created with the approval of the City of Cincinnati, Ohio, as a participating political subdivision, for the purposes of implementing this Plan and administering the Program. The District and any participating political subdivision shall be neither responsible nor liable for the installation, operation, financing, refinancing, or maintenance of Authorized Improvements. Property owners will be solely responsible for the installation, operation, financing, refinancing, and maintenance of the Authorized Improvements. Participation in the Program does not in any way obligate the District or any participating political subdivision to ensure the viability of Authorized Improvements. Owners of assessed real property must pay the special assessments regardless of whether the Authorized Improvements are properly installed or operate as expected.

By agreeing to and executing this Plan, each owner of real property included in the District (other than any political subdivision that owns real property included in the District) agrees to release, defend, indemnify, and hold harmless the District and the participating political subdivisions, including their directors, officers, members, agents, independent contractors, and employees, from and against any claims, actions, demands, costs, damages or lawsuits, arising out of or connected with participation in the Program. Any political subdivision that owns real property included in the District agrees to release and hold harmless the District and the participating political subdivisions, including their directors, officers, members, agents, independent contractors, and employees, from and against any claims, actions, demands, costs, damages or lawsuits, arising out of or connected with the political subdivision's participation in the Program in its capacity as a property owner.

X. Changes in the Program Terms; Severability

Participation in the Program is subject to the District Document terms and conditions in effect from time to time during participation. The District reserves the right to change this Plan and the

terms and conditions of the District Documents at any time without notice. No such change will affect a property owner's obligation to pay special assessments as set forth in the District Documents.

If any provision of the District Documents is determined to be unlawful, void, or for any reason unenforceable, that provision shall be severed from these District Documents and shall not affect the validity and enforceability of any remaining provisions.

XI. Disclosure of Property Owner Information

The District and any participating political subdivision may disclose information of the District to any agent of the District or to third parties when such disclosure is essential either to the conduct of the District's business or to provide services to property owners, including but not limited to where such disclosure is necessary to (i) comply with the law (ii) enable the District and participating political subdivisions and their agents to provide services or otherwise perform their duties, and (iii) obtain and provide credit reporting information. In order to receive funding for the Program and to enable communication regarding the State of Ohio's energy programs, property owners' names and contact information may be disclosed to their current electric utilities. Property owners' names, contact information, and utility usage data further may be disclosed to the District and its agents for the purpose of conducting surveys and evaluating the Program. The District shall not disclose personal information to third parties for telemarketing, e-mail, or direct mail solicitation unless required to by law or court order.

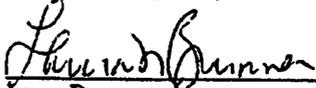
Each owner of real property located within the District acknowledges that the District is subject to Ohio public records laws, including Ohio Revised Code Section 149.43 *et seq.* Each property owner that executes this Plan agrees to the disclosure of certain property owner information as stated in this Part.

BY EXECUTING THIS PLAN, THE PROPERTY OWNER IDENTIFIED BELOW HEREBY AUTHORIZES AND CONSENTS TO THIS PLAN AND AGREES TO PERFORM THE OBLIGATIONS OF THE PROPERTY OWNER CONTAINED IN THIS PLAN.

Date: July 23, 2014

**Property Owner:
PORT OF GREATER CINCINNATI DEVELOPMENT AUTHORITY**

Authorized Signatory



**Laura Brunner, as
President and Chief Executive Officer**

Address for notices to Property Owner: Port of Greater Cincinnati Development Authority
299 East Sixth Street, Suite 2A
Cincinnati, Ohio 45202

Description of Real Property Subject to this Plan:

The real property subject to this Plan is located at the commonly used mailing address 1682 Seymour Avenue, Cincinnati, Ohio 45237. The front footage of the real property subject to this Plan is 233.00 feet, and its area is 0.418 acres. The Hamilton County Auditor Parcel ID for the real property subject to this Plan is 117-0007-0064-00. The following is the legal description for the real property subject to this Plan:

Parcel One

Situated in the City of Cincinnati, County of Hamilton, State of Ohio in Section 6, Township 3, Fractional Range 2, Millcreek Township and being Lot #1 of Shonae Subdivision, Block A, as recorded in Plat Book 105, Page 44, Hamilton County, Ohio Recorder's records.

Parcel Two

[Property Owner Consent to Plan]

The following described real estate situated in Section 6, Town 3, Fractional Range 2, Miami Purchase, in the City of Cincinnati, Hamilton County, Ohio, being part of Lot 2, Part 1, Block "B", Shonae Subdivision as recorded in Plat Book 120, Pages 49 and 50 of the Hamilton County, Ohio records.

Beginning in the Northwest corner of Block "A", Shonae Subdivision as recorded in Plat Book 105, Page 44 of the Hamilton County, Ohio Recorder's office;

Thence North 1 deg. 15' East, a distance of 21.75 feet; thence South 88 deg. 45' East, a distance of 146.46 feet to the Westerly line of Shona Drive; thence Southwardly along the Westerly line of Shona Drive on a curved line deflecting to the right with a radius of 220 feet a distance of 23.16 feet, chord of said curve bears South 21 deg. 16' 35" West, a distance of 23.14 feet to the Northeast corner of said Block "A", Shonae Subdivision, thence North 68 deg. 45' West, a distance of 138.53 feet to the place of beginning.

These parcels are not to be conveyed separately without prior approval of the governmental authority having jurisdiction.

[Property Owner Consent to Plan]

March 15, 2023

To: Mayor and Members of City Council

202300876

From: Sheryl M.M. Long, City Manager

**Subject: LEVYING SPECIAL ASSESSMENTS FOR THE PACE
ASSESSMENT PROJECT FOR 830 MAIN STREET**

Attached is an emergency ordinance captioned:

LEVYING special assessments for the purpose of the assessment project at 830 Main Street in the City of Cincinnati involving the City of Cincinnati, Ohio Energy Special Improvement District.

BACKGROUND/CURRENT CONDITIONS

The Ohio PACE (Property Assessed Clean Energy) program allows commercial property owners to opt in to a special assessment which is added to the property tax bill to access long-term, fixed-rate financing for energy efficiency upgrades. 830 Main Street LLC, an affiliate of Birkla Investment Group has requested to have their property added to the Energy Special Improvement District (ESID) and special assessments levied on the property, for the purpose of accessing PACE financing for energy efficiency upgrades to their mixed-use redevelopment project.

DEVELOPER INFORMATION

The development entity is 830 Main Street, LLC, which is an affiliate of Birkla Investment Group. Birkla Investment Group, based out of Carmel, Indiana, has substantial experience in the new construction and renovation of existing properties, including their most recent development known as At580 (stylized @580) located at 580 Walnut Street in the Central Business District.

PROJECT DESCRIPTION

This project will include the conversion of former office space into 63,720 square feet of residential space consisting of 60 apartments and 5,000 square feet of commercial space square in the former Second National Bank building in the Central Business District. The construction cost is estimated to be \$6,000,000, and the total cost of the PACE eligible improvements is \$3,773,000.

PROPOSED INCENTIVE

DCED is recommending that the City amend the Energy Special Improvements District (ESID) boundaries to add this property to the ESID, and levy special assessments on the property. This will allow the developer to access financing for energy efficiency upgrades to building envelope, lighting, and plumbing.

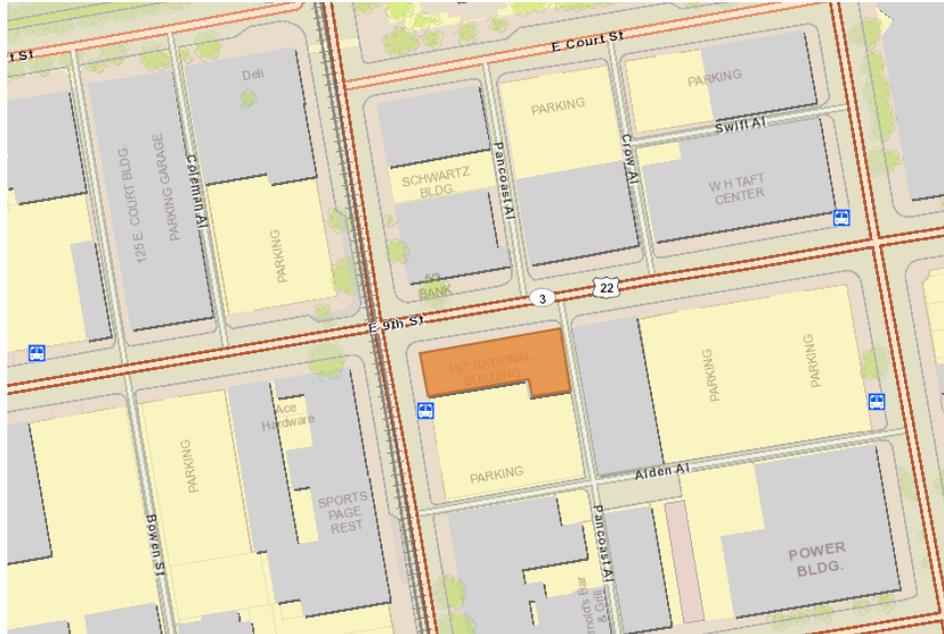
Pursuant to Ordinance 285-2019, City Council approved the Commercial CRA Incentive Agreement related to this project on June 26, 2019.

RECOMMENDATION

The Administration recommends approval of this emergency ordinance to allow the project financial closing to occur and the project to commence construction at the earliest possible time.

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

Attachment A: Location and Site Rendering



830 Main Street Location



830 Main Street Picture

EMERGENCY

- 2023

LEVYING special assessments for the purpose of the special assessment project at 830 Main Street in the City of Cincinnati involving the City of Cincinnati, Ohio Energy Special Improvement District.

WHEREAS, this Council duly adopted a legislative resolution declaring the necessity of an assessment project at 830 Main Street in the City of Cincinnati (the “Resolution of Necessity”), which Resolution of Necessity also accepted and approved the Petition (as defined therein) requesting the improvements described in Section 3 of the Resolution of Necessity and an assessment for the cost thereof, all as set forth in the Petition; and

WHEREAS, this Council duly passed an ordinance determining to proceed with the Assessment Project (as defined in the Resolution of Necessity) and adopted the estimated Special Assessments filed with the Clerk of Council and the City’s Director of Finance pursuant to the Resolution of Necessity; now, therefore,

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

Section 1. That the recitals hereof are hereby incorporated by reference, and each capitalized term not otherwise defined herein or by reference to another document shall have the meaning assigned to it in the Resolution of Necessity, an unsigned copy of which is attached to this ordinance as Attachment B.

Section 2. That the Special Assessments for the costs and expenses of the Assessment Project, which are set forth in the Petition (a copy of which is attached to the Resolution of Necessity) and are on file with the Clerk of Council and the City’s Finance Director, are adopted and confirmed and are assessed against the Assessed Property in the manner and in the number of installments provided in the Resolution of Necessity and the Petition. The Special Assessments are assessed against the Assessed Property commencing in tax year 2023 for collection in 2024 and shall continue through tax year 2051 for collection in 2052. The list of Special Assessments

to be levied and assessed against the Assessed Property and the schedule of the Special Assessments are attached to this ordinance as Attachment A.

Section 3. That this Council hereby finds and determines that the Special Assessments are in proportion to the special benefits received by the Assessed Property as set forth in the Petition and are not in excess of any applicable statutory limitation. The Special Assessments against the Assessed Property shall be payable as set forth in the Resolution of Necessity and the Petition. All Special Assessments shall be certified by the City's Finance Director to the Hamilton County Auditor pursuant to the Petition and Ohio Revised Code Section 727.33, to be placed on the tax list and duplicate and collected with and in the same manner as real property taxes are collected and as set forth in the Petition. This Council hereby appropriates the Special Assessments collected to be used by the City to meet its obligations with respect to the Assessment Project in accordance with the Standing Assignment Agreement and the Addendum.

Section 4. That the Owner of the Assessed Property has waived its right to pay the Special Assessments in cash, and all Special Assessments and installments thereof are to be certified by the City's Finance Director to the Hamilton County Auditor as provided by law to be placed by him or her on the tax list and duplicate and collected with and in the same manner as real property taxes are collected and as set forth in the Petition.

Section 5. That the City's Finance Director is authorized to keep the Special Assessments on file in the office of the Finance Director.

Section 6. That in compliance with Ohio Revised Code Section 319.61, the Clerk of the Council is hereby directed to deliver a certified copy of this ordinance to the Hamilton County Auditor within twenty (20) days after its passage.

Section 7. That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Ohio Revised Code Section 121.22.

Section 8. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is to ensure that the board of directors of the City of Cincinnati, Ohio Energy Special Improvement District, Inc. may proceed with the Assessment Project as soon as possible so that work thereon may commence or continue without delay.

Passed: _____, 2023

Aftab Pureval, Mayor

Attest: _____
Clerk

ATTACHMENT A

**LIST OF SPECIAL ASSESSMENTS AND
SCHEDULE OF SPECIAL ASSESSMENTS**

**830 MAIN STREET
LIST OF SPECIAL ASSESSMENTS**

Name	Assessed Properties Description	Portion of Benefit and Special Assessment	Amount of Special Assessments
830 Main Street LLC	Hamilton County Parcel Number: 079-0004-0287-00	100%	\$4,140,482.00

Schedule of Special Assessments

The Property will be subject to special assessments for the Authorized Improvements in accordance with Ohio Revised Code Chapter 1710.

Total assessment costs:	\$4,140,482.00
Estimated semi-annual special assessments for 29 years:	\$ 170,029.89
Number of semi-annual assessments:	58
First semi-annual installment due:	January 31, 2024

The schedule of Special Assessments for the Authorized Improvements is as follows:

Special Assessment Payment Date ¹	Special Assessment Installment Amount ²
1/31/2024	\$170,029.89
7/31/2024	170,029.89
1/31/2025	170,029.89
7/31/2025	170,029.89
1/31/2026	170,029.89
7/31/2026	170,029.89
1/31/2027	170,029.89
7/31/2027	170,029.89
1/31/2028	170,029.89
7/31/2028	170,029.89
1/31/2029	170,029.89
7/31/2029	170,029.89
1/31/2030	170,029.89
7/31/2030	170,029.89
1/31/2031	170,029.89
7/31/2031	170,029.89
1/31/2032	170,029.89
7/31/2032	170,029.89
1/31/2033	170,029.89
7/31/2033	170,029.89
1/31/2034	170,029.89
7/31/2034	170,029.89
1/31/2035	170,029.89
7/31/2035	170,029.89
1/31/2036	170,029.89

¹ Pursuant to Ohio Revised Code Chapter 323, the Special Assessment Payment Dates identified herein are subject to adjustment under certain conditions.

² Pursuant to Ohio Revised Code Section 727.36, the Hamilton County Auditor may charge and collect a fee in addition to the amounts listed in this Attachment A.

Special Assessment Payment Date ¹	Special Assessment Installment Amount ²
7/31/2036	\$170,029.89
1/31/2037	170,029.89
7/31/2037	170,029.89
1/31/2038	170,029.89
7/31/2038	170,029.89
1/31/2039	170,029.89
7/31/2039	170,029.89
1/31/2040	170,029.89
7/31/2040	170,029.89
1/31/2041	170,029.89
7/31/2041	170,029.89
1/31/2042	170,029.89
7/31/2042	170,029.89
1/31/2043	170,029.89
7/31/2043	170,029.89
1/31/2044	170,029.89
7/31/2044	170,029.89
1/31/2045	170,029.89
7/31/2045	170,029.89
1/31/2046	170,029.89
7/31/2046	170,029.89
1/31/2047	170,029.89
7/31/2047	170,029.89
1/31/2048	170,029.89
7/31/2048	170,029.89
1/31/2049	170,029.89
7/31/2049	170,029.89
1/31/2050	170,029.89
7/31/2050	170,029.89
1/31/2051	170,029.89
7/31/2051	170,029.89
1/31/2052	170,029.89
7/31/2052	170,029.89

ATTACHMENT B

EMERGENCY

Legislative Resolution

RESOLUTION NO. _____ - 2023

DECLARING by legislative resolution the necessity of the special assessment project at 830 Main Street in the City of Cincinnati, Ohio involving the City of Cincinnati, Ohio Energy Special Improvement District.

WHEREAS, Ohio Revised Code Section 1710.02(F) provides that a political subdivision that has approved a petition for special assessments for public improvements in a special improvement district pursuant to Ohio Revised Code Chapter 1710 shall levy said special assessments pursuant to Ohio Revised Code Chapter 727; and

WHEREAS, pursuant to Resolution No. 28-2014 passed on April 9, 2014, Council approved the Petition for the Creation of the City of Cincinnati, Ohio Energy Special Improvement District, together with the Articles of Incorporation of the City of Cincinnati, Ohio Energy Special Improvement District, Inc. and, following said approvals by Council, on July 23, 2014, the City of Cincinnati, Ohio Energy Special Improvement District, Inc. (hereinafter, the “ESID”) was formed as an ESID and is now duly authorized and operating pursuant to Ohio Revised Code Chapter 1710; and

WHEREAS, 830 Main Street LLC (together with all future owners of the Project Site, as defined below, the “Owner”), as the owner of one hundred percent (100%) of the lots and lands, including air parcels, to be assessed for the improvements described in this Resolution, has executed and filed with this Council a *Petition for Special Assessments for Special Energy Improvement Projects* dated as of March 2, 2023 (the “Petition”), including a *Supplement to Plan for 830 Main Street Project* (the “Supplemental Plan”), proposing the necessity of special assessments to pay the costs of special energy improvement projects (as more fully identified in the Petition and Supplemental Plan, the “Authorized Improvements”) to be located at 830 Main Street in Cincinnati (the “Assessed Property”); and

WHEREAS, the Petition and the Supplemental Plan are on file with the Clerk of Council, and copies thereof are attached to this Resolution as Attachment A; and

WHEREAS, in the Petition, the Owner requests that the Authorized Improvements be paid for by special assessments assessed upon the Assessed Property (the “Special Assessments”) in an amount sufficient to pay the costs of the Authorized Improvements and other related costs of financing the Authorized Improvements, which include, without limitation, the payment of principal of, interest on, and financing, credit enhancement, and issuance expenses related to, any bonds, notes, loans, or other financing provided to pay the costs of the Authorized Improvements, and requests that the Authorized Improvements be undertaken cooperatively by the City, the ESID,

and the Owner, in accordance with the Standing Assignment Agreement dated as of February 28, 2017 by and among the City, the Port of Greater Cincinnati Development Authority, and the ESID (the “Standing Assignment Agreement”); and

WHEREAS, in order to provide for the assignment and transfer of the Special Assessments, the ESID has requested that the City execute and deliver an Addendum to the Standing Assignment Agreement substantially in the form now on file with the Clerk of Council; and

WHEREAS, (i) the Special Assessments are conducive to the public health, convenience and welfare of this City and the inhabitants of the City; (ii) the Assessed Property is specially benefited by the Special Assessments; and (iii) the Special Assessments have been petitioned for by the owner of 100% of the Assessed Property; now, therefore,

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

Section 1. That the recitals hereof are hereby incorporated by reference, and each capitalized term not otherwise defined in this Resolution or by reference to another document shall have the meaning assigned to it in the *Petition for Special Assessments for Special Energy Improvement Projects* dated March 2, 2023 (the “Petition”), which Petition, together with a *Supplement to Plan for 830 Main Street Project* (the “Supplemental Plan”), are hereby approved and accepted, and copies of which are attached to this Resolution as Attachment A.

Section 2. That this Council hereby approves and authorizes the City Manager to execute an Addendum to the Standing Assignment Agreement substantially in the form now on file with the Clerk of Council, together with any modifications as may be necessary to effectuate the purpose of the Petition and Ohio Revised Code Chapter 1710, provided that any such modifications shall not, in the judgment of the City Manager, be adverse to the City.

Section 3. That it is hereby declared necessary, and a vital and essential public purpose of the City, to improve the real property located at 830 Main Street, Cincinnati, Ohio (the “Assessed Property”), by providing for special energy improvement projects as more fully identified in the Petition and Supplemental Plan (the “Authorized Improvements”) on the Assessed Property, including any and all costs and expenses in connection with or otherwise related thereto as described

in the Petition (collectively, the “Assessment Project”), which Assessment Project is described in the plans, specifications, profiles, and estimates of costs included in the Petition and on file in the office of the Clerk of Council.

Section 4. That the plans and specifications and total cost of the Assessment Project now on file in the office of the Clerk of Council are approved, subject to changes as provided for in the Standing Assignment Agreement among the City, the Port of Greater Cincinnati Development Authority, and the City of Cincinnati, Ohio Energy Special Improvement District, Inc. (the “ESID”), and as permitted by Ohio Revised Code Chapter 727. The Assessment Project shall be made in accordance with the plans, specifications, profiles, and estimates for the Assessment Project.

Section 5. That this Council finds and determines that: (i) the Assessment Project is conducive to the public health, convenience, and welfare of this City and the inhabitants thereof, and that it is an essential and vital public, governmental purpose of the City as a Special Energy Improvement Project as defined in Ohio Revised Code Section 1710.01(I); (ii) the Assessed Property is specially benefited by the Assessment Project; and (iii) the Assessment Project has been petitioned for by the owner of 100% of the Assessed Property. It is hereby determined that the Assessment Project’s elements are so situated in relation to each other that in order to complete the acquisition and improvement of the Assessment Project’s elements in the most practical and economical manner, they should be acquired and improved at the same time, with the same kind of materials, and in the same manner, and that the Assessment Project’s elements shall be treated as a single improvement pursuant to Ohio Revised Code Section 727.09.

Section 6. That pursuant to Ohio Revised Code Section 1710.02(G)(4), Council hereby determines that the Assessment Project is not required to be owned exclusively by the City. Council accordingly hereby authorizes the board of directors of the ESID to act as its agent to sell, transfer, lease, or convey the Assessment Project. The board of directors of the ESID must obtain from any sale, transfer, lease, or conveyance of the Assessment Project any consideration greater than or equal to \$1.00.

Section 7. That the costs of the Assessment Project, as set forth in the Petition, shall be assessed in proportion to the benefits upon the Assessed Property, and the assessment for such purpose (the "Special Assessments") shall be assessed and paid as specified in the Petition. The portion of the costs of the Assessment Project allocable to the City will be 0%. The City does not intend to issue securities in anticipation of the levy of the Special Assessments.

Section 8. That the City's Finance Director and/or his or her designee is authorized to cause to be prepared and filed in the office of the Clerk of Council the estimated Special Assessments and the cost of the Assessment Project in accordance with the method of assessment set forth in the Petition and this Resolution.

Section 9. That the Special Assessments shall be levied and paid in fifty-eight (58) semi-annual installments pursuant to the list of estimated Special Assessments set forth in the Petition. The Owner has waived the right to pay the Special Assessment in cash within thirty (30) days after the first publication of the notice of the assessing ordinance.

Section 10. That the Owner has waived notice of the adoption of this Resolution and the filing of the estimated Special Assessments upon the filing of the estimated Special Assessments with the Clerk of Council under Ohio Revised Code Section 727.13.

Section 11. That pursuant to and subject to the provisions of a valid Petition signed by the Owner, as the owner of one hundred percent (100%) of the Assessed Property, which Petition is hereby accepted, the entire cost of the Assessment Project shall be paid by the Special Assessments levied against the Assessed Property, which is the benefited property.

Section 12. That this Council hereby accepts and approves the waivers contained in the Petition of all further notices, hearings, claims for damages, rights to appeal and other rights of property owners under the law, including, but not limited to, those specified in the Ohio Constitution, Ohio Revised Code Chapter 727, Ohio Revised Code Chapter 1710, and the Charter of the City of Cincinnati, Ohio, and consents to the immediate imposition of the Special Assessments upon the Assessed Property.

Section 13. That the City's Finance Director and/or his or her designee is authorized, pursuant to Ohio Revised Code Section 727.12, to cause the Special Assessments to be levied and collected at the earliest possible time including, if applicable, prior to the completion of the acquisition and construction of the Assessment Project.

Section 14. That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Ohio Revised Code Section 121.22.

Section 15. That this resolution 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 ensure that the board of directors of the ESID may proceed with the Assessment Project as soon as possible so that work thereon may commence or continue without delay.

Passed: _____, 2023

Aftab Pureval, Mayor

Attest: _____

Clerk

**PETITION FOR SPECIAL ASSESSMENTS FOR
SPECIAL ENERGY IMPROVEMENT PROJECTS**

A PETITION TO THE CITY OF CINCINNATI, OHIO SEEKING THE IMPOSITION OF SPECIAL ASSESSMENTS TO PAY THE COSTS OF VARIOUS SPECIAL ENERGY IMPROVEMENT PROJECTS AGAINST PROPERTY OWNED BY THE PETITIONER AND SPECIALLY BENEFITED THEREBY, INCLUDING A WAIVER OF ALL RIGHTS TO NOTICES, HEARINGS AND APPEALS RESPECTING THE REQUESTED SPECIAL ASSESSMENTS

To: The City Manager and City Council of the City of Cincinnati, Ohio

830 Main Street LLC, an Ohio limited liability company (the "Petitioner"), is the owner of 100% of the property described on **Exhibit A** attached to this Petition (the "Property"). The Petitioner will implement special energy improvement projects on the Property (the "Authorized Improvements," as further described in **Exhibit B**).

The Board of Directors of the City of Cincinnati, Ohio Energy Special Improvement District, Inc. (the "Corporation"), an Ohio nonprofit corporation formed to govern the City of Cincinnati, Ohio Energy Special Improvement District (the "District"), created within the boundaries of the City of Cincinnati, Ohio (the "City") has approved a plan (the "Program Plan") for the purpose of developing and implementing special energy improvement projects, as defined in Ohio Revised Code Section 1710.01(I). The Program Plan is attached to this Petition as **Exhibit C**.

Pursuant to the Program Plan, the Corporation has caused special energy improvement projects to be provided from time to time. In accordance with Ohio Revised Code Chapter 1710 and the Program Plan, the Program Plan may be amended from time to time by supplemental plans (the "Supplemental Plans") (the Program Plan and every Supplemental Plan together constituting the "Plan") to provide for additional special energy improvement projects, and the District may be enlarged from time to time to include additional property so long as at least one special energy improvement project is designated for each parcel of real property within the additional territory added to the District.

The Board of Directors of the Corporation has received the Supplemental Plan attached to this Petition as **Exhibit B**, including the description of the Authorized Improvements, and related materials in support of the expansion of the District to include the Property.

As required by Ohio Revised Code Section 1710.02, the Petitioner, as the owner of the Property, being 100% of the area proposed to be added to the District and 100% of the area proposed to be assessed for the Authorized Improvements, hereby (a) petitions the City Council (the "Council") to (i) approve the addition of the Property to the District and (ii) approve an amendment and supplement to the Plan by the Supplemental Plan to include the Authorized Improvements and (b) request that (i) Authorized Improvements be undertaken by the District, and

(ii) the total cost of those Authorized Improvements be assessed on the Property in proportion to the special benefits that will result from the Authorized Improvements.

In connection with this Petition and in furtherance of its purposes, the Petitioner acknowledges that it has reviewed or caused to be reviewed (i) the Plan and the Supplemental Plan, (ii) the plans, specifications and profiles for the Authorized Improvements, (iii) the estimate of cost for the Authorized Improvements included in **Exhibit B** and (iv) the schedule of estimated special assessments to be levied for the Authorized Improvements also included in **Exhibit B**. The Petitioner acknowledges that the estimated special assessment for each parcel is in proportion to the benefits that may result from the financing of the Authorized Improvements.

Accordingly, the Petitioner hereby petitions for the construction of the Authorized Improvements identified in this Petition and the Supplemental Plan attached to this Petition as **Exhibit B**, as authorized under Ohio Revised Code Chapter 1710, and for the imposition of the special assessments identified in this Petition and authorized under Ohio Revised Code Chapters 727 and 1710 (the "Special Assessments") to pay the costs of the Authorized Improvements.

In consideration of the City's acceptance of this Petition and the imposition of the requested Special Assessments, the Petitioner consents and agrees that the Property as identified in **Exhibit A** shall be assessed for all of the costs of the Authorized Improvements, including any and all architectural, engineering, legal, insurance, consulting, energy auditing, planning, acquisition, installation, construction, survey, testing and inspection costs; the amount of any damages resulting from the Authorized Improvements and the interest on such damages amount; the costs incurred in connection with the preparation, levy and collection of the special assessments; the cost of purchasing and otherwise acquiring any real estate or interests in real estate; expenses of legal services; costs of labor and material; trustee fees and other financing costs incurred in connection with the issuance, sale, and servicing of securities to pay costs of the Authorized Improvements in anticipation of the receipt of the special assessments, capitalized interest on, and financing reserve funds for, such securities or other obligations; and any program administration fees or financing servicing fees; together with all other necessary expenditures. The Petitioner agrees to pay the Special Assessments in a timely manner whether or not the Petitioner receives annual and timely notices of the Special Assessments.

In consideration of the Authorized Improvements, the Petitioner, for itself and its grantees and other successors with respect to the Property, agrees to pay promptly all Special Assessments as they become due, and agrees that the determination by the Council of the Special Assessments in accordance with the terms hereof will be final, conclusive and binding upon the Petitioner and the Property. In further consideration of the Authorized Improvements, the Petitioner covenants and agrees to disclose, upon the transfer of the Property or any portion of the Property to be assessed for the actual costs of the Authorized Improvements set forth in **Exhibit B**, in the deed to the transferee or in a separate instrument recorded with respect to the Property the existence of any outstanding Special Assessment for the Authorized Improvements and to require that transferee covenant to disclose the existence of any outstanding Special Assessment for the Authorized Improvements in any subsequent deed or in a separate instrument recorded with respect to the Property at the time of the subsequent transfer so long as the Special Assessments remain unpaid. As a condition to each subsequent transfer while the Special Assessments remain unpaid, the

Petitioner further covenants and agrees to provide expressly in the deed to any transferee or in a separate instrument recorded with respect to the Property at the time of the subsequent transfer (i) for the acquisition by the transferee of the Property subject to any outstanding Special Assessment and the transferee's assumption of responsibility for payment thereof and for waiver by the transferee of any rights that the Petitioner has waived pursuant to this Petition, and (ii) the requirement that each transferee from time to time of the Property covenant to include in the deed to any subsequent transferee or in a separate instrument recorded with respect to the Property at the time of the subsequent transfer the conditions described in clause (i) so long as the Special Assessments remain unpaid.

The Petitioner further acknowledges and confirms that the Special Assessments set forth in this Petition and in **Exhibit B** are in proportion to, and do not exceed, the special benefits to be conferred on the Property by the financing of the Authorized Improvements. The Petitioner further consents to the levying of the Special Assessment against the Property by the Council. The Petitioner acknowledges that these Special Assessments are fair, just and equitable and being imposed at the Petitioner's specific request.

The Petitioner hereby waives notice and publication of all resolutions, legal notices and hearings provided for in the Ohio Revised Code with respect to the Authorized Improvements and the Special Assessments, particularly those in Ohio Revised Code Chapters 727 and 1710, and consents to proceeding with the Authorized Improvements. Without limiting the foregoing, the Petitioner specifically waives any notices and rights under the following Ohio Revised Code Sections:

- The right to notice of the adoption of the Resolution of Necessity under Ohio Revised Code Sections 727.13 and 727.14;
- The right to limit the amount of the Special Assessments under Ohio Revised Code Sections 727.03 and 727.06, including the right to consider the Special Assessments authorized by this Petition within the limitations contained in Ohio Revised Code Sections 727.03 and 727.06 applicable to the Special Assessments and any other special assessments properly levied now or in the future;
- The right to file an objection to the Special Assessments under Ohio Revised Code Section 727.15;
- The right to the establishment of, and any proceedings by and any notice from an Assessment Equalization Board under Ohio Revised Code Sections 727.16 and 727.17;
- The right to file any claim for damages under Ohio Revised Code Sections 727.18 through 727.22 and Ohio Revised Code Section 727.43;
- The right to notice that bids or quotations for the Authorized Improvements may exceed estimates by 15%;
- The right to seek a deferral of payments of Special Assessments under Ohio Revised Code Section 727.251; and
- The right to notice of the passage of the Assessing Ordinance under Ohio Revised Code Section 727.26.

The Petitioner, in accordance with Ohio Revised Code Section 1710.02(A), further agrees that the Property may be included in more than one district formed under Ohio Revised Code

Chapter 1710. The Petitioner further agrees not to take any actions, or cause to be taken any actions, to place any of the Property in an agricultural district as provided for in Ohio Revised Code Chapter 929, and if any of the Property is in an agricultural district, the Petitioner, in accordance with Ohio Revised Code Section 929.03, hereby grants permission to collect any Special Assessments levied against such Property.

The Petitioner further agrees and consents to the Council promptly proceeding with all actions necessary to facilitate the acquisition, installation, equipment, and improvement of the Authorized Improvements and to impose the Special Assessments.

The Petitioner acknowledges that the Special Assessments set forth in this Petition and in the Exhibits to this Petition are based upon an estimate of costs, and that the final Special Assessments shall be calculated in the same manner, which, regardless of any statutory limitation on the Special Assessments, may be more or less than the respective estimated Special Assessments for the Authorized Improvements. In the event the final assessments exceed the estimated assessments, the Petitioner, without limitation of the other waivers contained in this Petition, also waives any rights it may now or in the future have to object to those assessments, any notice provided for in Ohio Revised Code Chapters 727 and 1710, and any rights of appeal provided for in such Chapters or otherwise. The Petitioner further acknowledges and represents that the respective final assessments may be levied at such time as determined by the City and regardless of whether or not any of the parts or portions of the Authorized Improvements have been completed.

The Petitioner further acknowledges that the final Special Assessments for the Authorized Improvements, when levied against the Property, will be payable in cash within thirty (30) days from the date of passage of the ordinance confirming and levying the final assessments and that if any of such assessments are not paid in cash they will be certified to the Auditor of the County, as provided by law, to be placed on the tax list and duplicate and collected as other taxes are collected. Notwithstanding the foregoing, however, the Petitioner hereby waives the right to pay the final assessments for the Authorized Improvements in cash within thirty (30) days from the passage of the ordinance confirming and levying the final assessments and requests that the unpaid final assessments for the Authorized Improvements shall be payable in 58 semi-annual installments.

Pursuant to Ohio Revised Code Section 1710.03(C), the Petitioner hereby appoints as its designee to carry out the rights and responsibilities of District members under Ohio Revised Code Chapter 1710 such representative as may be duly appointed by the Petitioner from time to time, which designation shall not expire unless and until Petitioner shall notify the Secretary of the District that said designation is no longer in effect or that Petitioner has made a new designation to replace said designation.

The Petitioner further waives any and all questions as to the constitutionality of the laws under which the Authorized Improvements shall be acquired, installed, or constructed or the proceedings relating to the acquisition, installation, or construction of the Authorized Improvements, the jurisdiction of the City acting in connection with the acquisition, installation, or construction of the Authorized Improvements, all irregularities, errors and defects, if any, procedural or otherwise, in the levying of the assessments or the undertaking of the Authorized

Improvements, and specifically waives any and all rights of appeal, including any right of appeal as provided in Ohio Revised Code Title 7, and specifically but without limitation, Ohio Revised Code Chapters 727 and 1710, as well as all such similar rights under the Constitution of the State of Ohio and the Charter of the City of Cincinnati, Ohio. The Petitioner represents that it will not contest, in a judicial or administrative proceeding, the undertaking of the Authorized Improvements, the estimated assessments, the final assessments, and any Special Assessments levied against the Property for the Authorized Improvements, or any other matters related to the foregoing.

The Petitioner acknowledges and understands that the City and the Corporation will be relying upon this Petition in taking actions pursuant to it and expending resources. This Petition therefore shall be irrevocable and shall be binding upon the Petitioner, any successors or assigns of the Petitioner, the Property, and any grantees, mortgagees, lessees, or transferees of the Property. The Petitioner acknowledges that they have had an opportunity to be represented by legal counsel in this undertaking and has knowingly waived the rights identified in this Petition.

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EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

The real property subject to this Petition is located at the commonly used mailing address 830 Main Street, Cincinnati, Ohio, having Hamilton County Auditor Parcel ID No. 079-0004-0287-00, and the following legal description:

Situated in Section 18, Town 4, Fractional Range 1, City of Cincinnati, Hamilton County, Ohio, being part of Lots 43 and 44 of North Square, recorded in Deed Book G-1, Page 275 and Deed Book 29, Page 445 and further being part of the property conveyed to DTK Ninth & Main LLC by deed recorded in Official Record 9886, Page 3234 (all references to recorded documents made herein are to those of the Hamilton County Recorder's Office in Cincinnati, Ohio) and being more particularly described as follows:

Beginning at the corner of an existing building at the intersection of the Southerly line of Ninth Street (66') and the Easterly line of Main Street (66');

Thence with the Southerly line of Ninth Street, North 73 deg. 58' 30" East, a distance of 130.00 feet to the corner of an existing building at the intersection of said Southerly line with the Westerly line of Pancoast Alley (12');

Thence with the Westerly line of Pancoast Alley, South 16 deg. 00' 00" East, a distance of 56.00 feet to the corner of an existing building;

Thence through the grantor's property, on new division lines, for the following Three (3) courses:

1. South 73 deg. 58' 30" West, a distance of 35.80 feet to the corner of an existing building;
2. North 16 deg. 00' 00" West, a distance of 16.00 feet to the corner of an existing building;
3. South 73 deg. 58' 30" West, a distance of 94.20 feet to the corner of an existing building in the Easterly line of Main Street;

Thence with the Easterly line of Main Street, North 16 deg. 00' 00" West, a distance of 40.00 feet to the Point of Beginning;

Containing 0.133 acre, more or less.

PPN: 079-0004-0287

EXHIBIT B

**CITY OF CINCINNATI, OHIO ENERGY SPECIAL IMPROVEMENT DISTRICT
PROGRAM PLAN**

SUPPLEMENT TO PLAN FOR 830 MAIN STREET PROJECT

As more fully provided by the City of Cincinnati, Ohio Special Improvement District Program Plan (together with all previously approved supplemental plans, the "Plan"), the City of Cincinnati, Ohio Energy Special Improvement District (the "District") has undertaken the administration of a property assessed clean energy ("PACE") program (the "Program"). The Program will provide financing secured by special assessments on real property for special energy improvement projects.

Through a Petition submitted in connection with this Supplemental Plan, the undersigned (the "Property Owner") has requested and consented to certain special assessments by the District with respect to certain real property owned by the Property Owner and located at 830 Main Street, Cincinnati, Ohio, having Hamilton County Auditor Parcel ID No. 079-0004-0287-00 (the "Property"). A schedule for special assessments to be assessed against the Property to pay the costs of the Authorized Improvements is attached hereto as Attachment A.

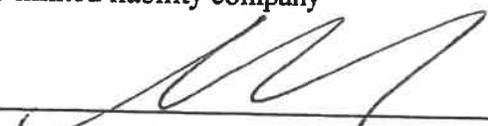
The Authorized Improvements applicable to the Property will include energy efficient lighting improvements, window improvements, wall, thermal moisture protection and reduction improvements, HVAC improvements, plumbing improvements resulting in energy savings, elevator improvements, and related improvements. As required by Ohio Revised Code Section 1710.01(K), said Authorized Improvements are anticipated to reduce or support the reduction of energy consumption, allow for reduction in demand, or support the production of clean, renewable energy. A detailed description of the Authorized Improvements is attached to this Supplemental Plan as Attachment B. The Property Owner hereby acknowledges and agrees that the special benefit to be provided to the Property under this Supplemental Plan is the consummation of the financing to pay, finance, and refinance costs of the Authorized Improvements, which shall be conferred immediately upon the consummation of the financing, and that the benefits are in proportion to and do not exceed the amount of the Special Assessments to be levied to pay the costs of the financing.

The Property Owner will cause this Supplemental Plan promptly to be filed with the Board of Directors of the District and with the Clerk of the City Council of Cincinnati, Ohio.

The undersigned owner of real property to be located within the District acknowledge that the District is subject to Ohio public records laws, including Ohio Revised Code Section 149.43 *et seq.* The undersigned property owner agrees to the disclosure of certain property owner information by the District to the extent required by law.

BY EXECUTING THIS SUPPLEMENTAL PLAN, THE PROPERTY OWNER IDENTIFIED BELOW HEREBY AUTHORIZES AND CONSENTS TO THIS SUPPLEMENTAL PLAN, AND ALL DISTRICT DOCUMENTS (AS DEFINED IN THE PLAN) AND AGREES TO PERFORM THE OBLIGATIONS OF THE PROPERTY OWNER CONTAINED IN THIS SUPPLEMENTAL PLAN.

PROPERTY OWNER:
830 MAIN STREET LLC
an Ohio limited liability company

By: 
Name: Anthony W Birkla
Title: Manager

Address for notices to Property Owner:

830 Main Street LLC
120 W. Carmel Dr., Suite 101
Carmel, Indiana 46032
C/O Birkla Investment Partners LLC

With A Copy To:

Description of Real Property Subject to this Supplemental Plan:

The real property subject to this Supplemental Plan is located at the commonly used mailing 830 Main Street, Cincinnati, Ohio, having Hamilton County Auditor Parcel ID No. 079-0004-0287-00.

SUPPLEMENTAL PLAN—ATTACHMENT A

Schedule of Special Assessments

The Property will be subject to special assessments for the Authorized Improvements in accordance with Ohio Revised Code Chapter 1710.

Total assessment costs:	\$4,140,482.00
Estimated semi-annual special assessments for 29 years:	\$ 170,029.89
Number of semi-annual assessments:	58
First semi-annual installment due:	January 31, 2024

The schedule of Special Assessments for the Authorized Improvements is as follows:

Special Assessment Payment Date ¹	Special Assessment Installment Amount ²
1/31/2024	\$170,029.89
7/31/2024	170,029.89
1/31/2025	170,029.89
7/31/2025	170,029.89
1/31/2026	170,029.89
7/31/2026	170,029.89
1/31/2027	170,029.89
7/31/2027	170,029.89
1/31/2028	170,029.89
7/31/2028	170,029.89
1/31/2029	170,029.89
7/31/2029	170,029.89
1/31/2030	170,029.89
7/31/2030	170,029.89
1/31/2031	170,029.89
7/31/2031	170,029.89
1/31/2032	170,029.89
7/31/2032	170,029.89
1/31/2033	170,029.89
7/31/2033	170,029.89
1/31/2034	170,029.89
7/31/2034	170,029.89
1/31/2035	170,029.89
7/31/2035	170,029.89

¹ Pursuant to Ohio Revised Code Chapter 323, the Special Assessment Payment Dates identified herein are subject to adjustment under certain conditions.

² Pursuant to Ohio Revised Code Section 727.36, the Hamilton County Auditor may charge and collect a fee in addition to the amounts listed in this Attachment A.

Special Assessment Payment Date ¹	Special Assessment Installment Amount ²
1/31/2036	\$170,029.89
7/31/2036	170,029.89
1/31/2037	170,029.89
7/31/2037	170,029.89
1/31/2038	170,029.89
7/31/2038	170,029.89
1/31/2039	170,029.89
7/31/2039	170,029.89
1/31/2040	170,029.89
7/31/2040	170,029.89
1/31/2041	170,029.89
7/31/2041	170,029.89
1/31/2042	170,029.89
7/31/2042	170,029.89
1/31/2043	170,029.89
7/31/2043	170,029.89
1/31/2044	170,029.89
7/31/2044	170,029.89
1/31/2045	170,029.89
7/31/2045	170,029.89
1/31/2046	170,029.89
7/31/2046	170,029.89
1/31/2047	170,029.89
7/31/2047	170,029.89
1/31/2048	170,029.89
7/31/2048	170,029.89
1/31/2049	170,029.89
7/31/2049	170,029.89
1/31/2050	170,029.89
7/31/2050	170,029.89
1/31/2051	170,029.89
7/31/2051	170,029.89
1/31/2052	170,029.89
7/31/2052	170,029.89

SUPPLEMENTAL PLAN—ATTACHMENT B

Description of Authorized Improvements

The Authorized Improvements are expected to consist of the following energy efficiency elements:

Summary of Measures						
Measure Number	Measure Description	Electricity Savings (kWh)	Electricity Savings (\$)	Gas/Fuel Savings (Therms)	Gas/Fuel Savings (\$)	Cost Savings (\$)
ECM 1	Lighting Improvements	122,969	\$ 15,371	(2,333)	\$ (1,967)	\$ 13,404
ECM 2	Window Improvements	4,966	621	3,033	2,557	\$ 3,178
ECM 3	Improved Wall, Thermal Moisture Protection and Infiltration Reduction	17,271	\$ 2,159	8,253	\$ 6,957	\$ 9,116
ECM 4	HVAC	33,614	\$ 4,202	-	\$ -	\$ 4,202
ECM 5	Plumbing	44,572	\$ 5,572	-	\$ -	\$ 5,572
ECM 6	Elevators	60,627	\$ 7,578	-	\$ -	\$ 7,578
Totals		284,019	\$ 35,502	8,953	\$ 7,547	\$ 43,050

Item #	Improvement Description	Expected Useful Life in Years	Subtotal	Cost
1	Lighting Improvements (includes battery LED Egress Lighting and Occupancy Sensors)	20		\$ 470,000.00
2	Window Improvements (Price Increase)	35		\$ 646,112.08
3	Building Envelope: Exterior Wall finishes (Paint and installation of new Furred Walls), Thermal Moisture Protection and Infiltration Reduction.	40		\$ 536,127.26
4	HVAC	25		\$ 1,167,095.02
	4A. HVAC Equipment and Labor	20	\$ 865,095.02	
	4B. HVAC Related Electrical	40	\$ 302,000.00	
5	Plumbing	26		\$ 350,000.00
	5A. Plumbing (includes Low flow devices excluding water closets, Apt DW heaters, Pipe Insulation, Booster Pumps with VFDs)	20	\$ 240,000.00	
	5B. Plumbing Related Electrical	40	\$ 110,000.00	
6	Elevators	21		\$ 140,314.76
	6A. Elevator Cab, Motor and Controls	20	\$ 135,108.00	
	6B. Elevator Related Electrical	40	\$ 5,206.76	
	Subtotal			\$ 3,309,649.12
	General Conditions and Overhead	14%		\$ 463,350.88
	Contingency	0%		\$ -
	Total Direct Costs			\$ 3,773,000.00
	Weighted Average Life	29 Years		

B-7

EXHIBIT C

**CITY OF CINCINNATI, OHIO ENERGY SPECIAL IMPROVEMENT DISTRICT
PROGRAM PLAN**

[See Attached]

**CITY OF CINCINNATI, OHIO ENERGY SPECIAL IMPROVEMENT DISTRICT
PROGRAM PLAN**

The City of Cincinnati, Ohio Energy Special Improvement District (the "District") will administer a property assessed clean energy ("PACE") program (the "Program"). The Program will provide financing secured by special assessments on real property for special energy improvement projects. The District authorizes and adopts this plan for the Program (as the same may be amended and supplemented from time to time as provided herein, the "Plan") to provide for the Program's administration and to set forth the terms and conditions of participation in the Program. The Port of Greater Cincinnati Development Authority, as the initial property owner owning real property within the District, as well as in its capacity as a party with interests aligned with the City of Cincinnati (the "City") with respect to the formation of the District, authorizes and consents to this Plan.

The District is established pursuant to the special energy improvement district provisions of Chapter 1710 of the Ohio Revised Code. This Plan refers to Chapter 1710 and any and all future amendments to the special energy improvement district provisions of Chapter 1710 as the "Act." Any specific statutory reference contained in this Plan shall also refer to any succeeding or amending statutory provision.

Participation in the District's Program is limited to property owners who have agreed to add their property to the District and who otherwise meet the Program's terms and conditions. These terms and conditions are addressed in this Plan, and include, without limitation, an application, a petition, a schedule of assessments to be made on included property ("Assessment Schedule"), and the governing documents forming the District. The District's governing documents include its Articles of Incorporation, Code of Regulations, resolutions duly adopted by the board of directors of the District, and the applicable resolutions and ordinances of the participating political subdivision where the real property is located (collectively, the "Governing Documents"). As a condition to participation in the District and the Program, each property owner must review and agree to the Governing Documents and further must review, agree to, and execute this Plan, an application, a petition, and an Assessment Schedule. The Governing Documents, this Plan, the applications, the petitions, and the Assessment Schedules are referred to herein collectively as the "District Documents."

The District Documents establish the terms and conditions of the Program. The Program terms and conditions may be amended from time to time as described in Part X of this Plan. By agreeing to and executing the District Documents, each property owner consents to the terms and conditions of all District Documents.

I. Purpose of the Program

The Program is intended to assist property owners, whether private or public, who own real property within participating political subdivisions to obtain financing for special energy

improvement projects, as that term is defined in the Act (the "Authorized Improvements"). Obligations, including but not limited to special assessment reimbursement agreements, special assessment revenue bonds and revenue notes, loan obligations or other evidences of indebtedness, or nonprofit corporation securities (collectively, the "Program Obligations") may be issued by the District or on behalf of the District by a third party. Program Obligations or the proceeds from the sale of the Program Obligations may be used to finance Authorized Improvements that benefit properties within the District and any costs incurred by the District in connection with the issuance of Program Obligations. Participating political subdivisions shall levy special assessments on real property included in the District, the payment of which may pay the Program Obligations and the costs of administering the Program. Special assessment payments levied to finance Authorized Improvements will be due and payable by property owners at the same time real property taxes are due; provided, that certain Program Obligations may require special assessments to be due and payable by property owners only to the extent that such property owners fail to pay an obligation of the property owner secured by special assessments, such as a loan, in which case special assessments will only be due and payable by property owners if actually levied.

Nothing in this Plan shall be construed as a representation on the part of any participating political subdivision, the District, the Board, or any of the directors, officers, agents, members, independent contractors, or employees of the District or Board that the Program is the best financing option for every situation. Property owners are advised to conduct independent research to determine the best course of action.

II. The District's Governance, Program Administrator, and Conduit Financing Entity

The District shall be governed, pursuant to the District Documents and the Act, by the Board of Directors ("Board") of the City of Cincinnati, Ohio Energy Special Improvement District, Inc., a nonprofit corporation organized under the laws of the State of Ohio (the "Corporation") to govern the District.

Pursuant to the Act, other Ohio law, and the Code of Regulations of the Corporation, the Board may from time to time, and under such conditions as the Board determines, delegate any or all of the authority contained in this Plan to its sub-committee or to an agent, independent contractor, or employee of the District or the Board.

This Plan specifically contemplates that, as authorized in the Act, Greater Cincinnati Energy Alliance will serve as the District's "Program Administrator" and render program administration services to the District and the Port of Greater Cincinnati Development Authority will serve as the District's "Conduit Financing Entity" and render conduit financing services to the District.

The District is authorized to contract with Greater Cincinnati Energy Alliance for program administration services rendered to the District. The program administration services rendered by the Program Administrator may include, without limitation (i) pursuant to Part III of this Plan, developing and administering eligibility guidelines, creating and administering an application,

setting criteria and developing a list of pre-approved contractors, procuring resources or cooperating with property owners to procure resources, and administering referrals, (ii) pursuant to Part IV of this Plan, marketing, program design, cooperating with property owners to implement Authorized Improvements, and other administrative services, and (iii) the establishment and administration of a revolving loan facility providing financing for certain special energy improvement projects.

The District is authorized to contract with the Port of Greater Cincinnati Development Authority for conduit financing services rendered to the District. The conduit financing services rendered by the Conduit Financing Entity may include, without limitation (i) pursuant to Part III of this Plan, financing Authorized Improvement and cooperating with property owners to obtain financing, (ii) pursuant to Part IV of this Plan, tracking and administering Program Obligations, administering special assessments, budgeting, and conducting or overseeing the audit process, (iii) assistance with marketing efforts relating to the District, and (iv) tracking compliance with respect to the Economic Inclusion Plan established by the Port of Greater Cincinnati Development Authority.

III. Program Eligibility, Approvals, Financing, and Procurement

The Board is hereby authorized to create, administer, amend, and abolish a process by which property owners join the Program. The process by which property owners join the Program may include, without limitation, the following requirements:

- (A) Eligibility. The Board is hereby authorized to create, administer, amend, and abolish eligibility requirements for the Program. The Board is further authorized to determine, in each individual case, whether property is eligible for participation in the Program.

To be eligible for participation in the Program, each property owner must file a petition with the Board requesting to add its property to the District and requesting the levy of special assessments to be used to pay or secure Program Obligations issued or used to finance Authorized Improvements. Each parcel of real property added to the District must have at least one Authorized Improvement. The petition to add property to the District shall be considered by the District in accordance with this Plan and the other District Documents. If the District approves the petition, it shall submit the petition to the executive officer and legislative body of the participating political subdivision in which the real property is located. A property owner may file more than one petition and may amend or withdraw any petition filed at any time before the petition is approved by the legislative body of the participating political subdivision in which the real property is located. Petitions shall conform to the requirements of Ohio Revised Code Chapter 1710 and any requirements of the Board.

To be eligible for participation in the Program, each property owner must agree to be bound by the terms of this Plan. The Plan for the District may be amended and supplemented from time to time in accordance with its terms, including,

specifically, by supplements to the Plan which identify additional Authorized Improvements within the District to be subject to the Plan or add property to the District and subject such additional property to the Plan. To be eligible for participation in the Program, each property owner must file a supplement to this Plan (the "Plan Supplement") with the Board and the clerk of the legislative body of the participating political subdivision in which the real property is located identifying the Authorized Improvements to be undertaken as part of the Plan applicable to real property within the District or to be added to the district. Plan Supplements shall include such other information as may be required by the Board. Plan Supplements shall conform to the requirements of Ohio Revised Code Chapter 1710 and any requirements of the Board.

To be eligible for participation in the Program, each property owner must agree to and must execute an Affidavit on Facts Relating to Title under Section 5301.252 of the Ohio Revised Code to be recorded with respect to the real property to be added to the District and filed with the clerk of the legislative body of the participating political subdivision in which the real property is located, which Affidavit on Facts Relating to Title shall state that the property owner has consented to include such real property in the District and that the property owner consents to, and will take all actions necessary to place upon such property, any subsequent special improvement district formed under Ohio Revised Code Chapter 1710 that includes such real property as long as the statutory conditions for forming the subsequent special improvement district are otherwise satisfied.

- (B) Application. The Board is hereby authorized to create, administer, amend, and abolish an application, including a pre-application, for participation in the Program. The Board further may set the terms and conditions for the application's use and evaluation.
- (C) Contractors. The Board is hereby authorized to require property owners to complete Authorized Improvements through the work of pre-approved contractors. The Board is further authorized to create criteria for the approval of contractors, including but not limited to compliance with the Economic Inclusion Plan adopted by the Port of Greater Cincinnati Development Authority, and to determine which contractors meet the criteria and are approved. The Board may communicate which contractors have been pre-approved to property owners by any means the Board deems appropriate, and the Board shall determine whether property owners comply with its pre-approved contractor's requirements.

Nothing in this Plan or the District Documents shall be construed to be a recommendation or guarantee of reliability of pre-approved contractors by any participating political subdivision, the District, the Board, or any of the directors, officers, agents, members, independent contractors, or employees of the District or Board.

- (D) Procurement and Referrals. The Board is hereby authorized to procure supplies, services, contracts, financing, and other resources related to the completion of Authorized Improvements. The Board is further authorized to refer property owners to suppliers, service providers, contractors, lenders, and the providers of other resources related to the completion of Authorized Improvements and the administration of District activities.

Pursuant to the Act, the Board shall adopt written rules prescribing competitive bidding procedures for the District and for Authorized Improvements undertaken by the District on behalf of property owners, which competitive bidding procedures may differ from competitive bidding procedures applicable to the City or the procedures in Chapter 735 of the Ohio Revised Code and may specify conditions under which competitive bidding is not required. Except as specified in the Act and in this Plan, the District Documents shall not be construed to eliminate or alter the competitive bidding procedures applicable to the City as a participating political subdivision.

- (E) Financing. The Board is hereby authorized to finance Authorized Improvements through the use or issuance of Program Obligations. The Board may hire such legal and financial professionals as may be required to successfully finance Authorized Improvements through the use or issuance of Program Obligations.

IV. Services Plan

The Board is hereby authorized to provide ongoing services to the District, its property, and the property owners. All services provided under this Plan shall be deemed to be services provided in furtherance of Authorized Improvements provided under this Plan. Such services, without limitation, may include the following:

- (A) Program Design. The Board is hereby authorized to design comprehensive services to establish and maintain the Program's legal and programmatic framework.
- (B) Program Administration. The Board is hereby authorized to educate the public on the Program and its purposes, market the program to the public, process applications, verify aspects of the Authorized Improvements, assure the Program's overall quality and the quality of Authorized Improvements, serve customers, and assist property owners in the origination and closing processes.
- (C) Marketing. The Board is hereby authorized to market the Program and promote the District's image through means such as developing literature and brochures, conducting public relations, collecting data, managing information, cooperating with members, creating electronic and print marketing materials, and holding special events.

- (D) Authorized Improvement Implementation. The Board is hereby authorized to cooperate with property owners for the implementation of Authorized Improvements, including cooperating with property owners for the addition of property to the District and the approval of petitions and Plan Supplements by participating political subdivisions and the Board.
- (E) Tracking and Administration of Program Obligations. The Board is hereby authorized to create, administer, amend, and abolish procedures for the tracking and administration of Program Obligations issued or used to finance Authorized Improvements. Without limitation, the administration of special assessments may include reporting delinquent special assessments, following-up with delinquent property owners, and coordinating with delinquent property owners. The Board may hire such professionals as may be required to successfully track and administer Program Obligations.
- (F) Administering Special Assessments. The Board is hereby authorized to create, administer, amend, and abolish procedures for the administration of special assessments levied pursuant to the District Documents. Without limitation, the administration of special assessments may include calculating the amount of special assessments, preparing certifications of special assessments for the county auditor, billing the special assessments, and considering property owners' claims regarding the calculation or billing of special assessments. The Board may hire such professionals as may be required to successfully administer special assessments.
- (G) Budgeting. The Board shall provide for the production of an annual report describing the District's budget, services delivered, revenues received, expenditures made, and other information about the District's activities. The annual report shall be made available to the Board and to the District's members. The Board may hire such professionals as may be required to successfully account for all District finances.
- (H) Auditing. The Board is hereby authorized to provide for an audit of the District in such manner as the Board deems appropriate. The Board may hire such professionals as may be required to successfully audit the District.
- (I) Other Services. The Board is hereby authorized to provide any other services authorized by the Act.

V. Fees

Program Costs. The Board is hereby authorized to charge to property owners, as costs of administering the Program, any costs permitted by the Act. Such costs may include, without limitation, the following:

- (A) The cost of creating and operating the District, including creating and operating City of Cincinnati, Energy Special Improvement District, Inc., hiring employees and professional services, contracting for insurance, and purchasing or leasing office space or office equipment;
- (B) The cost of planning, designing, and implementing Authorized Improvements or services under this Plan, including payment of architectural, engineering, legal, appraisal, insurance, consulting, energy auditing, and planning fees and expenses, and, for services under this Plan, the management, protection, and maintenance costs of public or private facilities;
- (C) Any court costs incurred by the District in implementing this Plan or any Plan Supplements;
- (D) Any damages resulting from implementing the public improvements or public services plan;
- (E) The costs of issuing, monitoring, paying interest on, and redeeming or refunding Program Obligations issued or used to finance Authorized Improvements or services under this Plan; and
- (F) The costs associated with the sale, lease, lease with an option to purchase, conveyance of other interests in, or other contracts for the acquisition, construction, maintenance, repair, furnishing, equipping, operation, or improvement of the District's territory, or between the District and any owner of property in the District on which an Authorized Improvement has been acquired, installed, equipped, or improved.

Pursuant to the Act, such Program costs may be included in the special assessments levied on real property within the District.

Application Fee. The Board is hereby authorized to set and charge an application fee for Program services provided by the District. The application fee may be non-refundable. The application fee may be credited to the cost of Authorized Improvements if the application is approved and an Authorized Improvement is made to the property for which application was made.

VI. Energy Efficiency and Renewable Energy Regulations and Requirements

Energy Efficiency Reporting Requirements. Ohio Revised Code Section 1710.061 requires the Board to submit a quarterly report to each electric distribution utility ("EDU") with a District Authorized Improvement within the EDU's certified territory. The quarterly report submitted to the EDU must include the total number and a description of each new and ongoing District Authorized Improvement that produces energy efficiency savings or reduction in demand and other additional information that the EDU needs to obtain credit under Ohio Revised Code

Section 4928.66 for energy efficiency savings or reduction in demand from such projects. The Board is hereby authorized to submit quarterly reports due required under Ohio Revised Code Section 1710.061. Property owners shall comply with Board requirements for information gathering and reporting to ensure Board compliance with Ohio Revised Code Section 1710.061.

Energy Efficiency Credits. The Board is hereby authorized to adopt rules governing energy efficiency credits associated with Authorized Improvements financed with Program Obligations or the proceeds of Program Obligations. Property owners shall comply with Board requirements in furtherance of energy efficiency credit programs.

Renewable Energy Credits. The Board is hereby authorized to adopt rules governing renewable energy credits associated with Authorized Improvements financed with Program Obligations or the proceeds of Program Obligations. Property owners shall comply with Board requirements in furtherance of renewable energy credit programs.

Monetizing Other Energy Efficiency or Renewable Energy Attributes. The Board is hereby authorized to adopt rules governing the monetization of any energy efficiency or renewable energy attributes of any Authorized Improvements financed with Program Obligations or the proceeds of Program Obligations. Property owners shall comply with Board requirements in furtherance of the monetization of such attributes.

VII. Statutory Requirements

As provided in the District Documents:

- (A) Additional territory may be added to the District in accordance with the Act and the rules established by the Board pursuant to Part III of this Plan.
- (B) The District Documents may be amended or supplemented in accordance with their terms.
- (C) As described in this Plan, the Board is authorized to implement and amend this Plan, any Supplemental Plan, and any other plans for Authorized Improvements, public improvements, and public services, all in accordance with the Act.
- (D) The public improvements to be provided by the District are the Authorized Improvements identified in each petition and Plan Supplement. The area where the Authorized Improvements will be undertaken will be the area identified in each petition requesting formation of the District or requesting addition of real property to the District. The method of assessment shall be in proportion to the special benefits received by each property owner within the District as a result of Authorized Improvements.

- (E) For the purpose of levying an assessment, the Board may combine levies for Authorized Improvements and public services into one special assessment to be levied against each specially benefited property in the District.

VIII. Changes in State and Federal Law

The ability to issue or use Program Obligations to finance Authorized Improvements is subject to a variety of state and federal laws. If these laws change after property owners have applied to the District for financing, the District may be unable to fulfill its obligations under this Plan. The District shall not be obligated to implement any provision of this Plan which is contrary to state or federal law. The District shall not be liable for any inability to finance Authorized Improvements as a result of state and federal law or any changes in state and federal law which reduce or eliminate the effectiveness of financing Authorized Improvements through the District's Program.

IX. Releases and Indemnification

The District has been created with the approval of the City of Cincinnati, Ohio, as a participating political subdivision, for the purposes of implementing this Plan and administering the Program. The District and any participating political subdivision shall be neither responsible nor liable for the installation, operation, financing, refinancing, or maintenance of Authorized Improvements. Property owners will be solely responsible for the installation, operation, financing, refinancing, and maintenance of the Authorized Improvements. Participation in the Program does not in any way obligate the District or any participating political subdivision to ensure the viability of Authorized Improvements. Owners of assessed real property must pay the special assessments regardless of whether the Authorized Improvements are properly installed or operate as expected.

By agreeing to and executing this Plan, each owner of real property included in the District (other than any political subdivision that owns real property included in the District) agrees to release, defend, indemnify, and hold harmless the District and the participating political subdivisions, including their directors, officers, members, agents, independent contractors, and employees, from and against any claims, actions, demands, costs, damages or lawsuits, arising out of or connected with participation in the Program. Any political subdivision that owns real property included in the District agrees to release and hold harmless the District and the participating political subdivisions, including their directors, officers, members, agents, independent contractors, and employees, from and against any claims, actions, demands, costs, damages or lawsuits, arising out of or connected with the political subdivision's participation in the Program in its capacity as a property owner.

X. Changes in the Program Terms; Severability

Participation in the Program is subject to the District Document terms and conditions in effect from time to time during participation. The District reserves the right to change this Plan and the

terms and conditions of the District Documents at any time without notice. No such change will affect a property owner's obligation to pay special assessments as set forth in the District Documents.

If any provision of the District Documents is determined to be unlawful, void, or for any reason unenforceable, that provision shall be severed from these District Documents and shall not affect the validity and enforceability of any remaining provisions.

XI. Disclosure of Property Owner Information

The District and any participating political subdivision may disclose information of the District to any agent of the District or to third parties when such disclosure is essential either to the conduct of the District's business or to provide services to property owners, including but not limited to where such disclosure is necessary to (i) comply with the law (ii) enable the District and participating political subdivisions and their agents to provide services or otherwise perform their duties, and (iii) obtain and provide credit reporting information. In order to receive funding for the Program and to enable communication regarding the State of Ohio's energy programs, property owners' names and contact information may be disclosed to their current electric utilities. Property owners' names, contact information, and utility usage data further may be disclosed to the District and its agents for the purpose of conducting surveys and evaluating the Program. The District shall not disclose personal information to third parties for telemarketing, e-mail, or direct mail solicitation unless required to by law or court order.

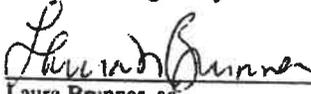
Each owner of real property located within the District acknowledges that the District is subject to Ohio public records laws, including Ohio Revised Code Section 149.43 *et seq.* Each property owner that executes this Plan agrees to the disclosure of certain property owner information as stated in this Part.

BY EXECUTING THIS PLAN, THE PROPERTY OWNER IDENTIFIED BELOW HEREBY AUTHORIZES AND CONSENTS TO THIS PLAN AND AGREES TO PERFORM THE OBLIGATIONS OF THE PROPERTY OWNER CONTAINED IN THIS PLAN.

Date: July 23, 2014

Property Owner:
PORT OF GREATER CINCINNATI DEVELOPMENT AUTHORITY

Authorized Signatory



Laura Brunner, as
President and Chief Executive Officer

Address for notices to Property Owner:

Port of Greater Cincinnati Development
Authority

299 East Sixth Street, Suite 2A

Cincinnati, Ohio 45202

Description of Real Property Subject to this Plan:

The real property subject to this Plan is located at the commonly used mailing address 1682 Seymour Avenue, Cincinnati, Ohio 45237. The front footage of the real property subject to this Plan is 233.00 feet, and its area is 0.418 acres. The Hamilton County Auditor Parcel ID for the real property subject to this Plan is 117-0007-0064-00. The following is the legal description for the real property subject to this Plan:

Parcel One

Situated in the City of Cincinnati, County of Hamilton, State of Ohio in Section 6, Township 3, Fractional Range 2, Millcreek Township and being Lot #1 of Shonae Subdivision, Block A, as recorded in Plat Book 105, Page 44, Hamilton County, Ohio Recorder's records.

Parcel Two

[Property Owner Consent to Plan]

The following described real estate situated in Section 6, Town 3, Fractional Range 2, Miami Purchase, in the City of Cincinnati, Hamilton County, Ohio, being part of Lot 2, Part 1, Block "B", Shonae Subdivision as recorded in Plat Book 120, Pages 49 and 50 of the Hamilton County, Ohio records.

Beginning in the Northwest corner of Block "A", Shonae Subdivision as recorded in Plat Book 105, Page 44 of the Hamilton County, Ohio Recorder's office;

Thence North 1 deg. 15' East, a distance of 21.75 feet; thence South 88 deg. 45' East, a distance of 146.46 feet to the Westerly line of Shona Drive; thence Southwardly along the Westerly line of Shona Drive on a curved line deflecting to the right with a radius of 220 feet a distance of 23.16 feet, chord of said curve bears South 21 deg. 16' 35" West, a distance of 23.14 feet to the Northeast corner of said Block "A", Shonae Subdivision, thence North 68 deg. 45' West, a distance of 138.53 feet to the place of beginning.

These parcels are not to be conveyed separately without prior approval of the governmental authority having jurisdiction.

[Property Owner Consent to Plan]

March 15, 2023

To: Mayor and Members of City Council

202300877

From: Sheryl M.M. Long, City Manager

**Subject: DETERMINING TO PROCEED WITH THE PACE ASSESSMENT
PROJECT FOR 830 MAIN STREET**

Attached is an emergency ordinance captioned:

DETERMINING to proceed with the assessment project at 830 Main Street in the City of Cincinnati involving the City of Cincinnati, Ohio Energy Special Improvement District.

BACKGROUND/CURRENT CONDITIONS

The Ohio PACE (Property Assessed Clean Energy) program allows commercial property owners to opt in to a special assessment which is added to the property tax bill to access long-term, fixed-rate financing for energy efficiency upgrades. 830 Main Street LLC, an affiliate of Birkla Investment Group has requested to have their property added to the Energy Special Improvement District (ESID) and special assessments levied on the property, for the purpose of accessing PACE financing for energy efficiency upgrades to their mixed-use redevelopment project.

DEVELOPER INFORMATION

The development entity is 830 Main Street, LLC, which is an affiliate of Birkla Investment Group. Birkla Investment Group, based out of Carmel, Indiana, has substantial experience in the new construction and renovation of existing properties, including their most recent development known as At580 (stylized @580) located at 580 Walnut Street in the Central Business District.

PROJECT DESCRIPTION

This project will include the conversion of former office space into 63,720 square feet of residential space consisting of 60 apartments and 5,000 square feet of commercial space square in the former Second National Bank building in the Central Business District. The construction cost is estimated to be \$6,000,000, and the total cost of the PACE eligible improvements is \$3,773,000.

PROPOSED INCENTIVE

DCED is recommending that the City amend the Energy Special Improvements District (ESID) boundaries to add this property to the ESID, and levy special assessments on the property. This will allow the developer to access financing for energy efficiency upgrades to building envelope, lighting, and plumbing.

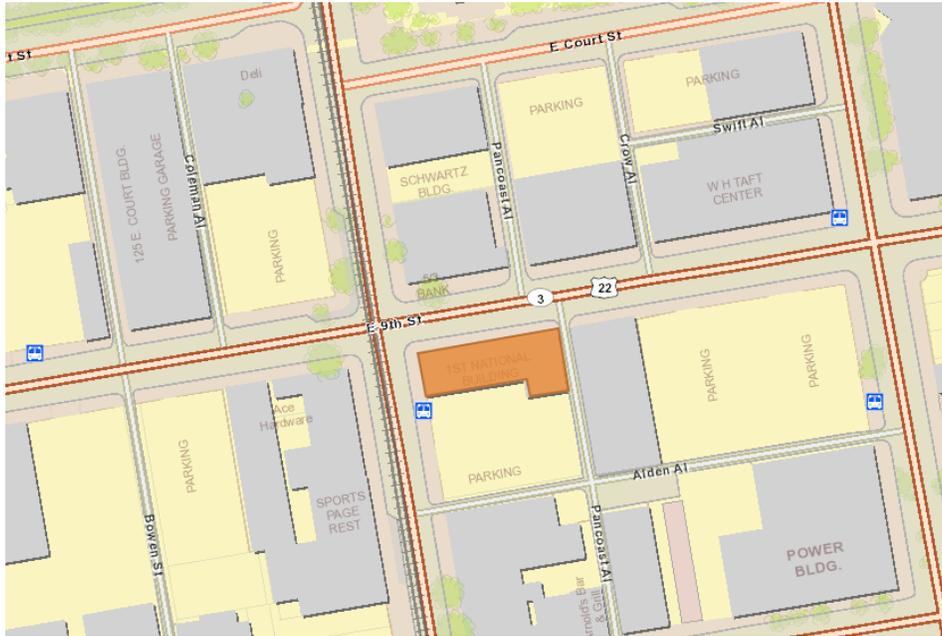
Pursuant to Ordinance 285-2019, City Council approved the Commercial CRA Incentive Agreement related to this project on June 26, 2019.

RECOMMENDATION

The Administration recommends approval of this emergency ordinance to allow the project financial closing to occur and the project to commence construction at the earliest possible time.

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

Attachment A: Location and Site Rendering



830 Main Street Location



830 Main Street Picture

EMERGENCY

- 2023

DETERMINING to proceed with the special assessment project at 830 Main Street in the City of Cincinnati involving the City of Cincinnati, Ohio Energy Special Improvement District.

WHEREAS, prior to the passage of this ordinance, this Council duly adopted a resolution declaring the necessity of the assessment project at 830 Main Street in the City of Cincinnati (the “Resolution of Necessity”), which provides for the levying and collection of special assessments to be assessed on such property sufficient to pay the costs of the Authorized Improvements (as defined in the Resolution of Necessity); and

WHEREAS, all statutory procedural requirements for the imposition of special assessments on the assessed property, including, without limitation, the right to make claims for damages alleged to result from and objections to the Assessment Project (as defined in the Resolution of Necessity), have been waived by the owners of 100% of the affected property; now, therefore,

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

Section 1. That the recitals hereof are hereby incorporated by reference, and each capitalized term not otherwise defined herein or by reference to another document shall have the meaning assigned to it in the Resolution of Necessity, an unsigned copy of which is attached to this ordinance as Attachment A.

Section 2. That it is hereby determined to proceed with the Assessment Project described in the Resolution of Necessity. The Assessment Project shall be made in accordance with the provisions of the Resolution of Necessity, the Petition (a copy of which is attached to the Resolution of Necessity), and the plans, specifications, profiles, and estimates of cost previously approved and now on file with the Clerk of Council.

Section 3. That the assessment of the Special Assessments to pay costs of the Assessment Project shall be assessed against the Assessed Property in the manner and in the number of installments provided in the Petition. The Special Assessments shall be assessed against the

Assessed Property commencing in tax year 2023 for collection in 2024 and shall continue through tax year 2051 for collection in 2052.

Section 4. That the estimated Special Assessments for costs of the Assessment Project prepared and filed in the office of the Clerk of Council and in the office of the City's Director of Finance, in accordance with the Resolution of Necessity, are hereby adopted.

Section 5. That all contracts for the construction of the Assessment Project will be let in the manner provided by law, subject to the provisions of the Ohio Revised Code and the Standing Assignment Agreement among the City, the Port of Greater Cincinnati Development Authority, and the City of Cincinnati, Ohio Energy Special Improvement District, Inc., and the costs of the Assessment Project shall be financed as provided in the Resolution of Necessity.

Section 6. That in compliance with Ohio Revised Code Section 319.61, the Clerk of Council is hereby directed to deliver a certified copy of this ordinance to the Hamilton County Auditor within fifteen (15) days after the date of passage.

Section 7. That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Ohio Revised Code Section 121.22.

Section 8. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is to ensure that the board of directors of the City of Cincinnati, Ohio Energy Special Improvement

District, Inc. may proceed with the Assessment Project as soon as possible so that work thereon may commence or continue without delay.

Passed: _____, 2023

Aftab Pureval, Mayor

Attest: _____
Clerk

ATTACHMENT A

E M E R G E N C Y

Legislative Resolution

RESOLUTION NO. _____ - 2023

DECLARING by legislative resolution the necessity of the special assessment project at 830 Main Street in the City of Cincinnati, Ohio involving the City of Cincinnati, Ohio Energy Special Improvement District.

WHEREAS, Ohio Revised Code Section 1710.02(F) provides that a political subdivision that has approved a petition for special assessments for public improvements in a special improvement district pursuant to Ohio Revised Code Chapter 1710 shall levy said special assessments pursuant to Ohio Revised Code Chapter 727; and

WHEREAS, pursuant to Resolution No. 28-2014 passed on April 9, 2014, Council approved the Petition for the Creation of the City of Cincinnati, Ohio Energy Special Improvement District, together with the Articles of Incorporation of the City of Cincinnati, Ohio Energy Special Improvement District, Inc. and, following said approvals by Council, on July 23, 2014, the City of Cincinnati, Ohio Energy Special Improvement District, Inc. (hereinafter, the "ESID") was formed as an ESID and is now duly authorized and operating pursuant to Ohio Revised Code Chapter 1710; and

WHEREAS, 830 Main Street LLC (together with all future owners of the Project Site, as defined below, the "Owner"), as the owner of one hundred percent (100%) of the lots and lands, including air parcels, to be assessed for the improvements described in this Resolution, has executed and filed with this Council a *Petition for Special Assessments for Special Energy Improvement Projects* dated as of March 2, 2023 (the "Petition"), including a *Supplement to Plan for 830 Main Street Project* (the "Supplemental Plan"), proposing the necessity of special assessments to pay the costs of special energy improvement projects (as more fully identified in the Petition and Supplemental Plan, the "Authorized Improvements") to be located at 830 Main Street in Cincinnati (the "Assessed Property"); and

WHEREAS, the Petition and the Supplemental Plan are on file with the Clerk of Council, and copies thereof are attached to this Resolution as Attachment A; and

WHEREAS, in the Petition, the Owner requests that the Authorized Improvements be paid for by special assessments assessed upon the Assessed Property (the "Special Assessments") in an amount sufficient to pay the costs of the Authorized Improvements and other related costs of financing the Authorized Improvements, which include, without limitation, the payment of principal of, interest on, and financing, credit enhancement, and issuance expenses related to, any bonds, notes, loans, or other financing provided to pay the costs of the Authorized Improvements, and requests that the Authorized Improvements be undertaken cooperatively by the City, the ESID,

and the Owner, in accordance with the Standing Assignment Agreement dated as of February 28, 2017 by and among the City, the Port of Greater Cincinnati Development Authority, and the ESID (the “Standing Assignment Agreement”); and

WHEREAS, in order to provide for the assignment and transfer of the Special Assessments, the ESID has requested that the City execute and deliver an Addendum to the Standing Assignment Agreement substantially in the form now on file with the Clerk of Council; and

WHEREAS, (i) the Special Assessments are conducive to the public health, convenience and welfare of this City and the inhabitants of the City; (ii) the Assessed Property is specially benefited by the Special Assessments; and (iii) the Special Assessments have been petitioned for by the owner of 100% of the Assessed Property; now, therefore,

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

Section 1. That the recitals hereof are hereby incorporated by reference, and each capitalized term not otherwise defined in this Resolution or by reference to another document shall have the meaning assigned to it in the *Petition for Special Assessments for Special Energy Improvement Projects* dated March 2, 2023 (the “Petition”), which Petition, together with a *Supplement to Plan for 830 Main Street Project* (the “Supplemental Plan”), are hereby approved and accepted, and copies of which are attached to this Resolution as Attachment A.

Section 2. That this Council hereby approves and authorizes the City Manager to execute an Addendum to the Standing Assignment Agreement substantially in the form now on file with the Clerk of Council, together with any modifications as may be necessary to effectuate the purpose of the Petition and Ohio Revised Code Chapter 1710, provided that any such modifications shall not, in the judgment of the City Manager, be adverse to the City.

Section 3. That it is hereby declared necessary, and a vital and essential public purpose of the City, to improve the real property located at 830 Main Street, Cincinnati, Ohio (the “Assessed Property”), by providing for special energy improvement projects as more fully identified in the Petition and Supplemental Plan (the “Authorized Improvements”) on the Assessed Property, including any and all costs and expenses in connection with or otherwise related thereto as described

in the Petition (collectively, the “Assessment Project”), which Assessment Project is described in the plans, specifications, profiles, and estimates of costs included in the Petition and on file in the office of the Clerk of Council.

Section 4. That the plans and specifications and total cost of the Assessment Project now on file in the office of the Clerk of Council are approved, subject to changes as provided for in the Standing Assignment Agreement among the City, the Port of Greater Cincinnati Development Authority, and the City of Cincinnati, Ohio Energy Special Improvement District, Inc. (the “ESID”), and as permitted by Ohio Revised Code Chapter 727. The Assessment Project shall be made in accordance with the plans, specifications, profiles, and estimates for the Assessment Project.

Section 5. That this Council finds and determines that: (i) the Assessment Project is conducive to the public health, convenience, and welfare of this City and the inhabitants thereof, and that it is an essential and vital public, governmental purpose of the City as a Special Energy Improvement Project as defined in Ohio Revised Code Section 1710.01(I); (ii) the Assessed Property is specially benefited by the Assessment Project; and (iii) the Assessment Project has been petitioned for by the owner of 100% of the Assessed Property. It is hereby determined that the Assessment Project’s elements are so situated in relation to each other that in order to complete the acquisition and improvement of the Assessment Project’s elements in the most practical and economical manner, they should be acquired and improved at the same time, with the same kind of materials, and in the same manner, and that the Assessment Project’s elements shall be treated as a single improvement pursuant to Ohio Revised Code Section 727.09.

Section 6. That pursuant to Ohio Revised Code Section 1710.02(G)(4), Council hereby determines that the Assessment Project is not required to be owned exclusively by the City. Council accordingly hereby authorizes the board of directors of the ESID to act as its agent to sell, transfer, lease, or convey the Assessment Project. The board of directors of the ESID must obtain from any sale, transfer, lease, or conveyance of the Assessment Project any consideration greater than or equal to \$1.00.

Section 7. That the costs of the Assessment Project, as set forth in the Petition, shall be assessed in proportion to the benefits upon the Assessed Property, and the assessment for such purpose (the "Special Assessments") shall be assessed and paid as specified in the Petition. The portion of the costs of the Assessment Project allocable to the City will be 0%. The City does not intend to issue securities in anticipation of the levy of the Special Assessments.

Section 8. That the City's Finance Director and/or his or her designee is authorized to cause to be prepared and filed in the office of the Clerk of Council the estimated Special Assessments and the cost of the Assessment Project in accordance with the method of assessment set forth in the Petition and this Resolution.

Section 9. That the Special Assessments shall be levied and paid in fifty-eight (58) semi-annual installments pursuant to the list of estimated Special Assessments set forth in the Petition. The Owner has waived the right to pay the Special Assessment in cash within thirty (30) days after the first publication of the notice of the assessing ordinance.

Section 10. That the Owner has waived notice of the adoption of this Resolution and the filing of the estimated Special Assessments upon the filing of the estimated Special Assessments with the Clerk of Council under Ohio Revised Code Section 727.13.

Section 11. That pursuant to and subject to the provisions of a valid Petition signed by the Owner, as the owner of one hundred percent (100%) of the Assessed Property, which Petition is hereby accepted, the entire cost of the Assessment Project shall be paid by the Special Assessments levied against the Assessed Property, which is the benefited property.

Section 12. That this Council hereby accepts and approves the waivers contained in the Petition of all further notices, hearings, claims for damages, rights to appeal and other rights of property owners under the law, including, but not limited to, those specified in the Ohio Constitution, Ohio Revised Code Chapter 727, Ohio Revised Code Chapter 1710, and the Charter of the City of Cincinnati, Ohio, and consents to the immediate imposition of the Special Assessments upon the Assessed Property.

Section 13. That the City's Finance Director and/or his or her designee is authorized, pursuant to Ohio Revised Code Section 727.12, to cause the Special Assessments to be levied and collected at the earliest possible time including, if applicable, prior to the completion of the acquisition and construction of the Assessment Project.

Section 14. That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Ohio Revised Code Section 121.22.

Section 15. That this resolution 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 ensure that the board of directors of the ESID may proceed with the Assessment Project as soon as possible so that work thereon may commence or continue without delay.

Passed: _____, 2023

Aftab Pureval, Mayor

Attest: _____
Clerk

**PETITION FOR SPECIAL ASSESSMENTS FOR
SPECIAL ENERGY IMPROVEMENT PROJECTS**

A PETITION TO THE CITY OF CINCINNATI, OHIO SEEKING THE IMPOSITION OF SPECIAL ASSESSMENTS TO PAY THE COSTS OF VARIOUS SPECIAL ENERGY IMPROVEMENT PROJECTS AGAINST PROPERTY OWNED BY THE PETITIONER AND SPECIALLY BENEFITED THEREBY, INCLUDING A WAIVER OF ALL RIGHTS TO NOTICES, HEARINGS AND APPEALS RESPECTING THE REQUESTED SPECIAL ASSESSMENTS

To: The City Manager and City Council of the City of Cincinnati, Ohio

830 Main Street LLC, an Ohio limited liability company (the "Petitioner"), is the owner of 100% of the property described on **Exhibit A** attached to this Petition (the "Property"). The Petitioner will implement special energy improvement projects on the Property (the "Authorized Improvements," as further described in **Exhibit B**).

The Board of Directors of the City of Cincinnati, Ohio Energy Special Improvement District, Inc. (the "Corporation"), an Ohio nonprofit corporation formed to govern the City of Cincinnati, Ohio Energy Special Improvement District (the "District"), created within the boundaries of the City of Cincinnati, Ohio (the "City") has approved a plan (the "Program Plan") for the purpose of developing and implementing special energy improvement projects, as defined in Ohio Revised Code Section 1710.01(I). The Program Plan is attached to this Petition as **Exhibit C**.

Pursuant to the Program Plan, the Corporation has caused special energy improvement projects to be provided from time to time. In accordance with Ohio Revised Code Chapter 1710 and the Program Plan, the Program Plan may be amended from time to time by supplemental plans (the "Supplemental Plans") (the Program Plan and every Supplemental Plan together constituting the "Plan") to provide for additional special energy improvement projects, and the District may be enlarged from time to time to include additional property so long as at least one special energy improvement project is designated for each parcel of real property within the additional territory added to the District.

The Board of Directors of the Corporation has received the Supplemental Plan attached to this Petition as **Exhibit B**, including the description of the Authorized Improvements, and related materials in support of the expansion of the District to include the Property.

As required by Ohio Revised Code Section 1710.02, the Petitioner, as the owner of the Property, being 100% of the area proposed to be added to the District and 100% of the area proposed to be assessed for the Authorized Improvements, hereby (a) petitions the City Council (the "Council") to (i) approve the addition of the Property to the District and (ii) approve an amendment and supplement to the Plan by the Supplemental Plan to include the Authorized Improvements and (b) request that (i) Authorized Improvements be undertaken by the District, and

(ii) the total cost of those Authorized Improvements be assessed on the Property in proportion to the special benefits that will result from the Authorized Improvements.

In connection with this Petition and in furtherance of its purposes, the Petitioner acknowledges that it has reviewed or caused to be reviewed (i) the Plan and the Supplemental Plan, (ii) the plans, specifications and profiles for the Authorized Improvements, (iii) the estimate of cost for the Authorized Improvements included in **Exhibit B** and (iv) the schedule of estimated special assessments to be levied for the Authorized Improvements also included in **Exhibit B**. The Petitioner acknowledges that the estimated special assessment for each parcel is in proportion to the benefits that may result from the financing of the Authorized Improvements.

Accordingly, the Petitioner hereby petitions for the construction of the Authorized Improvements identified in this Petition and the Supplemental Plan attached to this Petition as **Exhibit B**, as authorized under Ohio Revised Code Chapter 1710, and for the imposition of the special assessments identified in this Petition and authorized under Ohio Revised Code Chapters 727 and 1710 (the "Special Assessments") to pay the costs of the Authorized Improvements.

In consideration of the City's acceptance of this Petition and the imposition of the requested Special Assessments, the Petitioner consents and agrees that the Property as identified in **Exhibit A** shall be assessed for all of the costs of the Authorized Improvements, including any and all architectural, engineering, legal, insurance, consulting, energy auditing, planning, acquisition, installation, construction, survey, testing and inspection costs; the amount of any damages resulting from the Authorized Improvements and the interest on such damages amount; the costs incurred in connection with the preparation, levy and collection of the special assessments; the cost of purchasing and otherwise acquiring any real estate or interests in real estate; expenses of legal services; costs of labor and material; trustee fees and other financing costs incurred in connection with the issuance, sale, and servicing of securities to pay costs of the Authorized Improvements in anticipation of the receipt of the special assessments, capitalized interest on, and financing reserve funds for, such securities or other obligations; and any program administration fees or financing servicing fees; together with all other necessary expenditures. The Petitioner agrees to pay the Special Assessments in a timely manner whether or not the Petitioner receives annual and timely notices of the Special Assessments.

In consideration of the Authorized Improvements, the Petitioner, for itself and its grantees and other successors with respect to the Property, agrees to pay promptly all Special Assessments as they become due, and agrees that the determination by the Council of the Special Assessments in accordance with the terms hereof will be final, conclusive and binding upon the Petitioner and the Property. In further consideration of the Authorized Improvements, the Petitioner covenants and agrees to disclose, upon the transfer of the Property or any portion of the Property to be assessed for the actual costs of the Authorized Improvements set forth in **Exhibit B**, in the deed to the transferee or in a separate instrument recorded with respect to the Property the existence of any outstanding Special Assessment for the Authorized Improvements and to require that transferee covenant to disclose the existence of any outstanding Special Assessment for the Authorized Improvements in any subsequent deed or in a separate instrument recorded with respect to the Property at the time of the subsequent transfer so long as the Special Assessments remain unpaid. As a condition to each subsequent transfer while the Special Assessments remain unpaid, the

Petitioner further covenants and agrees to provide expressly in the deed to any transferee or in a separate instrument recorded with respect to the Property at the time of the subsequent transfer (i) for the acquisition by the transferee of the Property subject to any outstanding Special Assessment and the transferee's assumption of responsibility for payment thereof and for waiver by the transferee of any rights that the Petitioner has waived pursuant to this Petition, and (ii) the requirement that each transferee from time to time of the Property covenant to include in the deed to any subsequent transferee or in a separate instrument recorded with respect to the Property at the time of the subsequent transfer the conditions described in clause (i) so long as the Special Assessments remain unpaid.

The Petitioner further acknowledges and confirms that the Special Assessments set forth in this Petition and in **Exhibit B** are in proportion to, and do not exceed, the special benefits to be conferred on the Property by the financing of the Authorized Improvements. The Petitioner further consents to the levying of the Special Assessment against the Property by the Council. The Petitioner acknowledges that these Special Assessments are fair, just and equitable and being imposed at the Petitioner's specific request.

The Petitioner hereby waives notice and publication of all resolutions, legal notices and hearings provided for in the Ohio Revised Code with respect to the Authorized Improvements and the Special Assessments, particularly those in Ohio Revised Code Chapters 727 and 1710, and consents to proceeding with the Authorized Improvements. Without limiting the foregoing, the Petitioner specifically waives any notices and rights under the following Ohio Revised Code Sections:

- The right to notice of the adoption of the Resolution of Necessity under Ohio Revised Code Sections 727.13 and 727.14;
- The right to limit the amount of the Special Assessments under Ohio Revised Code Sections 727.03 and 727.06, including the right to consider the Special Assessments authorized by this Petition within the limitations contained in Ohio Revised Code Sections 727.03 and 727.06 applicable to the Special Assessments and any other special assessments properly levied now or in the future;
- The right to file an objection to the Special Assessments under Ohio Revised Code Section 727.15;
- The right to the establishment of, and any proceedings by and any notice from an Assessment Equalization Board under Ohio Revised Code Sections 727.16 and 727.17;
- The right to file any claim for damages under Ohio Revised Code Sections 727.18 through 727.22 and Ohio Revised Code Section 727.43;
- The right to notice that bids or quotations for the Authorized Improvements may exceed estimates by 15%;
- The right to seek a deferral of payments of Special Assessments under Ohio Revised Code Section 727.251; and
- The right to notice of the passage of the Assessing Ordinance under Ohio Revised Code Section 727.26.

The Petitioner, in accordance with Ohio Revised Code Section 1710.02(A), further agrees that the Property may be included in more than one district formed under Ohio Revised Code

Chapter 1710. The Petitioner further agrees not to take any actions, or cause to be taken any actions, to place any of the Property in an agricultural district as provided for in Ohio Revised Code Chapter 929, and if any of the Property is in an agricultural district, the Petitioner, in accordance with Ohio Revised Code Section 929.03, hereby grants permission to collect any Special Assessments levied against such Property.

The Petitioner further agrees and consents to the Council promptly proceeding with all actions necessary to facilitate the acquisition, installation, equipment, and improvement of the Authorized Improvements and to impose the Special Assessments.

The Petitioner acknowledges that the Special Assessments set forth in this Petition and in the Exhibits to this Petition are based upon an estimate of costs, and that the final Special Assessments shall be calculated in the same manner, which, regardless of any statutory limitation on the Special Assessments, may be more or less than the respective estimated Special Assessments for the Authorized Improvements. In the event the final assessments exceed the estimated assessments, the Petitioner, without limitation of the other waivers contained in this Petition, also waives any rights it may now or in the future have to object to those assessments, any notice provided for in Ohio Revised Code Chapters 727 and 1710, and any rights of appeal provided for in such Chapters or otherwise. The Petitioner further acknowledges and represents that the respective final assessments may be levied at such time as determined by the City and regardless of whether or not any of the parts or portions of the Authorized Improvements have been completed.

The Petitioner further acknowledges that the final Special Assessments for the Authorized Improvements, when levied against the Property, will be payable in cash within thirty (30) days from the date of passage of the ordinance confirming and levying the final assessments and that if any of such assessments are not paid in cash they will be certified to the Auditor of the County, as provided by law, to be placed on the tax list and duplicate and collected as other taxes are collected. Notwithstanding the foregoing, however, the Petitioner hereby waives the right to pay the final assessments for the Authorized Improvements in cash within thirty (30) days from the passage of the ordinance confirming and levying the final assessments and requests that the unpaid final assessments for the Authorized Improvements shall be payable in 58 semi-annual installments.

Pursuant to Ohio Revised Code Section 1710.03(C), the Petitioner hereby appoints as its designee to carry out the rights and responsibilities of District members under Ohio Revised Code Chapter 1710 such representative as may be duly appointed by the Petitioner from time to time, which designation shall not expire unless and until Petitioner shall notify the Secretary of the District that said designation is no longer in effect or that Petitioner has made a new designation to replace said designation.

The Petitioner further waives any and all questions as to the constitutionality of the laws under which the Authorized Improvements shall be acquired, installed, or constructed or the proceedings relating to the acquisition, installation, or construction of the Authorized Improvements, the jurisdiction of the City acting in connection with the acquisition, installation, or construction of the Authorized Improvements, all irregularities, errors and defects, if any, procedural or otherwise, in the levying of the assessments or the undertaking of the Authorized

Improvements, and specifically waives any and all rights of appeal, including any right of appeal as provided in Ohio Revised Code Title 7, and specifically but without limitation, Ohio Revised Code Chapters 727 and 1710, as well as all such similar rights under the Constitution of the State of Ohio and the Charter of the City of Cincinnati, Ohio. The Petitioner represents that it will not contest, in a judicial or administrative proceeding, the undertaking of the Authorized Improvements, the estimated assessments, the final assessments, and any Special Assessments levied against the Property for the Authorized Improvements, or any other matters related to the foregoing.

The Petitioner acknowledges and understands that the City and the Corporation will be relying upon this Petition in taking actions pursuant to it and expending resources. This Petition therefore shall be irrevocable and shall be binding upon the Petitioner, any successors or assigns of the Petitioner, the Property, and any grantees, mortgagees, lessees, or transferees of the Property. The Petitioner acknowledges that they have had an opportunity to be represented by legal counsel in this undertaking and has knowingly waived the rights identified in this Petition.

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EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

The real property subject to this Petition is located at the commonly used mailing address 830 Main Street, Cincinnati, Ohio, having Hamilton County Auditor Parcel ID No. 079-0004-0287-00, and the following legal description:

Situated in Section 18, Town 4, Fractional Range 1, City of Cincinnati, Hamilton County, Ohio, being part of Lots 43 and 44 of North Square, recorded in Deed Book G-1, Page 275 and Deed Book 29, Page 445 and further being part of the property conveyed to DTK Ninth & Main LLC by deed recorded in Official Record 9886, Page 3234 (all references to recorded documents made herein are to those of the Hamilton County Recorder's Office in Cincinnati, Ohio) and being more particularly described as follows:

Beginning at the corner of an existing building at the intersection of the Southerly line of Ninth Street (66') and the Easterly line of Main Street (66');

Thence with the Southerly line of Ninth Street, North 73 deg. 58' 30" East, a distance of 130.00 feet to the corner of an existing building at the intersection of said Southerly line with the Westerly line of Pancoast Alley (12');

Thence with the Westerly line of Pancoast Alley, South 16 deg. 00' 00" East, a distance of 56.00 feet to the corner of an existing building;

Thence through the grantor's property, on new division lines, for the following Three (3) courses:

1. South 73 deg. 58' 30" West, a distance of 35.80 feet to the corner of an existing building;
2. North 16 deg. 00' 00" West, a distance of 16.00 feet to the corner of an existing building;
3. South 73 deg. 58' 30" West, a distance of 94.20 feet to the corner of an existing building in the Easterly line of Main Street;

Thence with the Easterly line of Main Street, North 16 deg. 00' 00" West, a distance of 40.00 feet to the Point of Beginning;

Containing 0.133 acre, more or less.
PPN: 079-0004-0287

EXHIBIT B

**CITY OF CINCINNATI, OHIO ENERGY SPECIAL IMPROVEMENT DISTRICT
PROGRAM PLAN**

SUPPLEMENT TO PLAN FOR 830 MAIN STREET PROJECT

As more fully provided by the City of Cincinnati, Ohio Special Improvement District Program Plan (together with all previously approved supplemental plans, the "Plan"), the City of Cincinnati, Ohio Energy Special Improvement District (the "District") has undertaken the administration of a property assessed clean energy ("PACE") program (the "Program"). The Program will provide financing secured by special assessments on real property for special energy improvement projects.

Through a Petition submitted in connection with this Supplemental Plan, the undersigned (the "Property Owner") has requested and consented to certain special assessments by the District with respect to certain real property owned by the Property Owner and located at 830 Main Street, Cincinnati, Ohio, having Hamilton County Auditor Parcel ID No. 079-0004-0287-00 (the "Property"). A schedule for special assessments to be assessed against the Property to pay the costs of the Authorized Improvements is attached hereto as Attachment A.

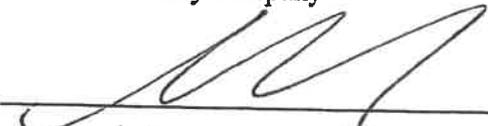
The Authorized Improvements applicable to the Property will include energy efficient lighting improvements, window improvements, wall, thermal moisture protection and reduction improvements, HVAC improvements, plumbing improvements resulting in energy savings, elevator improvements, and related improvements. As required by Ohio Revised Code Section 1710.01(K), said Authorized Improvements are anticipated to reduce or support the reduction of energy consumption, allow for reduction in demand, or support the production of clean, renewable energy. A detailed description of the Authorized Improvements is attached to this Supplemental Plan as Attachment B. The Property Owner hereby acknowledges and agrees that the special benefit to be provided to the Property under this Supplemental Plan is the consummation of the financing to pay, finance, and refinance costs of the Authorized Improvements, which shall be conferred immediately upon the consummation of the financing, and that the benefits are in proportion to and do not exceed the amount of the Special Assessments to be levied to pay the costs of the financing.

The Property Owner will cause this Supplemental Plan promptly to be filed with the Board of Directors of the District and with the Clerk of the City Council of Cincinnati, Ohio.

The undersigned owner of real property to be located within the District acknowledge that the District is subject to Ohio public records laws, including Ohio Revised Code Section 149.43 *et seq.* The undersigned property owner agrees to the disclosure of certain property owner information by the District to the extent required by law.

BY EXECUTING THIS SUPPLEMENTAL PLAN, THE PROPERTY OWNER IDENTIFIED BELOW HEREBY AUTHORIZES AND CONSENTS TO THIS SUPPLEMENTAL PLAN, AND ALL DISTRICT DOCUMENTS (AS DEFINED IN THE PLAN) AND AGREES TO PERFORM THE OBLIGATIONS OF THE PROPERTY OWNER CONTAINED IN THIS SUPPLEMENTAL PLAN.

PROPERTY OWNER:
830 MAIN STREET LLC
an Ohio limited liability company

By: 
Name: Anthony W Birkla
Title: Manager

Address for notices to Property Owner: 830 Main Street LLC
120 W. Carmel Dr., Suite 101
Carmel, Indiana 46032
C/O Birkla Investment Partners LLC

With A Copy To: _____

Description of Real Property Subject to this Supplemental Plan:

The real property subject to this Supplemental Plan is located at the commonly used mailing 830 Main Street, Cincinnati, Ohio, having Hamilton County Auditor Parcel ID No. 079-0004-0287-00.

SUPPLEMENTAL PLAN—ATTACHMENT A

Schedule of Special Assessments

The Property will be subject to special assessments for the Authorized Improvements in accordance with Ohio Revised Code Chapter 1710.

Total assessment costs:	\$4,140,482.00
Estimated semi-annual special assessments for 29 years:	\$ 170,029.89
Number of semi-annual assessments:	58
First semi-annual installment due:	January 31, 2024

The schedule of Special Assessments for the Authorized Improvements is as follows:

Special Assessment Payment Date ¹	Special Assessment Installment Amount ²
1/31/2024	\$170,029.89
7/31/2024	170,029.89
1/31/2025	170,029.89
7/31/2025	170,029.89
1/31/2026	170,029.89
7/31/2026	170,029.89
1/31/2027	170,029.89
7/31/2027	170,029.89
1/31/2028	170,029.89
7/31/2028	170,029.89
1/31/2029	170,029.89
7/31/2029	170,029.89
1/31/2030	170,029.89
7/31/2030	170,029.89
1/31/2031	170,029.89
7/31/2031	170,029.89
1/31/2032	170,029.89
7/31/2032	170,029.89
1/31/2033	170,029.89
7/31/2033	170,029.89
1/31/2034	170,029.89
7/31/2034	170,029.89
1/31/2035	170,029.89
7/31/2035	170,029.89

¹ Pursuant to Ohio Revised Code Chapter 323, the Special Assessment Payment Dates identified herein are subject to adjustment under certain conditions.

² Pursuant to Ohio Revised Code Section 727.36, the Hamilton County Auditor may charge and collect a fee in addition to the amounts listed in this Attachment A.

Special Assessment Payment Date ¹	Special Assessment Installment Amount ²
1/31/2036	\$170,029.89
7/31/2036	170,029.89
1/31/2037	170,029.89
7/31/2037	170,029.89
1/31/2038	170,029.89
7/31/2038	170,029.89
1/31/2039	170,029.89
7/31/2039	170,029.89
1/31/2040	170,029.89
7/31/2040	170,029.89
1/31/2041	170,029.89
7/31/2041	170,029.89
1/31/2042	170,029.89
7/31/2042	170,029.89
1/31/2043	170,029.89
7/31/2043	170,029.89
1/31/2044	170,029.89
7/31/2044	170,029.89
1/31/2045	170,029.89
7/31/2045	170,029.89
1/31/2046	170,029.89
7/31/2046	170,029.89
1/31/2047	170,029.89
7/31/2047	170,029.89
1/31/2048	170,029.89
7/31/2048	170,029.89
1/31/2049	170,029.89
7/31/2049	170,029.89
1/31/2050	170,029.89
7/31/2050	170,029.89
1/31/2051	170,029.89
7/31/2051	170,029.89
1/31/2052	170,029.89
7/31/2052	170,029.89

SUPPLEMENTAL PLAN—ATTACHMENT B

Description of Authorized Improvements

The Authorized Improvements are expected to consist of the following energy efficiency elements:

Summary of Measures						
Measure Number	Measure Description	Electricity Savings (kWh)	Electricity Savings (\$)	Gas/Fuel Savings (Therms)	Gas/Fuel Savings (\$)	Cost Savings (\$)
ECM 1	Lighting Improvements	122,969	\$ 15,371	(2,333)	\$ (1,967)	\$ 13,404
ECM 2	Window Improvements	4,966	621	3,033	2,557	\$ 3,178
ECM 3	Improved Wall, Thermal Moisture Protection and Infiltration Reduction	17,271	\$ 2,159	8,253	\$ 6,957	\$ 9,116
ECM 4	HVAC	33,614	\$ 4,202	-	\$ -	\$ 4,202
ECM 5	Plumbing	44,572	\$ 5,572	-	\$ -	\$ 5,572
ECM 6	Elevators	60,627	\$ 7,578	-	\$ -	\$ 7,578
Totals		284,019	\$ 35,502	8,953	\$ 7,547	\$ 43,050

Item #	Improvement Description	Expected Useful Life in Years	Subtotal	Cost
1	Lighting Improvements (includes battery LED Egress Lighting and Occupancy Sensors)	20		\$ 470,000.00
2	Window Improvements (Price Increase)	35		\$ 646,112.08
3	Building Envelope: Exterior Wall finishes (Paint and installation of new Furred Walls), Thermal Moisture Protection and Infiltration Reduction.	40		\$ 536,127.26
4	HVAC	25		\$ 1,167,095.02
	4A. HVAC Equipment and Labor	20	\$ 865,095.02	
	4B. HVAC Related Electrical	40	\$ 302,000.00	
5	Plumbing	26		\$ 350,000.00
	5A. Plumbing (includes Low flow devices excluding water closets, Apt DW heaters, Pipe Insulation, Booster Pumps with VFDs)	20	\$ 240,000.00	
	5B. Plumbing Related Electrical	40	\$ 110,000.00	
6	Elevators	21		\$ 140,314.76
	6A. Elevator Cab, Motor and Controls	20	\$ 135,108.00	
	6B. Elevator Related Electrical	40	\$ 5,206.76	
	Subtotal			\$ 3,309,649.12
	General Conditions and Overhead	14%		\$ 463,350.88
	Contingency	0%		\$ -
	Total Direct Costs			\$ 3,773,000.00
	Weighted Average Life	29 Years		

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EXHIBIT C

**CITY OF CINCINNATI, OHIO ENERGY SPECIAL IMPROVEMENT DISTRICT
PROGRAM PLAN**

[See Attached]

**CITY OF CINCINNATI, OHIO ENERGY SPECIAL IMPROVEMENT DISTRICT
PROGRAM PLAN**

The City of Cincinnati, Ohio Energy Special Improvement District (the "District") will administer a property assessed clean energy ("PACE") program (the "Program"). The Program will provide financing secured by special assessments on real property for special energy improvement projects. The District authorizes and adopts this plan for the Program (as the same may be amended and supplemented from time to time as provided herein, the "Plan") to provide for the Program's administration and to set forth the terms and conditions of participation in the Program. The Port of Greater Cincinnati Development Authority, as the initial property owner owning real property within the District, as well as in its capacity as a party with interests aligned with the City of Cincinnati (the "City") with respect to the formation of the District, authorizes and consents to this Plan.

The District is established pursuant to the special energy improvement district provisions of Chapter 1710 of the Ohio Revised Code. This Plan refers to Chapter 1710 and any and all future amendments to the special energy improvement district provisions of Chapter 1710 as the "Act." Any specific statutory reference contained in this Plan shall also refer to any succeeding or amending statutory provision.

Participation in the District's Program is limited to property owners who have agreed to add their property to the District and who otherwise meet the Program's terms and conditions. These terms and conditions are addressed in this Plan, and include, without limitation, an application, a petition, a schedule of assessments to be made on included property ("Assessment Schedule"), and the governing documents forming the District. The District's governing documents include its Articles of Incorporation, Code of Regulations, resolutions duly adopted by the board of directors of the District, and the applicable resolutions and ordinances of the participating political subdivision where the real property is located (collectively, the "Governing Documents"). As a condition to participation in the District and the Program, each property owner must review and agree to the Governing Documents and further must review, agree to, and execute this Plan, an application, a petition, and an Assessment Schedule. The Governing Documents, this Plan, the applications, the petitions, and the Assessment Schedules are referred to herein collectively as the "District Documents."

The District Documents establish the terms and conditions of the Program. The Program terms and conditions may be amended from time to time as described in Part X of this Plan. By agreeing to and executing the District Documents, each property owner consents to the terms and conditions of all District Documents.

I. Purpose of the Program

The Program is intended to assist property owners, whether private or public, who own real property within participating political subdivisions to obtain financing for special energy

improvement projects, as that term is defined in the Act (the "Authorized Improvements"). Obligations, including but not limited to special assessment reimbursement agreements, special assessment revenue bonds and revenue notes, loan obligations or other evidences of indebtedness, or nonprofit corporation securities (collectively, the "Program Obligations") may be issued by the District or on behalf of the District by a third party. Program Obligations or the proceeds from the sale of the Program Obligations may be used to finance Authorized Improvements that benefit properties within the District and any costs incurred by the District in connection with the issuance of Program Obligations. Participating political subdivisions shall levy special assessments on real property included in the District, the payment of which may pay the Program Obligations and the costs of administering the Program. Special assessment payments levied to finance Authorized Improvements will be due and payable by property owners at the same time real property taxes are due; provided, that certain Program Obligations may require special assessments to be due and payable by property owners only to the extent that such property owners fail to pay an obligation of the property owner secured by special assessments, such as a loan, in which case special assessments will only be due and payable by property owners if actually levied.

Nothing in this Plan shall be construed as a representation on the part of any participating political subdivision, the District, the Board, or any of the directors, officers, agents, members, independent contractors, or employees of the District or Board that the Program is the best financing option for every situation. Property owners are advised to conduct independent research to determine the best course of action.

II. The District's Governance, Program Administrator, and Conduit Financing Entity

The District shall be governed, pursuant to the District Documents and the Act, by the Board of Directors ("Board") of the City of Cincinnati, Ohio Energy Special Improvement District, Inc., a nonprofit corporation organized under the laws of the State of Ohio (the "Corporation") to govern the District.

Pursuant to the Act, other Ohio law, and the Code of Regulations of the Corporation, the Board may from time to time, and under such conditions as the Board determines, delegate any or all of the authority contained in this Plan to its sub-committee or to an agent, independent contractor, or employee of the District or the Board.

This Plan specifically contemplates that, as authorized in the Act, Greater Cincinnati Energy Alliance will serve as the District's "Program Administrator" and render program administration services to the District and the Port of Greater Cincinnati Development Authority will serve as the District's "Conduit Financing Entity" and render conduit financing services to the District.

The District is authorized to contract with Greater Cincinnati Energy Alliance for program administration services rendered to the District. The program administration services rendered by the Program Administrator may include, without limitation (i) pursuant to Part III of this Plan, developing and administering eligibility guidelines, creating and administering an application,

setting criteria and developing a list of pre-approved contractors, procuring resources or cooperating with property owners to procure resources, and administering referrals, (ii) pursuant to Part IV of this Plan, marketing, program design, cooperating with property owners to implement Authorized Improvements, and other administrative services, and (iii) the establishment and administration of a revolving loan facility providing financing for certain special energy improvement projects.

The District is authorized to contract with the Port of Greater Cincinnati Development Authority for conduit financing services rendered to the District. The conduit financing services rendered by the Conduit Financing Entity may include, without limitation (i) pursuant to Part III of this Plan, financing Authorized Improvement and cooperating with property owners to obtain financing, (ii) pursuant to Part IV of this Plan, tracking and administering Program Obligations, administering special assessments, budgeting, and conducting or overseeing the audit process, (iii) assistance with marketing efforts relating to the District, and (iv) tracking compliance with respect to the Economic Inclusion Plan established by the Port of Greater Cincinnati Development Authority.

III. Program Eligibility, Approvals, Financing, and Procurement

The Board is hereby authorized to create, administer, amend, and abolish a process by which property owners join the Program. The process by which property owners join the Program may include, without limitation, the following requirements:

- (A) Eligibility. The Board is hereby authorized to create, administer, amend, and abolish eligibility requirements for the Program. The Board is further authorized to determine, in each individual case, whether property is eligible for participation in the Program.

To be eligible for participation in the Program, each property owner must file a petition with the Board requesting to add its property to the District and requesting the levy of special assessments to be used to pay or secure Program Obligations issued or used to finance Authorized Improvements. Each parcel of real property added to the District must have at least one Authorized Improvement. The petition to add property to the District shall be considered by the District in accordance with this Plan and the other District Documents. If the District approves the petition, it shall submit the petition to the executive officer and legislative body of the participating political subdivision in which the real property is located. A property owner may file more than one petition and may amend or withdraw any petition filed at any time before the petition is approved by the legislative body of the participating political subdivision in which the real property is located. Petitions shall conform to the requirements of Ohio Revised Code Chapter 1710 and any requirements of the Board.

To be eligible for participation in the Program, each property owner must agree to be bound by the terms of this Plan. The Plan for the District may be amended and supplemented from time to time in accordance with its terms, including,

specifically, by supplements to the Plan which identify additional Authorized Improvements within the District to be subject to the Plan or add property to the District and subject such additional property to the Plan. To be eligible for participation in the Program, each property owner must file a supplement to this Plan (the "Plan Supplement") with the Board and the clerk of the legislative body of the participating political subdivision in which the real property is located identifying the Authorized Improvements to be undertaken as part of the Plan applicable to real property within the District or to be added to the district. Plan Supplements shall include such other information as may be required by the Board. Plan Supplements shall conform to the requirements of Ohio Revised Code Chapter 1710 and any requirements of the Board.

To be eligible for participation in the Program, each property owner must agree to and must execute an Affidavit on Facts Relating to Title under Section 5301.252 of the Ohio Revised Code to be recorded with respect to the real property to be added to the District and filed with the clerk of the legislative body of the participating political subdivision in which the real property is located, which Affidavit on Facts Relating to Title shall state that the property owner has consented to include such real property in the District and that the property owner consents to, and will take all actions necessary to place upon such property, any subsequent special improvement district formed under Ohio Revised Code Chapter 1710 that includes such real property as long as the statutory conditions for forming the subsequent special improvement district are otherwise satisfied.

- (B) Application. The Board is hereby authorized to create, administer, amend, and abolish an application, including a pre-application, for participation in the Program. The Board further may set the terms and conditions for the application's use and evaluation.
- (C) Contractors. The Board is hereby authorized to require property owners to complete Authorized Improvements through the work of pre-approved contractors. The Board is further authorized to create criteria for the approval of contractors, including but not limited to compliance with the Economic Inclusion Plan adopted by the Port of Greater Cincinnati Development Authority, and to determine which contractors meet the criteria and are approved. The Board may communicate which contractors have been pre-approved to property owners by any means the Board deems appropriate, and the Board shall determine whether property owners comply with its pre-approved contractor's requirements.

Nothing in this Plan or the District Documents shall be construed to be a recommendation or guarantee of reliability of pre-approved contractors by any participating political subdivision, the District, the Board, or any of the directors, officers, agents, members, independent contractors, or employees of the District or Board.

- (D) Procurement and Referrals. The Board is hereby authorized to procure supplies, services, contracts, financing, and other resources related to the completion of Authorized Improvements. The Board is further authorized to refer property owners to suppliers, service providers, contractors, lenders, and the providers of other resources related to the completion of Authorized Improvements and the administration of District activities.

Pursuant to the Act, the Board shall adopt written rules prescribing competitive bidding procedures for the District and for Authorized Improvements undertaken by the District on behalf of property owners, which competitive bidding procedures may differ from competitive bidding procedures applicable to the City or the procedures in Chapter 735 of the Ohio Revised Code and may specify conditions under which competitive bidding is not required. Except as specified in the Act and in this Plan, the District Documents shall not be construed to eliminate or alter the competitive bidding procedures applicable to the City as a participating political subdivision.

- (E) Financing. The Board is hereby authorized to finance Authorized Improvements through the use or issuance of Program Obligations. The Board may hire such legal and financial professionals as may be required to successfully finance Authorized Improvements through the use or issuance of Program Obligations.

IV. Services Plan

The Board is hereby authorized to provide ongoing services to the District, its property, and the property owners. All services provided under this Plan shall be deemed to be services provided in furtherance of Authorized Improvements provided under this Plan. Such services, without limitation, may include the following:

- (A) Program Design. The Board is hereby authorized to design comprehensive services to establish and maintain the Program's legal and programmatic framework.
- (B) Program Administration. The Board is hereby authorized to educate the public on the Program and its purposes, market the program to the public, process applications, verify aspects of the Authorized Improvements, assure the Program's overall quality and the quality of Authorized Improvements, serve customers, and assist property owners in the origination and closing processes.
- (C) Marketing. The Board is hereby authorized to market the Program and promote the District's image through means such as developing literature and brochures, conducting public relations, collecting data, managing information, cooperating with members, creating electronic and print marketing materials, and holding special events.

- (D) Authorized Improvement Implementation. The Board is hereby authorized to cooperate with property owners for the implementation of Authorized Improvements, including cooperating with property owners for the addition of property to the District and the approval of petitions and Plan Supplements by participating political subdivisions and the Board.
- (E) Tracking and Administration of Program Obligations. The Board is hereby authorized to create, administer, amend, and abolish procedures for the tracking and administration of Program Obligations issued or used to finance Authorized Improvements. Without limitation, the administration of special assessments may include reporting delinquent special assessments, following-up with delinquent property owners, and coordinating with delinquent property owners. The Board may hire such professionals as may be required to successfully track and administer Program Obligations.
- (F) Administering Special Assessments. The Board is hereby authorized to create, administer, amend, and abolish procedures for the administration of special assessments levied pursuant to the District Documents. Without limitation, the administration of special assessments may include calculating the amount of special assessments, preparing certifications of special assessments for the county auditor, billing the special assessments, and considering property owners' claims regarding the calculation or billing of special assessments. The Board may hire such professionals as may be required to successfully administer special assessments.
- (G) Budgeting. The Board shall provide for the production of an annual report describing the District's budget, services delivered, revenues received, expenditures made, and other information about the District's activities. The annual report shall be made available to the Board and to the District's members. The Board may hire such professionals as may be required to successfully account for all District finances.
- (H) Auditing. The Board is hereby authorized to provide for an audit of the District in such manner as the Board deems appropriate. The Board may hire such professionals as may be required to successfully audit the District.
- (I) Other Services. The Board is hereby authorized to provide any other services authorized by the Act.

V. Fees

Program Costs. The Board is hereby authorized to charge to property owners, as costs of administering the Program, any costs permitted by the Act. Such costs may include, without limitation, the following:

- (A) The cost of creating and operating the District, including creating and operating City of Cincinnati, Energy Special Improvement District, Inc., hiring employees and professional services, contracting for insurance, and purchasing or leasing office space or office equipment;
- (B) The cost of planning, designing, and implementing Authorized Improvements or services under this Plan, including payment of architectural, engineering, legal, appraisal, insurance, consulting, energy auditing, and planning fees and expenses, and, for services under this Plan, the management, protection, and maintenance costs of public or private facilities;
- (C) Any court costs incurred by the District in implementing this Plan or any Plan Supplements;
- (D) Any damages resulting from implementing the public improvements or public services plan;
- (E) The costs of issuing, monitoring, paying interest on, and redeeming or refunding Program Obligations issued or used to finance Authorized Improvements or services under this Plan; and
- (F) The costs associated with the sale, lease, lease with an option to purchase, conveyance of other interests in, or other contracts for the acquisition, construction, maintenance, repair, furnishing, equipping, operation, or improvement of the District's territory, or between the District and any owner of property in the District on which an Authorized Improvement has been acquired, installed, equipped, or improved.

Pursuant to the Act, such Program costs may be included in the special assessments levied on real property within the District.

Application Fee. The Board is hereby authorized to set and charge an application fee for Program services provided by the District. The application fee may be non-refundable. The application fee may be credited to the cost of Authorized Improvements if the application is approved and an Authorized Improvement is made to the property for which application was made.

VI. Energy Efficiency and Renewable Energy Regulations and Requirements

Energy Efficiency Reporting Requirements. Ohio Revised Code Section 1710.061 requires the Board to submit a quarterly report to each electric distribution utility ("EDU") with a District Authorized Improvement within the EDU's certified territory. The quarterly report submitted to the EDU must include the total number and a description of each new and ongoing District Authorized Improvement that produces energy efficiency savings or reduction in demand and other additional information that the EDU needs to obtain credit under Ohio Revised Code

Section 4928.66 for energy efficiency savings or reduction in demand from such projects. The Board is hereby authorized to submit quarterly reports due required under Ohio Revised Code Section 1710.061. Property owners shall comply with Board requirements for information gathering and reporting to ensure Board compliance with Ohio Revised Code Section 1710.061.

Energy Efficiency Credits. The Board is hereby authorized to adopt rules governing energy efficiency credits associated with Authorized Improvements financed with Program Obligations or the proceeds of Program Obligations. Property owners shall comply with Board requirements in furtherance of energy efficiency credit programs.

Renewable Energy Credits. The Board is hereby authorized to adopt rules governing renewable energy credits associated with Authorized Improvements financed with Program Obligations or the proceeds of Program Obligations. Property owners shall comply with Board requirements in furtherance of renewable energy credit programs.

Monetizing Other Energy Efficiency or Renewable Energy Attributes. The Board is hereby authorized to adopt rules governing the monetization of any energy efficiency or renewable energy attributes of any Authorized Improvements financed with Program Obligations or the proceeds of Program Obligations. Property owners shall comply with Board requirements in furtherance of the monetization of such attributes.

VII. Statutory Requirements

As provided in the District Documents:

- (A) Additional territory may be added to the District in accordance with the Act and the rules established by the Board pursuant to Part III of this Plan.
- (B) The District Documents may be amended or supplemented in accordance with their terms.
- (C) As described in this Plan, the Board is authorized to implement and amend this Plan, any Supplemental Plan, and any other plans for Authorized Improvements, public improvements, and public services, all in accordance with the Act.
- (D) The public improvements to be provided by the District are the Authorized Improvements identified in each petition and Plan Supplement. The area where the Authorized Improvements will be undertaken will be the area identified in each petition requesting formation of the District or requesting addition of real property to the District. The method of assessment shall be in proportion to the special benefits received by each property owner within the District as a result of Authorized Improvements.

- (E) For the purpose of levying an assessment, the Board may combine levies for Authorized Improvements and public services into one special assessment to be levied against each specially benefited property in the District.

VIII. Changes in State and Federal Law

The ability to issue or use Program Obligations to finance Authorized Improvements is subject to a variety of state and federal laws. If these laws change after property owners have applied to the District for financing, the District may be unable to fulfill its obligations under this Plan. The District shall not be obligated to implement any provision of this Plan which is contrary to state or federal law. The District shall not be liable for any inability to finance Authorized Improvements as a result of state and federal law or any changes in state and federal law which reduce or eliminate the effectiveness of financing Authorized Improvements through the District's Program.

IX. Releases and Indemnification

The District has been created with the approval of the City of Cincinnati, Ohio, as a participating political subdivision, for the purposes of implementing this Plan and administering the Program. The District and any participating political subdivision shall be neither responsible nor liable for the installation, operation, financing, refinancing, or maintenance of Authorized Improvements. Property owners will be solely responsible for the installation, operation, financing, refinancing, and maintenance of the Authorized Improvements. Participation in the Program does not in any way obligate the District or any participating political subdivision to ensure the viability of Authorized Improvements. Owners of assessed real property must pay the special assessments regardless of whether the Authorized Improvements are properly installed or operate as expected.

By agreeing to and executing this Plan, each owner of real property included in the District (other than any political subdivision that owns real property included in the District) agrees to release, defend, indemnify, and hold harmless the District and the participating political subdivisions, including their directors, officers, members, agents, independent contractors, and employees, from and against any claims, actions, demands, costs, damages or lawsuits, arising out of or connected with participation in the Program. Any political subdivision that owns real property included in the District agrees to release and hold harmless the District and the participating political subdivisions, including their directors, officers, members, agents, independent contractors, and employees, from and against any claims, actions, demands, costs, damages or lawsuits, arising out of or connected with the political subdivision's participation in the Program in its capacity as a property owner.

X. Changes in the Program Terms; Severability

Participation in the Program is subject to the District Document terms and conditions in effect from time to time during participation. The District reserves the right to change this Plan and the

terms and conditions of the District Documents at any time without notice. No such change will affect a property owner's obligation to pay special assessments as set forth in the District Documents.

If any provision of the District Documents is determined to be unlawful, void, or for any reason unenforceable, that provision shall be severed from these District Documents and shall not affect the validity and enforceability of any remaining provisions.

XI. Disclosure of Property Owner Information

The District and any participating political subdivision may disclose information of the District to any agent of the District or to third parties when such disclosure is essential either to the conduct of the District's business or to provide services to property owners, including but not limited to where such disclosure is necessary to (i) comply with the law (ii) enable the District and participating political subdivisions and their agents to provide services or otherwise perform their duties, and (iii) obtain and provide credit reporting information. In order to receive funding for the Program and to enable communication regarding the State of Ohio's energy programs, property owners' names and contact information may be disclosed to their current electric utilities. Property owners' names, contact information, and utility usage data further may be disclosed to the District and its agents for the purpose of conducting surveys and evaluating the Program. The District shall not disclose personal information to third parties for telemarketing, e-mail, or direct mail solicitation unless required to by law or court order.

Each owner of real property located within the District acknowledges that the District is subject to Ohio public records laws, including Ohio Revised Code Section 149.43 *et seq.* Each property owner that executes this Plan agrees to the disclosure of certain property owner information as stated in this Part.

BY EXECUTING THIS PLAN, THE PROPERTY OWNER IDENTIFIED BELOW HEREBY AUTHORIZES AND CONSENTS TO THIS PLAN AND AGREES TO PERFORM THE OBLIGATIONS OF THE PROPERTY OWNER CONTAINED IN THIS PLAN.

Date: July 23, 2014

Property Owner:
PORT OF GREATER CINCINNATI DEVELOPMENT AUTHORITY

Authorized Signatory



Laura Brunner, as
President and Chief Executive Officer

Address for notices to Property Owner: Port of Greater Cincinnati Development Authority
299 East Sixth Street, Suite 2A
Cincinnati, Ohio 45202

Description of Real Property Subject to this Plan:

The real property subject to this Plan is located at the commonly used mailing address 1682 Seymour Avenue, Cincinnati, Ohio 45237. The front footage of the real property subject to this Plan is 233.00 feet, and its area is 0.418 acres. The Hamilton County Auditor Parcel ID for the real property subject to this Plan is 117-0007-0064-00. The following is the legal description for the real property subject to this Plan:

Parcel One

Situated in the City of Cincinnati, County of Hamilton, State of Ohio in Section 6, Township 3, Fractional Range 2, Millcreek Township and being Lot #1 of Shonae Subdivision, Block A, as recorded in Plat Book 105, Page 44, Hamilton County, Ohio Recorder's records.

Parcel Two

[Property Owner Consent to Plan]

The following described real estate situated in Section 6, Town 3, Fractional Range 2, Miami Purchase, in the City of Cincinnati, Hamilton County, Ohio, being part of Lot 2, Part 1, Block "B", Shonae Subdivision as recorded in Plat Book 120, Pages 49 and 50 of the Hamilton County, Ohio records.

Beginning in the Northwest corner of Block "A", Shonae Subdivision as recorded in Plat Book 105, Page 44 of the Hamilton County, Ohio Recorder's office;

Thence North 1 deg. 15' East, a distance of 21.75 feet; thence South 88 deg. 45' East, a distance of 146.46 feet to the Westerly line of Shona Drive; thence Southwardly along the Westerly line of Shona Drive on a curved line deflecting to the right with a radius of 220 feet a distance of 23.16 feet, chord of said curve bears South 21 deg. 16' 35" West, a distance of 23.14 feet to the Northeast corner of said Block "A", Shonae Subdivision, thence North 68 deg. 45' West, a distance of 138.53 feet to the place of beginning.

These parcels are not to be conveyed separately without prior approval of the governmental authority having jurisdiction.

[Property Owner Consent to Plan]

March 20, 2023

To: Members of the Budget and Finance Committee 202300889

From: Sheryl M. M. Long, City Manager

Subject: **Neighborhood Catalytic Capital Improvement Program
Presentation (NCCIP) Proposed Awards**

Attached is the presentation from DCED that details the proposed project awards.

Neighborhood Catalytic Capital Improvement Program (NCCIP)

Proposed Awards

Strategic Priorities for NCCIP

- Encourage projects in neighborhoods that have received relatively less investment (including private investment)
- Facilitate projects that require a substantial amount of investment relative to the average real estate development in the neighborhood surrounding the project
- Prioritize strategic investment areas based on federal designations utilized by HUD to identify neighborhoods with a high-level of low to moderate income households.

Process Overview and Next Steps

- **Process Overview:**

- Total of \$ 1,994,178 allocated to the program by City Council in October 2022
- DCED Issued Requests for Proposals (RFP) in two program categories: **Early Action** and **Project Implementation**. Details on each category are outlined on later slides
- A Review Committee consisting of five City employees, one representative from Investment in Neighborhoods, and one representative from Homebase reviewed and made recommendations on the proposals
- Applications were evaluated based on 1) neighborhood impact, 2) benefit to strategic investment areas, 3) community support, 4) project scope & budget, 5) private leverage, 6) organization's capacity, and 7) completeness of application

Process Overview and Next Steps

- **Application Summary:**

- DCED received 27 applications totaling \$8,869,240 in funding requests
- The 27 Applications came from projects in 14 neighborhoods.
- 16 applications were for Project Implementation funding requests and 10 were for Early Action funding requests (one incomplete application was unclear).

- **Recommendation Summary:**

- Review Committee is recommending 13 projects totaling \$1,840,200 (7 early action, 6 project implementation). Balance is recommended for Administration's project delivery costs.
- The 13 projects are in 8 neighborhoods (Avondale, Camp Washington, Clifton Heights, East Price Hill, Over-The-Rhine, Spring Grove Village, Walnut Hills, and West End)
- Budget Ordinance to implement proposed recommendations is forthcoming. Anticipated introduction to City Council is March 22, 2023

Early Action Category

- Evaluated based on likelihood proposed uses advance project to next phase in development process or determine economic viability of project vision.
 - Applicant must have site control of proposed project site.
 - \$100,000 maximum dollar request.
- Eligible uses: pre-development and stabilization including, but not limited to, third-party market and feasibility studies, environmental assessments, design and engineering studies, preliminary construction cost verifications, and site and security capital improvements.
- Ineligible uses: staff salaries, fundraising activities, property holding costs, and other similar activities, costs incurred prior to an agreement with the City.

Imperial Theatre Pre-Development



278-280 W McMicken Ave

Early Action - \$100,000

- Imperial 280 LLC and Imperial Theatre Mohawk Alliance
- OTR-West End NRSA (Over-the-Rhine)
- Pre-development hard and soft costs
- Stabilization, design, security, rough plumbing, interior alterations

3509 Warsaw Ave. Pre-Development



3509 Warsaw Ave

Early Action - \$100,000

- Price Hill Will
- Price Hill NRSA (East Price Hill)
- Stabilizing active leaks, assessing and patching roof
- Conducting Phase I/II environmental assessments
- Structural engineering assessment and appraisal, conceptual architectural plans
- Determining eligibility/feasibility for National Register of Historic Places

ROMAC+Katalyst at The Regal Project Pre-Development

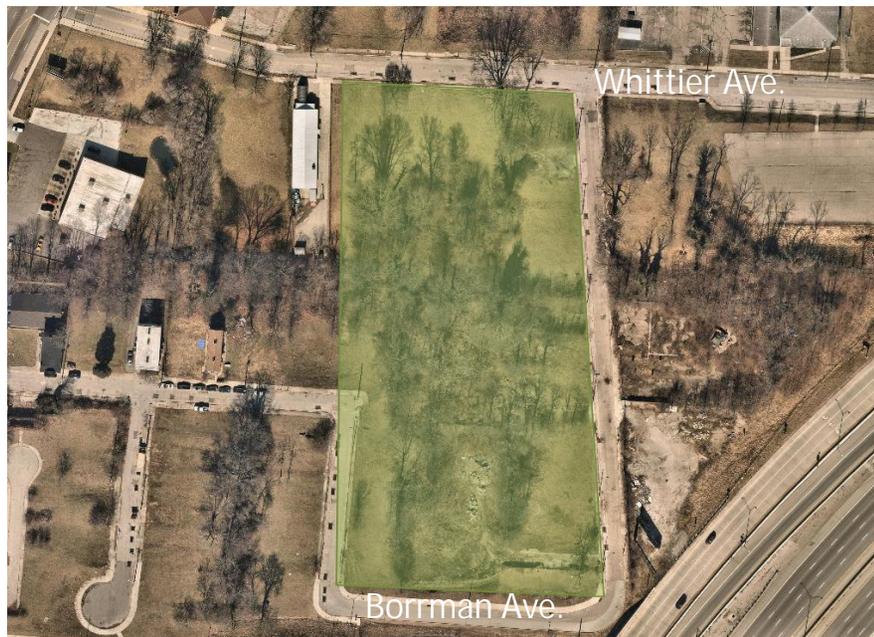


1201 Linn St

Early Action – \$100,000

- Robert O’Neal Multicultural Arts Center
- OTR-West End NRSA (West End)
- Architectural & engineering services for building renovation

Innovation Greenway Schematic Design of Public Greenspace



The Northeast Quadrant in the MLK and Reading Road Redevelopment Area of the Cincinnati Innovation District

Early Action – \$100,000

- Uptown Consortium Inc.
- Uptown NRSA (Avondale)
- Schematic design for public greenspace
- Will connect with the CROWN bike network and provide passive and programmed open space

First German Reformed Church Pre-Development



1815 Freeman Ave

Early Action – \$100,000

- Seven Hills Neighborhood Houses
- OTR-West End NRSA (West End)
- Rehab, stabilization and architectural drawings for the First German Reformed Church to prepare it for future development

2965 Colerain Avenue Pre-Development

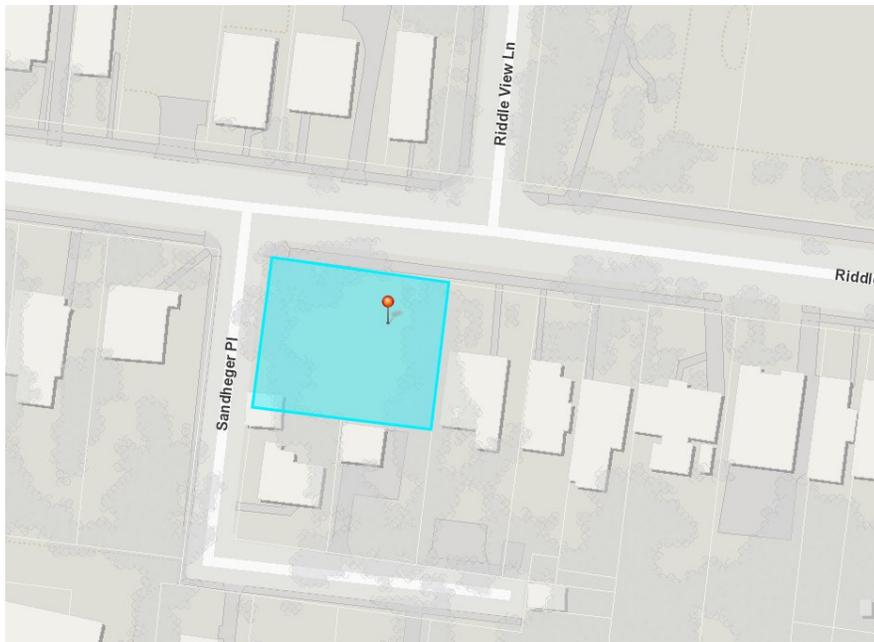


2963 Colerain Ave

Early Action - \$100,000

- Camp Washington Urban Redevelopment Corporation
- Camp Washington NRSA
- Funds for architectural drawings, first floor demo, and stabilization

495 Riddle/496 Sandheger Pre-Development



495 Riddle Rd/496 Sandheger Pl

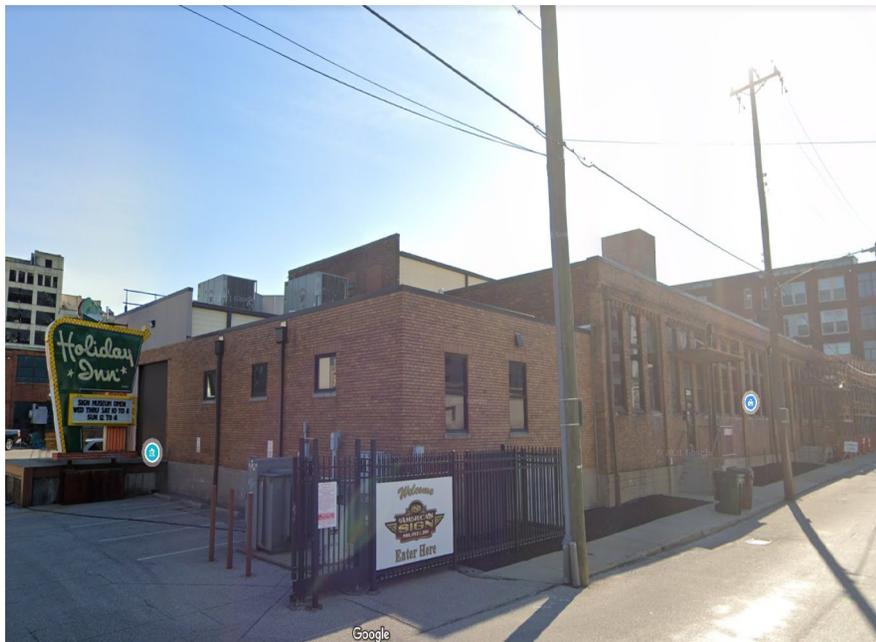
Early Action - \$100,000

- Clifton Heights CURC
- Uptown NRSA (CUF)
- New construction soft costs
- Design, survey, MEP and structural engineers, lead consultant, community engagement, interior design, site visits

Project Implementation Category

- Evaluated based on project's ability to significantly impact efforts to stabilize and revitalize neighborhoods. Projects that demonstrate construction can commence in the 18 months following a City contract are priorities.
 - No minimum or maximum dollar request limit; however, it was explained that a total of \$1.9M was available in this program.
 - Eligible uses: hard or soft costs associated with construction activities.
- Awardees permitted to use City's funding commitment to secure additional loans, grants, tax credits, and solicit other forms of investment. It was explained that City funds will only be disbursed with an executed funding agreement and when all financing and due diligence materials have been secured.

Phase II of American Sign Museum Expansion - Food Service Equipment



1330 Monmouth Ave

Project Implementation - \$100,000

- American Sign Museum
- Camp Washington NRSA
- Food Service Equipment

1726 Linn St. Redevelopment (West End Sports Bar & Grill)



1726 Linn St

Project Implementation – \$320,000

- West End Sports Bar & Grill
- OTR-West End NRSA (West End)
- Redevelopment for bar/dine-in restaurant end use

Artworks Creative Campus Redevelopment



2429 Gilbert Ave

Project Implementation - \$150,000

- Artworks
- Evanston-Walnut Hills NRSA (Walnut Hills)
- Renovation of Race Refrigeration building in Peebles Corner
- Site will serve as a permanent, centralized location for ArtWorks

New Shelter Renovation (YWCA)



3565 Van Antwerp PI

Project Implementation – \$500,000

- YWCA
- Uptown NRSA (Avondale)
- Renovation of a new shelter for survivors of domestic violence
- Project includes office spaces for case managers and staff and 21 residential units (private and semi-private living spaces)

The Volkshaus Renovation



123 McMicken Ave

Project Implementation - \$50,000

- OTR A.D.O.P.T
- OTR-West End NRSA (OTR)
- End uses include co-working space, community center and office space for Action Tank

Lessons Learned

- **Market Demand:**

- Early action proposals where the City would provide funding to pre-development costs like architecture, engineering and other professional studies received higher than expected demand. Several projects that initially requested construction financing instead sought predevelopment assistance to further advance their predevelopment work.
- Many strategic investment areas of the City did not have an application submitted from the neighborhood for assistance in this round. Should additional funding be made available for future rounds, DCED can work with stakeholders in those neighborhoods to encourage applications. Regular funding cycles like the Neighborhood Business District Improvement Program (NBDIP) allow community development groups to create a project pipeline to prepare for an annual and predictable application process.

Questions?