



City of Cincinnati

801 Plum Street
Cincinnati, Ohio 45202

CALENDAR

Cincinnati City Council

Wednesday, April 26, 2023

2:00 PM

Council Chambers, Room 300

ROLL CALL

PRAYER AND PLEDGE OF ALLEGIANCE

FILING OF THE JOURNAL

MAYOR AFTAB

Citizen Complaint Authority

1. [202301220](#) **APPOINTMENT**, submitted by Mayor Aftab Pureval, I hereby appoint Ryan Hall to the Citizen Complaint Authority for a term of two years. This appointment is submitted to City Council for its advice & consent pursuant to its Rules. (Male/White)

Recommendation CONFIRM

Sponsors: Mayor

Cincinnati Board of Park Commissioners

2. [202301229](#) **APPOINTMENT**, submitted by Mayor Aftab Pureval, I hereby appoint Phyllis McCallum to the Cincinnati Board of Park Commissioners for a term of six years. This appointment is submitted to City Council for its advice & consent pursuant to its Rules. (Female/African American)

Recommendation CONFIRM

Sponsors: Mayor

3. [202301231](#) **APPOINTMENT**, submitted by Mayor Aftab Pureval, I hereby appoint Kick Lee to the Cincinnati Board of Park Commissioners for a term of six years. This appointment is submitted to City Council for its advice & consent pursuant to its Rules. (Male/African American)

Recommendation CONFIRM

Sponsors: Mayor

MR. JEFFREYS

4. [202301262](#) **MOTION**, submitted by Councilmember Jeffreys, **WE MOVE** that the Administration report within thirty (30) days on the status of the updates the City is making to its hillside regulations. This update should include, but is not limited to, an update on: Funding sources to cover construction mishaps associated with construction within the hillside district. Regulations associated with stormwater runoff. Work that is being done to update CAGIS' Hillside

Overlay District Map.

Recommendation

CLIMATE, ENVIRONMENT & INFRASTRUCTURE COMMITTEE

Sponsors:

Jeffreys

MR. JEFFREYS

MR. CRAMERDING

5. [202301269](#) **MOTION**, submitted by Councilmembers Jeffreys and Cramerding, **WE MOVE**, that the Administration report back to Council within ninety (90) days on the cost and feasibility of design alternatives that prevent drivers from using a shared, bi-directional, center turn lane as a passing lane. Specifically, the Administration should take into consideration improvements that include, but are not limited to, implementing rumble strips in the center turn lane, using reflective pylons or concrete to create “islands” in portions of the turn lane, or paving the center turn lane with alternative materials like cobble stone. (STATEMENT ATTACHED)

Recommendation

CLIMATE, ENVIRONMENT & INFRASTRUCTURE COMMITTEE

Sponsors:

Jeffreys and Cramerding

MS. OWENS

6. [202301276](#) **MOTION**, submitted by Councilmember Owens, **WE MOVE** that the Administration, in coordination with Motion #2022-00108, provide a strategic report within forty-five days on how City services, facilities, and resources can incorporate nonpartisan voter engagement, registration and identification assistance, and voting law education. The report should, at a minimum, identify which City departments are appropriate for providing such services and outline how each department can use its specific footprint and ongoing interaction with the public to do such voter-engagement work. (BALANCE ON FILE IN THE CLERK’S OFFICE) (STATEMENT ATTACHED)

Recommendation HEALTHY NEIGHBORHOODS COMMITTEE

Sponsors:

Owens

7. [202301277](#) **MOTION**, submitted by Councilmember Owens, **WE MOVE** for the City Administration to submit an application to the Federal Highway Administration and / or Ohio Department of Transportation to have the City of Cincinnati formalized as a participating agency. (STATEMENT ATTACHED)

Recommendation CLIMATE, ENVIRONMENT & INFRASTRUCTURE COMMITTEE

Sponsors:

Owens

CITY MANAGER

8. [202301232](#) **REPORT**, dated 4/26/2023, submitted by Sheryl M. M. Long, City Manager, regarding Special Event Permit Application for Rhinehaus 10 Year Anniversary Block Party.

Recommendation FILE

Sponsors: City Manager

9. [202301234](#) **REPORT**, dated 4/26/2023, submitted by Sheryl M. M. Long, City Manager, regarding Special Event Permit Application for Juneteenth Block Party 2023.

Recommendation FILE

Sponsors: City Manager

10. [202301235](#) **ORDINANCE (EMERGENCY)** submitted by Sheryl M. M. Long, City Manager, on 4/26/2023, **APPROVING AND AUTHORIZING** the City Manager to execute a *Community Reinvestment Area Tax Exemption Agreement* with MCA Center, LLC, an affiliate of Model Group, Inc., thereby authorizing a fifteen-year tax exemption for 100% of the value of improvements made to real property located at 414 Walnut Street and 115 Fifth Street in the Central Business District of Cincinnati, in connection with the remodeling of two existing buildings into mixed-use space containing, in aggregate, approximately 47,103 square feet of commercial space, approximately 27,826 square feet of office space, and approximately 124,302 square feet of residential space, consisting of approximately 156 residential units, at a total construction cost of approximately \$52,700,523.

Recommendation BUDGET AND FINANCE COMMITTEE

Sponsors: City Manager

11. [202301237](#) **ORDINANCE** submitted by Sheryl M. M. Long, City Manager, on 4/26/2023, **AUTHORIZING** the City Manager to apply for, accept, and appropriate grant resources in an amount up to \$200,000 from the U.S. Department of Justice, Office of Community Oriented Policing Services, FY23 Law Enforcement Mental Health and Wellness Act Grant Program (ALN 16.710) for the purpose of providing assistance with expansion of the Cincinnati Police Department's current law enforcement mental health and wellness efforts; and **AUTHORIZING** the Director of Finance to deposit the grant funds into Law Enforcement Grant Fund 368, Project Account no. 23LEMH.

Recommendation BUDGET AND FINANCE COMMITTEE

Sponsors: City Manager

12. [202301238](#) **ORDINANCE (EMERGENCY)** submitted by Sheryl M. M. Long, City Manager, on 4/26/2023, **AUTHORIZING** the City Manager to accept an in-kind donation of sixty new lift assistance belts from the Cincinnati Fire Foundation valued at \$17,940 to be used by the Cincinnati Fire Department in fire apparatus.

Recommendation BUDGET AND FINANCE COMMITTEE

Sponsors: City Manager

13. [202301239](#) **ORDINANCE** submitted by Sheryl M. M. Long, City Manager, on 4/26/2023, **AUTHORIZING** the City Manager to accept and appropriate a donation in the amount of \$2,000 from the Cincinnati Recreation Foundation for the purpose of providing resources for the newly established Senior Trip Program; and **AUTHORIZING** the Director of Finance to deposit the donated resources into Contributions for Recreation Purposes Fund 319x8571.

Recommendation BUDGET AND FINANCE COMMITTEE

Sponsors: City Manager

14. [202301240](#) **ORDINANCE (EMERGENCY)** submitted by Sheryl M. M. Long, City Manager, on 4/26/2023, **AUTHORIZING** the City Manager to accept an in-kind donation of new trees and plants from the Cincinnati Zoo and Botanical Garden valued at up to \$25,000 for the purpose of beautification of green space at the Forest and Irving Recreation Area.

Recommendation BUDGET AND FINANCE COMMITTEE

Sponsors: City Manager

15. [202301242](#) **ORDINANCE (EMERGENCY)** submitted by Sheryl M. M. Long, City Manager, on 4/26/2023, **AMENDING** Ordinance No. 234-2010 to accept and confirm the dedication to public use for street purposes of a portion of John Street in the Lincoln Court North Subdivision in the West End neighborhood in accordance with the plat entitled "Lincoln Court North Plat of Subdivision," as recorded in Plat Book 392, Pages 58 through 65, Hamilton County, Ohio Records.

Recommendation HEALTHY NEIGHBORHOODS COMMITTEE

Sponsors: City Manager

16. [202301243](#) **ORDINANCE (EMERGENCY)** submitted by Sheryl M. M. Long, City Manager, on 4/26/2023, **AMENDING** Ordinance 07-2021 to depict the actual artwork to be donated to the City in Exhibit A to the ordinance.

Recommendation EQUITABLE GROWTH AND HOUSING COMMITTEE

Sponsors: City Manager

17. [202301244](#) **ORDINANCE (EMERGENCY)** submitted by Sheryl M. M. Long, City Manager, on 4/26/2023, **ESTABLISHING** new capital improvement program project account no. 980x104x231042, "Recreation LED Lighting Improvements," for the purpose of providing resources for LED lighting installations in City of Cincinnati recreation centers; **AUTHORIZING** the transfer and appropriation of \$27,649.73 from the unappropriated surplus of Revolving Energy Loan Fund 883 to newly established capital improvement program project account no. 980x104x231042, "Recreation LED Lighting Improvements," and **AUTHORIZING** a payment of \$27,649.73 from capital improvement program project account no. 980x104x0000x7685x231042, "Recreation LED Lighting Improvements," to Diversified Supply, Inc. as a moral obligation of the City of Cincinnati for professional services completed for the Recreation LED Lighting Improvements project.

Recommendation BUDGET AND FINANCE COMMITTEE

Sponsors: City Manager

18. [202301246](#) **ORDINANCE (EMERGENCY)** submitted by Sheryl M. M. Long, City Manager, on 4/26/2023, **APPROVING AND AUTHORIZING** the City Manager to execute a *Community Reinvestment Area Tax Exemption Agreement (LEED or Living Building Challenge)* with Findlay Parkside, LLC, an affiliate of The Model Group, Inc., thereby authorizing a fifteen-year tax exemption for 100 percent of the value of improvements made to real property located at 1804 Vine Street, 31 E. McMicken Avenue, 1812-1816 Vine Street, 1822 Vine Street, 29 E. McMicken Avenue, 118 Findlay Street, 1720 Elm Street, and 116 W. Elder Street in the Over-the-Rhine neighborhood of Cincinnati, in connection with the

remodeling of existing buildings into a mixed-use development consisting of, in aggregate, approximately 16,456 square feet of commercial space and approximately 31,403 square feet of residential space, comprised of approximately 51 residential rental units, which remodeling shall be completed in compliance with Leadership in Energy and Environmental Design Silver, Gold or Platinum standards or Living Building Challenge standards, at a total remodeling cost of approximately \$15,710,420.

Recommendation BUDGET AND FINANCE COMMITTEE

Sponsors: City Manager

19. [202301247](#) **RESOLUTION (LEGISLATIVE) (EMERGENCY)** submitted by Sheryl M. M. Long, City Manager, on 4/26/2023, **AUTHORIZING** tax levies for the calendar year beginning January 1, 2024, certifying them to the Hamilton County Auditor pursuant to O.R.C. § 5705.34, and requesting the County Auditor and County Treasurer to pay monies that may be in the County Treasury and are lawfully applicable to the purpose of this calendar year to the City Treasurer pursuant to O.R.C. § 321.34.

Recommendation BUDGET AND FINANCE COMMITTEE

Sponsors: City Manager

CLERK OF COUNCIL

20. [202301248](#) **REGISTRATION**, submitted by the Clerk of Council from Legislative Agent Annalese Cahill, Government Affairs, Government Relations Associate, 225 E 5TH Street, Suite 1900, Cincinnati, Ohio 45202. (CINCY SMILES FOUNDATION)

Recommendation FILE

Sponsors: Clerk of Council

21. [202301249](#) **REGISTRATION**, submitted by the Clerk of Council from Legislative Agent Matt Davis, Government Affairs, President, 225 E 5TH Street, Suite 1900, Cincinnati, Ohio 45202. (CINCY SMILES FOUNDATION)

Recommendation FILE

Sponsors: Clerk of Council

22. [202301250](#) **REGISTRATION**, submitted by the Clerk of Council from Legislative Agent Colleen Reynolds, Government Affairs, Partner, 225 E 5TH Street, Suite 1900, Cincinnati, Ohio 45202. (CINCY SMILES FOUNDATION)

Recommendation FILE

Sponsors: Clerk of Council

23. [202301254](#) **STATEMENT**, submitted by the Clerk of Council formally filing a copy of the Financial Disclosure Statement for Jan-Michele Lemon Kearney/City Council/Vice Mayor. (CITY)

Recommendation FILE

Sponsors: Clerk of Council

24. [202301255](#) **REGISTRATION**, submitted by the Clerk of Council from Legislative Agent John Cranley, Keating, Muething and Klekamp, Lawyer, 1 East 4th Street, Suite 1400, Cincinnati, Ohio 45202. (FISCHER HOMES)

Recommendation FILE

Sponsors: Clerk of Council

25. [202301283](#) **STATEMENT**, submitted by the Clerk of Council formally filing a copy of the Financial Disclosure Statement for Mark Jeffreys/City Councilmember. (ETHICS)

Recommendation FILE

Sponsors: Clerk of Council

BUDGET AND FINANCE COMMITTEE

26. [202301180](#) **ORDINANCE** submitted by Sheryl M. M. Long, City Manager, on 4/19/2023, **AUTHORIZING** the City Manager to accept and appropriate a donation totaling \$600,000 from the Cincinnati Park Board Commissioners' Fund for the purpose of providing resources for horticultural supplies, maintenance contracts, salary reimbursements, Krohn Conservatory's gift shop inventory, and other vital costs associated with running the City's parks; and **AUTHORIZING** the Finance Director to deposit the funds into Parks Private Endowment and Donations Fund 430.

Recommendation PASS

Sponsors: City Manager

27. [202301181](#) **ORDINANCE (EMERGENCY)** submitted by Sheryl M. M. Long, City Manager, on 4/19/2023, **AUTHORIZING** the City Manager to accept additional franchise fee resources of \$175,000 from Duke Energy, Inc. ("Duke") to provide resources for the WarmUp Cincy program; **AUTHORIZING** the Director of Finance to deposit the additional Duke franchise fee resources into General Fund revenue account no. 050x8221; and **AUTHORIZING** the transfer and appropriation of \$175,000 from the unappropriated surplus of the General Fund to the Office of Environment and Sustainability non-personnel operating budget account no. 050x104x7400 to provide resources for the WarmUp Cincy program.

Recommendation PASS EMERGENCY

Sponsors: City Manager

28. [202301183](#) **REPORT**, dated 4/19/2023, submitted Sheryl M. M. Long, City Manager, regarding Department of Finance Reports for the Month Ended February 28, 2023.

Recommendation APPROVE & FILE

Sponsors: City Manager

29. [202301192](#) **ORDINANCE (EMERGENCY)** submitted by Sheryl M. M. Long, City Manager, on 4/17/2023, **AUTHORIZING** the transfer and appropriation of the sum of \$2,295,000 from the unappropriated surplus of Downtown/OTR West Equivalent Fund 482 to the Department of Community and Economic Development non-personnel operating budget account 482x162x7200 for the purpose of providing resources to assist with the redevelopment of ten historic buildings located at 1804, 1810, 1812, 1814, 1816, and 1822 Vine Street, 29 E McMicken Avenue, 118 Findlay Street, 1720 Elm Street, and 114-116 W Elder Street in the Over-the-Rhine ("OTR") neighborhood into a mixed use development; and **DECLARING** that expenditures to assist with redevelopment

of ten historic buildings in the OTR neighborhood into a mixed use development serves a public purpose because the project will provide affordable housing in the community. (Subject to the [Temporary Prohibition List <https://www.cincinnati-oh.gov/law/ethics/city-business>](https://www.cincinnati-oh.gov/law/ethics/city-business))

Recommendation PASS EMERGENCY

Sponsors: City Manager

SUPPLEMENTAL ITEMS

CLIMATE, ENVIRONMENT & INFRASTRUCTURE COMMITTEE

30. [202301204](#) **MOTION**, submitted by Councilmembers Owens and Cramerding, **WE MOVE** that the City Administration identify in all submitted ordinances whether the change made or the action achieved by the ordinance will achieve a goal or priority action of the 2023 Green Cincinnati Plan. The identification should be written out in the whereas clauses of the ordinance, similar to the whereas clauses that identify which goals and strategies of Plan Cincinnati (2012) are achieved by the ordinance.

Recommendation ADOPT

Sponsors: Owens and Cramerding

31. [202301236](#) **ORDINANCE** (B VERSION) submitted by Sheryl M. M. Long, City Manager, on 4/25/2023, **MODIFYING** the provisions of Chapter 321, "Procurement and Disposal of Supplies, Services and Construction," of the Cincinnati Municipal Code by **ORDAINING** new Section 321-163, "Invalid Terms and Conditions."

Recommendation

PASS

Sponsors: City Manager

ANNOUNCEMENTS

Adjournment



AFTAB PUREVAL

City of Cincinnati, Office of the Mayor

April 2023

APPOINTMENT

I hereby appoint Ryan Hall to the Citizen Complaint Authority for a term of two years. This appointment is submitted to City Council for its advice & consent pursuant to its Rules.



Mayor Aftab Pureval

RYAN HALL

Homelessness Advocate

Cincinnati, OH

With a decade of experience, I work with communities to assure that homelessness is rare, brief and non-recurring.

TECHNICAL SKILLS

Homeless Systems Data	
Presentation / Powerpoint	
HUD / YHDP Application and Regulations	
Continous Quality Improvement	
Audio-Visual Communciation	

LEADERSHIP SKILLS

Facilitator | Data Analyst | Advocate

Strategist | Visualizer | Storyteller

CERTIFICATIONS & AWARDS

Licensed Independent Social Worker OH, 2020
Ohio Counselor and Social Worker Board

Licensed Clinical Social Worker KY, 2021
Kentucky Board of Social Work

LYFS Core Values Award OH, 2015
Lighthouse Youth and Family Services

CONFERENCES & PUBLICATIONS

Addressing the Intersection Washington, D.C. 2020
Between Youth Homelessness and Juvenile Justice
Coalition for Juvenile Justice Conference

Alternatives in Service Provision to Sex Workers Columbus, 2016
Ohio National Association of Social Workers

Using Design Thinking in Two - Generation Approach to Poverty Reduction 2015
Design Impact

PROFESSIONAL AFFILIATES

Member, National Association of Social Workers

WORK EXPERIENCE

ICF 2021-Current
Senior Homeless Services Specialist

- Provided direct Technical Assistance and coordinated the planning and implementation of Youth Homelessness Demonstration Projects across three communities totaling six housing projects, five supportive services only projects and three planning grants totalling over six million dollars of Federal Funding.

- Led the effort to provide Continuous Quality Improvement planning and implementation to six communities providing direct Technical Assistance to assist in the monitoring and review of homeless system and project level data.

- Improved data utilization practices in order to optimize youth homelessness services, specifically tracking, modeling and reporting youth homelessness trends in six communities.

- Coordinated with a variety of partners, such as child welfare, juvenile justice, education, mental health and library partners to proactively prevent youth homelessness and promote a "no wrong door" approach to homeless services in each community

CoC Youth Program Manager 2017 - 2021
Strategies to End Homelessness

Youth Outreach Program - Manager 2015 - 2017
Lighthouse Sheakley Center for Youth

University of Cincinnati Internships 2013-2015
*University of Cincinnati Psychiatric Hospital
Greater Cincinnati Behavioral Health*

Peace Corps, Swaziland 2011-2013
Youth Development Volunteer

EDUCATION

Master of Social Work Cincinnati, OH 2013
School of Social Work, University of Cincinnati

Bachelor of Arts in English & Film Studies SLC, UT 2010
University of Utah

REFERENCES

Steve Driehaus, Managing Partner
Good Government Group

Reggie Harris, Director
Community Builders Institute

Kevin Finn
Strategies to End Homelessness



AFTAB PUREVAL
City of Cincinnati, Office of the Mayor

April 2023

APPOINTMENT

I hereby appoint Phyllis McCallum to the Cincinnati Board of Park Commissioners for a term of six years. This appointment is submitted to City Council for its advice & consent pursuant to its Rules.



Mayor Aftab Pureval



AFTAB PUREVAL

City of Cincinnati, Office of the Mayor

April 2023

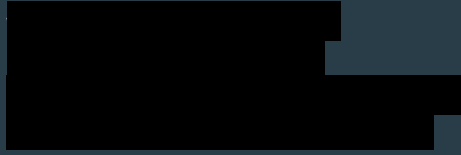
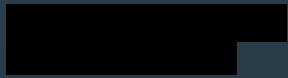
APPOINTMENT

I hereby appoint Kick Lee to the Cincinnati Board of Park Commissioners for a term of six years. This appointment is submitted to City Council for its advice & consent pursuant to its Rules.



Mayor Aftab Pureval

Contact



(Other)

Top Skills

Music Production

Sound

POP

Certifications

Music Production

Honors-Awards

• Horace Sudduth Progressive Business Award
Horace Sudduth Progressive Business Award
Issued by Visit Cincy · Mar 2023

• CSO MAC Award for Diversity and Leadership in the Arts
Issued by Cincinnati Symphony Orchestra · Jul 2022

• Kick Lee | Cincinnati Music Accelerator Day
Feb 2022

• 2020 Ezzard Charles Award
2020 Ezzard Charles Award
Issued by Over-the-Rhine Chamber Commerce · Jan 2020

• Making Black History 2019 Honoree
Making Black History 2019 Honoree
Issued by Cincinnati USA Regional Chamber · Feb 2019

• Cincinnati Buz Award
Cincinnati Buz Award
Issued by Cincinnati USA Regional Chamber · Nov 2019

Kick Lee

Founder | Executive Director at Cincinnati Music Accelerator
Cincinnati, Ohio, United States

Summary

Executive Director, Founder of Cincinnati Music Accelerator. I've worked in the music industry for 18+ yrs. I compose & license music for marketing and advertising for commercial tv and social media with brands such as Kroger, Pantene, Toyota, Winter Olympics 2018, Lexus, LG, Samsung, Disney, Amazon, Gold Star Chili a long with many others.

Experience

Red Bull

Opinion Leader

April 2022 - Present (1 year)

Cincinnati, Ohio, United States

Providing active advice and insight for Red Bull North America

Cincinnati Music Accelerator

6 years

President

April 2017 - Present (6 years)

Cincinnati Area, KY

Founder

April 2017 - Present (6 years)

Cincinnati Area, KY

Cincinnati Music Accelerator (CMA), Ohio's first music career accelerator dedicated to music creatives.

Founded in 2017, Cincinnati Music Accelerator (CMA) serves as an entrepreneurship organization for musicians, recording artists, DJ's, and producers, helping them to develop their unique craft, while simultaneously educating them on how to monetize their talent and create a future with it. Through 8 weekly, two-hour sessions, students learn about the music business and how it functions. They learn about copyrighting, marketing and branding,

business finance, press and other essential topics that are crucial to the success of their musical career.

#endstarvingartists

Art Academy of Cincinnati

Adjunct Professor

January 2021 - Present (2 years 3 months)

Cincinnati, Ohio, United States

Liberal Arts Dept. Adjunct Professor teaching Professionalism within the arts |
Spring Semester 2021

KL Studios, Inc.

8 years 7 months

Chief Executive Officer

September 2014 - Present (8 years 7 months)

Cincinnati, Ohio, United States

Co-Founder/Music Producer

December 2014 - Present (8 years 4 months)

Cincinnati, OH

I am the co-founder, owner, and music producer for KL Studios, Inc., which is a production and recording company in Cincinnati, Ohio. We're currently in the final stages of renovations for our first location. The expected opening date for the studio is October 10th, 2015.

Kick Lee, LLC

Public Speaker

July 2016 - Present (6 years 9 months)

Cincinnati, Ohio, United States

The Street Stage Project

Founder

May 2019 - Present (3 years 11 months)

Cincinnati Area, KY

The Street Stage Project is a busking project that positions musicians around various parts of the OTR/downtown area to provide live music to the community.

Lighthouse Youth Services

Board Member

January 2020 - Present (3 years 3 months)

Cincinnati

The Children's Theatre Of Cincinnati

Board Member

April 2019 - Present (4 years)

4015 Red Bank Rd Cincinnati, OH 45227

Board Member

5PA Music Fest

Founder

October 2017 - Present (5 years 6 months)

Cincinnati Area, KY

5PA Music Festival. A music festival dedicated to the Walnut Hills community. Bringing together the local music community, businesses, and residents within in walnut hills, while also inviting those outside of the Walnut Hills community to come and see what Walnut Hills is really about. Enjoy live music, food and games for kids and various vendors.

Artist Ltd

Music Composer

February 2017 - Present (6 years 2 months)

My job is to provide Artist with musical content for licensing in film for filmmakers.

ASCAP

Registered Music Producer

February 2005 - Present (18 years 2 months)

Cincinnati, OH

- Oversees and manages the recording and production of an artist's music
- Gathers ideas for the project artist projects
- Selecting songs and/or musicians
- Coaching artists/musicians in the studio
- Controls the recording sessions
- Supervises the production process through mixing & mastering

Soundstripe

Music Composer

November 2016 - April 2019 (2 years 6 months)

Greater Nashville Area, TN

My job is to provide Soundstripe with musical content for licensing in tv, film and commercials.

Elementz Youth Arts Center
Music Production Instructor
January 2016 - June 2016 (6 months)

To provide private, semi-private or group Music Production instruction to students. Deliver instruction in composition, arrangement, mixing and to Elementz's proprietary curriculum and specific methodology.

- Deliver instruction in music production using Elementz's proprietary curriculum and Propellor Head's Reason
- Adapt to Music Production students interested in diverse styles (eg: hip hop, edm, pop, rock, house, oldies etc.)
- Coach students for live performances with production hardware
- Provide administrative support, as needed.
- Manage classroom time effectively to balance student needs and attention

KL Designs
Graphic Designer
August 2003 - 2013 (10 years)
Cincinnati, OH

Self-employed graphic design artist.

Education

Full Sail University
Bachelor of Arts (BA), Music Production | Attended Online · (2010 - 2012)

Harmony Community High School
H.S. Diploma, Graphic Design · (2005 - 2007)

Great Oaks Career Campuses
Intermedia/Multimedia · (2004)



20230126

Mark Jeffreys
Councilmember

April 25, 2023

MOTION

Hillside Districts

WE MOVE that, the Administration report within thirty (30) days on the status of the updates the City is making to its hillside regulations. This update should include, but is not limited to, an update on:

- Funding sources to cover construction mishaps associated with construction within the hillside district.
- Regulations associated with stormwater runoff
- Work that is being done to update CAGIS' Hillside Overlay District Map

Councilmember Mark Jeffreys

Cal 4/26 gm

~~CONFIDENTIAL~~



202304269

Mark Jeffreys
Councilmember

April 25, 2023

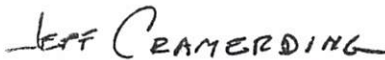
MOTION

Pedestrian Safety and Traffic Calming

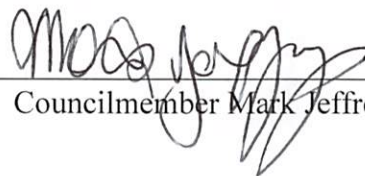
WE MOVE, that the Administration report back to Council within ninety (90) days on the cost and feasibility of design alternatives that prevent drivers from using a shared, bi-directional, center turn lane as a passing lane. Specifically, the Administration should take into consideration improvements that include, but are not limited to, implementing rumble strips in the center turn lane, using reflective pylons or concrete to create “islands” in portions of the turn lane, or paving the center turn lane with alternative materials like cobble stone.

STATEMENT

The Administration has been working to “right-size” many streets throughout Cincinnati as a part of its multi-year effort to calm traffic and make our streets safer for all road users. A typical method used to calm traffic is reducing the number of travel lanes. On streets like Glenway and Montana, this has meant reducing the number of travel lanes from four to three, with one shared, bi-directional, center turn lane. Unfortunately, some road users have used this center turn lane as a passing lane—a dangerous maneuver that puts all road users at risk. This motion hopes to give Council a better understanding of the costs and feasibility of different design choices that can be implemented to prevent certain road users from using the turn lane as a passing lane.



Councilmember Jeff Cramerding



Councilmember Mark Jeffreys

Cal 4/26 gm
PUNOBERON

LABORATORY



202301276

Meeka D. Owens
Cincinnati City Council

April 25, 2023

MOTION

Cincinnati Votes: Civic Education and Voter Registration & Identification Assistance

WE MOVE that the Administration, in coordination with Motion #2022-00108, provide a strategic report within forty-five days on how City services, facilities, and resources can incorporate nonpartisan voter engagement, registration and identification assistance, and voting law education. The report should, at a minimum, identify which City departments are appropriate for providing such services and outline how each department can use its specific footprint and ongoing interaction with the public to do such voter-engagement work. It should also consider the cost and feasibility of incorporating the following strategies:

- Provide resources at neighborhood recreation centers, health centers, police districts, fire stations, and other City facilities, including information on changes in voter identification law and the paperwork for voter registration and vote-by-mail ballot applications. These engagements would be similar to efforts to register voters at the Bureau of Motor Vehicles, Library, or federal agency initiatives as those outlined in *Executive Order 14019, "Promoting Access to Voting" (Attachment A)*.
- Assess how City departments, offices, or programs that interface with residents off-site in the community can similarly provide assistance and education to citizens.
- Partner with SORTA / Metro and other relevant community organizations to arrange free transportation to the BMV to remove barriers to citizens' ability to receive a free photo ID being provided by the State of Ohio.
- Offer multiple trainings, either through the City or through a nonpartisan partner organization, to build capacity among city departments, employees, and partner nonprofit organizations to provide such education and voter ID assistance services, including assisting constituents to complete voter registration and/or vote-by-mail ballot applications.

WE FURTHER MOVE that as part of this strategy, nonprofit organizations receiving funds from the City of Cincinnati who perform direct service to Cincinnati residents be tasked with incorporating similar voter engagement efforts into their work, including informing those they serve about Ohio's registration and new voter identification requirements, and report back to the City about their plans to do so, as well as any current activity in furtherance of that mission.

Councilmember Meeka D. Owens

STATEMENT

The right to vote is the foundation of American democracy, one method by which the American people can share their collective will and shape the course of our country, states, and cities. Yet on April 7th, strict new changes to the state's voter identification law went into place in the State of Ohio, which will impact a majority of urban voters, voters of color, senior voters, and young voters. Citizens are adversely impacted by these changes. As few voters are aware of these changes, they are disenfranchised without their knowledge.

These changes come after additional restrictions which disproportionately impact Ohio's urban communities, 1) including years of voter roll purges, 2) limiting voter drop boxes to one per county, and 3) other new restrictions on opportunities to vote early in person or absentee / by mail. Together, these measures do great damage to populous counties like Hamilton and cities like Cincinnati.

The civic health of our city and region depends on access to the ballot and an individual's ability to participate in civic affairs. And when civic engagement erodes, the strength of a community erodes as well. This also has a direct detrimental impact on the social determinants of health of our residents.

Just as the City has a direct interest in ensuring our population is accurately counted for the ten-year U.S. Census process, so too does Cincinnati have a direct interest in ensuring our constituents are aware of and can overcome these obstacles to their participation in our democracy. Each decade, the City works hard to do its part for the Census process and now too should Cincinnati work hard to do its part in encouraging a healthy democracy. Providing the means to engage and be aware of these changes, as well as the resources to overcome these obstacles, is pivotal to ensuring our citizens' participation in our democracy.

As a government, the City of Cincinnati should work to meet people where they are, in the places where people congregate. City departments and partner organizations that directly serve our citizens in need are positioned to be providers of this type of civic engagement assistance. Assisting their constituents to participate in democracy is a critical part of our broader missions. No institutions are better positioned to assist than the City departments and the agencies we support, many of which serve the very communities disproportionately impacted by these state-imposed changes.

This motion does not seek to circumvent the new state laws, but rather to educate and inform the citizens of Cincinnati about the regulations so they are prepared to continue their participation in our democracy. There are institutions across the country—such as Nonprofit Vote and VoteRiders—which provide training for nonprofits and other public-serving institutions to do this work effectively and in compliance with all legal requirements.

We have an obligation to support the historically disenfranchised citizens of our city. Providing civic engagement and voter registration & identification assistance through City and partner services is one strategy we can employ to ensure that voices who have not historically been engaged by the government can still receive equal opportunity to participate in our democracy.

MARCH 07, 2021

Executive Order on Promoting Access to Voting

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. Purpose. The right to vote is the foundation of American democracy. Free and fair elections that reflect the will of the American people must be protected and defended. But many Americans, especially people of color, confront significant obstacles to exercising that fundamental right. These obstacles include difficulties with voter registration, lack of election information, and barriers to access at polling places. For generations, Black voters and other voters of color have faced discriminatory policies and other obstacles that disproportionately affect their communities. These voters remain more likely to face long lines at the polls and are disproportionately burdened by voter identification laws and limited opportunities to vote by mail. Limited access to language assistance remains a barrier for many voters. People with disabilities continue to face barriers to voting and are denied legally required accommodations in exercising their fundamental rights and the ability to vote privately and independently. Members of our military serving overseas, as well as other American citizens living abroad, also face challenges to exercising their fundamental right to vote.

The Constitution and laws of the United States prohibit racial discrimination and protect the right to vote. The Voting Rights Act of 1965 and other Federal statutes implement those protections and assign the Federal Government a key role in remedying disenfranchisement and unequal access to the polls. In passing the National Voter Registration Act of 1993, the Congress found that it is the duty of Federal, State, and local governments to promote the exercise of the fundamental right to vote. Executive departments and agencies (agencies) should partner with State, local, Tribal, and territorial election officials to protect and promote the exercise of the right to vote, eliminate discrimination and other barriers to voting, and expand access to voter registration and accurate election information. It is our duty to ensure that registering to vote and the act of voting be made simple and easy for all those eligible to do so.

Sec. 2. Policy. It is the policy of my Administration to promote and defend the right to vote for all Americans who are legally entitled to participate in elections. It is the responsibility of the Federal Government to expand access to, and education about, voter registration and election information, and to combat misinformation, in order to enable all eligible Americans to participate in our democracy.

Sec. 3. Expanding Access to Voter Registration and Election Information. Agencies shall consider ways to expand citizens' opportunities to register to vote and to obtain information about, and participate in, the electoral process.

(a) The head of each agency shall evaluate ways in which the agency can, as appropriate and consistent with applicable law, promote voter registration and voter participation. This effort shall include consideration of:

- (i) ways to provide relevant information in the course of activities or services that directly engage with the public — including through agency materials, websites, online forms, social media platforms, and other points of public access — about how to register to vote, how to request a vote-by-mail ballot, and how to cast a ballot in upcoming elections;
- (ii) ways to facilitate seamless transition from agencies' websites directly to State online voter registration systems or appropriate Federal websites, such as Vote.gov;
- (iii) ways to provide access to voter registration services and vote-by-mail ballot applications in the course of activities or services that directly engage with the public, including:
 - (A) distributing voter registration and vote-by-mail ballot application forms, and providing access to applicable State online systems for individuals who can take advantage of those systems;
 - (B) assisting applicants in completing voter registration and vote-by-mail ballot application forms in a manner consistent with all relevant State laws; and
 - (C) soliciting and facilitating approved, nonpartisan third-party organizations and State officials to provide voter registration services on agency premises;
- (iv) ways to promote and expand access to multilingual voter registration and election information, and to promote equal participation in the electoral process for all eligible citizens of all backgrounds; and
- (v) whether, consistent with applicable law, any identity documents issued by the agency to members of the public can be issued in a form that satisfies State voter identification laws.

(b) Within 200 days of the date of this order, the head of each agency shall submit to the Assistant to the President for Domestic Policy a strategic plan outlining the ways identified under this review that the agency can promote voter registration and voter participation.

(c) The Administrator of the Office of Electronic Government, Office of Management and Budget, shall, consistent with applicable law, coordinate efforts across agencies to improve or modernize Federal websites and digital services that provide election and voting information to the American people, including ensuring that Federal websites are accessible to individuals with disabilities and people with limited English proficiency. As appropriate, the Administrator of the United States Digital Service may support agencies in implementing the strategic plans directed in subsection (b) of this section.

Sec. 4. Acceptance of Designation Under the National Voter Registration Act. (a) This order shall supersede section 3 of Executive Order 12926 of September 12, 1994

(Implementation of the National Voter Registration Act of 1993).

(b) Each agency, if requested by a State to be designated as a voter registration agency pursuant to section 7(a)(3)(B)(ii) of the National Voter Registration Act, shall, to the greatest extent practicable and consistent with applicable law, agree to such designation. If an agency declines to consent to such designation, the head of the agency shall submit to the President a written explanation for the decision.

(c) The head of each agency shall evaluate where and how the agency provides services that directly engage with the public and, to the greatest extent practicable, formally notify the States in which the agency provides such services that it would agree to designation as a voter registration agency pursuant to section 7(a)(3)(B)(ii) of the National Voter Registration Act.

Sec. 5. Modernizing Vote.gov. The General Services Administration (GSA) shall take steps to modernize and improve the user experience of Vote.gov. In determining how to do so, GSA shall coordinate with the Election Assistance Commission and other agencies as appropriate, and seek the input of affected stakeholders, including election administrators, civil rights and disability rights advocates, Tribal Nations, and nonprofit groups that study best practices for using technology to promote civic engagement.

(a) GSA's efforts to modernize and improve Vote.gov shall include:

- (i) ensuring that Vote.gov complies, at minimum, with sections 504 and 508 of the Rehabilitation Act of 1973;
- (ii) ensuring that Vote.gov is translated into languages spoken by any of the language groups covered under section 203 of the Voting Rights Act anywhere in the United States; and
- (iii) implementing relevant provisions of the 21st Century Integrated Digital Experience Act (Public Law 115-336).

(b) Within 200 days of the date of this order, GSA shall submit to the Assistant to the President for Domestic Policy a strategic plan outlining the steps to modernize and improve the user experience of Vote.gov.

Sec. 6. Increasing Opportunities for Employees to Vote. It is a priority of my Administration to ensure that the Federal Government, as the Nation's largest employer, serves as a model employer by encouraging and facilitating Federal employees' civic participation. Accordingly, the Director of the Office of Personnel Management shall take the following actions within 200 days of the date of this order:

(a) coordinate with the heads of executive agencies, as defined in 5 U.S.C. 105, to provide recommendations to the President, through the Assistant to the President for Domestic Policy, on strategies to expand the Federal Government's policy of granting employees time off to vote in Federal, State, local, Tribal, and territorial elections. Such recommendations should include efforts to ensure Federal employees have opportunities to participate in early voting.

(b) Coordinate with the heads of executive agencies, as defined in 5 U.S.C. 105, to provide recommendations to the President, through the Assistant to the President for Domestic Policy,

on strategies to better support Federal employees who wish to volunteer to serve as non-partisan poll workers or non-partisan observers, particularly during early or extended voting periods.

Sec. 7. Ensuring Equal Access for Voters with Disabilities. Within 270 days of the date of this order, the National Institute of Standards and Technology (NIST) within the Department of Commerce shall evaluate the steps needed to ensure that the online Federal Voter Registration Form is accessible to people with disabilities. During that period, NIST, in consultation with the Department of Justice, the Election Assistance Commission, and other agencies, as appropriate, shall also analyze barriers to private and independent voting for people with disabilities, including access to voter registration, voting technology, voting by mail, polling locations, and poll worker training. By the end of the 270-day period, NIST shall publish recommendations regarding both the Federal Voter Registration Form and the other barriers it has identified.

Sec. 8. Ensuring Access to Voting for Active Duty Military and Overseas Citizens. (a) Within 200 days of the date of this order, the Secretary of Defense shall establish procedures, consistent with applicable law, to affirmatively offer, on an annual basis, each member of the Armed Forces on active duty the opportunity to register to vote in Federal elections, update voter registration information, or request an absentee ballot.

(b) Within 200 days of the date of this order, the Secretary of Defense shall evaluate the feasibility of implementing an online system to facilitate the services described in subsection (a) of this section.

(c) The Secretary of Defense, in coordination with the Department of State, the Military Postal Service Agency, and the United States Postal Service, shall take all practical steps to establish procedures to enable a comprehensive end-to-end ballot tracking system for all absentee ballots cast by military and other eligible overseas voters under the Uniformed and Overseas Citizens Absentee Voting Act, 52 U.S.C. 20301 *et seq.* Within 200 days of the date of this order, the Secretary of Defense shall submit a report to the Assistant to the President for Domestic Policy with a strategic plan for establishing the aforementioned tracking system.

(d) The head of each agency with overseas employees shall designate an employee to be responsible for coordinating with the Federal Voting Assistance Program, including to promote voter registration and voting services available to the agency's overseas employees. The Director of the Office of Management and Budget may issue guidance to assist agencies in making such designations.

Sec. 9. Ensuring Access to Voter Registration for Eligible Individuals in Federal Custody. (a) The Attorney General shall establish procedures, consistent with applicable law, to provide educational materials related to voter registration and voting and, to the extent practicable, to facilitate voter registration, for all eligible individuals in the custody of the Federal Bureau of Prisons. Such educational materials shall be incorporated into the reentry planning

procedures required under section 4042(a)(7) of title 18, United States Code. The educational materials should also notify individuals leaving Federal custody of the restrictions, if any, on their ability to vote under the laws of the State where the individual resides and, if any such restrictions exist, the point at which the individual's rights will be restored under applicable State law.

(b) The Attorney General shall establish procedures, consistent with applicable law, to ensure the United States Marshals Service includes language in intergovernmental agreements and jail contracts to require the jails to provide educational materials related to voter registration and voting, and to facilitate voting by mail, to the extent practicable and appropriate.

(c) The Attorney General shall establish procedures, consistent with applicable law, for coordinating with the Probation and Pretrial Services Office of the Administrative Office of the United States Courts to provide educational materials related to voter registration and voting to all eligible individuals under the supervision of the Probation and Pretrial Services Office, and to facilitate voter registration and voting by such individuals.

(d) The Attorney General shall take appropriate steps, consistent with applicable law, to support formerly incarcerated individuals in obtaining a means of identification that satisfies State voter identification laws, including as required by 18 U.S.C. 4042(a)(6)(B).

Sec. 10. Establishing a Native American Voting Rights Steering Group. (a) There is hereby established an Interagency Steering Group on Native American Voting Rights (Steering Group) coordinated by the Domestic Policy Council.

(b) The Steering Group shall be chaired by the Assistant to the President for Domestic Policy and shall include the Attorney General, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Labor, the Secretary of Health and Human Services, and the Secretary of Veterans Affairs or their designees. The Chair may invite the participation of the heads or senior representatives of other agencies, as the Chair determines to be helpful to complete the work of the Steering Group. The Steering Group shall consult with agencies not represented on the Steering Group to facilitate the sharing of information and best practices, as appropriate and consistent with applicable law.

(c) The Steering Group shall engage in meaningful and robust consultation with Tribal Nations and Native leaders to inform the Steering Group regarding concerns and potential areas of focus for the report described in subsection (d) of this section, and to assist the Steering Group in developing that report.

(d) The Steering Group shall study best practices for protecting voting rights of Native Americans and shall produce a report within 1 year of the date of this order outlining recommendations for providing such protection, consistent with applicable law, including recommendations for:

(i) increasing voter outreach, education, registration, and turnout in Native American

communities; increasing voting access for Native American communities (including increasing accessibility for voters with disabilities); and mitigating internet accessibility issues that may hinder voter registration and ballot access in Native American communities;

(ii) increasing language access and assistance for Native American voters, including evaluating existing best practices;

(iii) mitigating barriers to voting for Native Americans by analyzing and providing guidance on how to facilitate the use of Tribal government identification cards as valid voter identification in Federal, State, local, Tribal, and territorial elections;

(iv) facilitating collaboration among local election officials, Native American communities, and Tribal election offices; and

(v) addressing other areas identified during the consultation process.

(e) The Department of the Interior shall provide administrative support for the Steering Group to the extent permitted by law.

Sec. 11. Definition. Except as otherwise defined in section 6 of this order, “agency” means any authority of the United States that is an “agency” under 44 U.S.C. 3502(1), other than those considered to be independent regulatory agencies, as defined in 44 U.S.C. 3502(5).

Sec. 12. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

JOSEPH R. BIDEN JR.

THE WHITE HOUSE,

March 7, 2021.



202301277

Meeka D. Owens
Cincinnati City Council

April 25, 2023

MOTION

WE MOVE for the City Administration to submit an application to the Federal Highway Administration and / or Ohio Department of Transportation to have the City of Cincinnati formalized as a participating agency.

Councilmember Meeka D. Owens

STATEMENT

The City of Cincinnati has long been involved in the reconstruction of the Brent Spence Bridge Corridor (BSBC) project, which runs through the urban heart of Cincinnati. Through the project development from 2005 to present, City staff has engaged with the Ohio Department of Transportation and provided feedback and guidance as to how the project impacts the local transportation network and residents' quality-of-life.

Federal Highway Administration regulations require that any Federal, state, tribal, regional, and local government agencies that may have an interest in a project must be invited to serve as participating agencies (*see* Attachment A (Letter from ODOT) and Attachment B (23 U.S.C. 139(d)(2))). The intent of a participating agency's role is to enhance interagency coordination, ensure that issues of concern are identified early, and encourage governmental agencies at any level with an interest in the proposed project to be active participants in the NEPA process.

Tammy K. Campbell, ODOT District 8 Deputy Director, took the important step to invite the City of Cincinnati to participate beyond the role of a traditional participating agency. We appreciate this new, innovative way to include local government stakeholders at the table.

However as one of Ohio's most populated metro areas, the City of Cincinnati has a major interest in the development in the BSBC project. Therefore, we believe it to be in the best interest for the City to formalize its role in the project as a participating agency. Taking this step expresses the City's commitment building the best bridge possible, and the promises we have made as a Council to our residents.

A



OHIO DEPARTMENT OF TRANSPORTATION

Mike DeWine, Governor

Jack Marchbanks, Ph.D., Director

District 8

505 S. State Route 741, Lebanon, OH 45036

513-933-6568

transportation.ohio.gov

September 13, 2022

Mayor Aftab Pureval
City of Cincinnati
801 Plum Street, Suite 150
Cincinnati, OH 45202

Dear Mayor Pureval,

I am writing to thank you and your team at the City for your continued support and input into the efforts to complete the reconstruction of the Brent Spence Bridge Corridor (BSBC) within the City. The City's partnership on this project has been a tremendous benefit to us. Throughout the project development from 2005-present, City staff has engaged and supported our efforts by providing feedback and guidance with respects to the project and specifically how it impacts their transportation network.

FHWA's regulations require that any Federal, State, tribal, regional, and local government agencies that may have an interest in the project must be invited to serve as participating agencies. [23 U.S.C. 139(d)(2)]. The intent of a participating agency's role is to enhance interagency coordination, ensure that issues of concern are identified early, and encourage governmental agencies at any level with an interest in the proposed project to be active participants in the NEPA process. As one of Ohio's most populated metro areas, the City of Cincinnati's input into the BSB project is vital not only for Cincinnati's success, but for ODOT's as well. ODOT's view of the City goes beyond just a participating agency. ODOT considers the City of Cincinnati as a primary stakeholder and a vital partner in the development of this project.

FHWA expects the roles and responsibilities of participating agencies to include:

- Participating in the NEPA process at the start of the NEPA scoping process when participating agency identification occurs and invitations are sent. Agencies should provide input with regard to the development of the purpose and need statement, range of alternatives, methodologies, and the level of detail for the analysis of alternatives. The City was involved in this process beginning in 2005 until 2012 when the NEPA document was approved.
- Carrying out the agencies' obligations under other applicable laws concurrently with the review required under NEPA, unless doing so would impair the ability of the agency to carry out those obligations. (23 U.S.C. 139(d)(7)(A))
- Identifying, as early as practicable, any issues of concern regarding the project's potential environmental or socioeconomic impacts.
- Providing meaningful and timely input on unresolved issues.
- Reviewing any proposed project schedule provided by the lead agencies and providing either concurrence and/or comments when a schedule is developed as part of the project's coordination plan or when a schedule is developed as part of enhanced technical assistance.
- Reviewing draft environmental documentation as established in the project coordination plan.

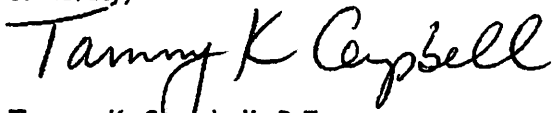
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To go beyond the traditional role of a participating agency, ODOT is looking for the City's continued cooperation as a true partner in the development of the BSBC project. ODOT's goals for the project are consistent with the City's previously expressed goals to improve pedestrian and bicycles access and safety as well as looking for opportunities for the use of green spaces and reclaimed land. Having the City's thoughts and expertise involved throughout the project development process is vital to the further development and accomplishment of these goals. Whether we are discussing aesthetics or providing thoughts on the selection of the Design-Build team, the City's expertise will help to ensure that this project is poised to meet the City's current and future goals for their community as well as ODOT's.

Again, thank you for your continued support on this vital project.

Sincerely,

A handwritten signature in black ink that reads "Tammy K Campbell". The signature is written in a cursive, flowing style.

Tammy K. Campbell, P.E.
District 8 Deputy Director

23 USC 139: Efficient environmental reviews for project decisionmaking and One Federal Decision
Text contains those laws in effect on April 17, 2023

From Title 23-HIGHWAYS

CHAPTER 1-FEDERAL-AID HIGHWAYS

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§139. Efficient environmental reviews for project decisionmaking and One Federal Decision

(a) **DEFINITIONS.**-In this section, the following definitions apply:

(1) **AGENCY.**-The term "agency" means any agency, department, or other unit of Federal, State, local, or Indian tribal government.

(2) **AUTHORIZATION.**-The term "authorization" means any environmental license, permit, approval, finding, or other administrative decision related to the environmental review process that is required under Federal law to site, construct, or reconstruct a project.

(3) **ENVIRONMENTAL DOCUMENT.**-The term "environmental document" includes an environmental assessment, finding of no significant impact, notice of intent, environmental impact statement, or record of decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(4) **ENVIRONMENTAL IMPACT STATEMENT.**-The term "environmental impact statement" means the detailed statement of environmental impacts required to be prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(5) **ENVIRONMENTAL REVIEW PROCESS.**-

(A) **IN GENERAL.**-The term "environmental review process" means the process for preparing for a project an environmental impact statement, environmental assessment, categorical exclusion, or other document prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(B) **INCLUSIONS.**-The term "environmental review process" includes the process and schedule, including a timetable for and completion of any environmental permit, approval, review, or study required for a project under any Federal law other than the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(6) **LEAD AGENCY.**-The term "lead agency" means the Department of Transportation and, if applicable, any State or local governmental entity serving as a joint lead agency pursuant to this section.

(7) **MAJOR PROJECT.**-

(A) **IN GENERAL.**-The term "major project" means a project for which-

(i) multiple permits, approvals, reviews, or studies are required under a Federal law other than the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(ii) the project sponsor has identified the reasonable availability of funds sufficient to complete the project;

(iii) the project is not a covered project (as defined in section 41001 of the FAST Act (42 U.S.C. 4370m)); and

(iv)(I) the head of the lead agency has determined that an environmental impact statement is required; or

(II) the head of the lead agency has determined that an environmental assessment is required, and the project sponsor requests that the project be treated as a major project.

(B) **CLARIFICATION.**-In this section, the term "major project" does not have the same meaning as the term "major project" as described in section 106(h).

(8) **MULTIMODAL PROJECT.**-The term "multimodal project" means a project that requires the approval of more than 1 Department of Transportation operating administration or secretarial office.

(9) **PROJECT.**-

(A) **IN GENERAL.**-The term "project" means any highway project, public transportation capital project, or multimodal project that, if implemented as proposed by the project sponsor, would require approval by any operating administration or secretarial office within the Department of Transportation.

(B) **CONSIDERATIONS.**-In determining whether a project is a project under subparagraph (A), the Secretary shall take into account, if known, any sources of Federal funding or financing identified by the project sponsor, including

any discretionary grant, loan, and loan guarantee programs administered by the Department of Transportation.

(10) **PROJECT SPONSOR.**-The term "project sponsor" means the agency or other entity, including any private or public-private entity, that seeks approval of the Secretary for a project.

(11) **STATE TRANSPORTATION DEPARTMENT.**-The term "State transportation department" means any statewide agency of a State with responsibility for one or more modes of transportation.

(b) APPLICABILITY.-

(1) **IN GENERAL.**-The project development procedures in this section are applicable to all projects, including major projects, for which an environmental impact statement is prepared under the National Environmental Policy Act (42 U.S.C. 4321 et seq.) of 1969 and may be applied, as requested by a project sponsor and to the extent determined appropriate by the Secretary, to other projects for which an environmental document is prepared pursuant to such Act.

(2) **FLEXIBILITY.**-Any authorities granted in this section may be exercised, and any requirements established under this section may be satisfied, for a project, class of projects, or program of projects.

(3) PROGRAMMATIC COMPLIANCE.-

(A) **IN GENERAL.**-The Secretary shall allow for the use of programmatic approaches to conduct environmental reviews that-

- (i) eliminate repetitive discussions of the same issues;
- (ii) focus on the actual issues ripe for analyses at each level of review; and
- (iii) are consistent with-
 - (I) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and
 - (II) other applicable laws.

(B) **REQUIREMENTS.**-In carrying out subparagraph (A), the Secretary shall ensure that programmatic reviews-

- (i) promote transparency, including the transparency of-
 - (I) the analyses and data used in the environmental reviews;
 - (II) the treatment of any deferred issues raised by agencies or the public; and
 - (III) the temporal and spatial scales to be used to analyze issues under subclauses (i) and (ii);
- (ii) use accurate and timely information, including through establishment of-
 - (I) criteria for determining the general duration of the usefulness of the review; and
 - (II) a timeline for updating an out-of-date review;
- (iii) describe-
 - (I) the relationship between any programmatic analysis and future tiered analysis; and
 - (II) the role of the public in the creation of future tiered analysis;
- (iv) are available to other relevant Federal and State agencies, Indian tribes, and the public; and
- (v) provide notice and public comment opportunities consistent with applicable requirements.

(c) LEAD AGENCIES.-

(1) FEDERAL LEAD AGENCY.-

(A) **IN GENERAL.**-The Department of Transportation, or an operating administration thereof designated by the Secretary, shall be the Federal lead agency in the environmental review process for a project.

(B) **MODAL ADMINISTRATION.**-If the project requires approval from more than 1 modal administration within the Department, the Secretary may designate a single modal administration to serve as the Federal lead agency for the Department in the environmental review process for the project.

(2) **JOINT LEAD AGENCIES.**-Nothing in this section precludes another agency from being a joint lead agency, in accordance with regulations under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(3) **PROJECT SPONSOR AS JOINT LEAD AGENCY.**-Any project sponsor that is a State or local governmental entity receiving funds under this title or chapter 53 of title 49 for the project shall serve as a joint lead agency with the Department for purposes of preparing any environmental document under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and may prepare any such environmental document required in support of any action or approval by the Secretary if the Federal lead agency furnishes guidance in such preparation and independently evaluates such document and the document is approved and adopted by the Secretary prior to the Secretary taking any subsequent action or making any approval based on such document, whether or not the Secretary's action or approval results in Federal funding.

(4) **ENSURING COMPLIANCE.**-The Secretary shall ensure that the project sponsor complies with all design and mitigation commitments made jointly by the Secretary and the project sponsor in any environmental document prepared by the project sponsor in accordance with this subsection and that such document is appropriately supplemented if project changes become necessary.

(5) ADOPTION AND USE OF DOCUMENTS.-Any environmental document prepared in accordance with this subsection may be adopted or used by any Federal agency making any approval to the same extent that such Federal agency could adopt or use a document prepared by another Federal agency.

(6) ROLES AND RESPONSIBILITY OF LEAD AGENCY.-With respect to the environmental review process for any project, the lead agency shall have authority and responsibility-

(A) to take such actions as are necessary and proper, within the authority of the lead agency, to facilitate the expeditious resolution of the environmental review process for the project;

(B) to prepare or ensure that any required environmental impact statement or other document required to be completed under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) is completed in accordance with this section and applicable Federal law;

(C) to consider and respond to comments received from participating agencies on matters within the special expertise or jurisdiction of those agencies; and

(D) to calculate annually the average time taken by the lead agency to complete all environmental documents for each project during the previous fiscal year.

(7) PROCESS IMPROVEMENTS FOR PROJECTS.-

(A) **IN GENERAL.**-The Secretary shall review-

(i) existing practices, procedures, rules, regulations, and applicable laws to identify improvements to meeting the requirements applicable to projects under this section; and

(ii) best practices, programmatic agreements, and potential changes to internal departmental procedures that would facilitate an efficient environmental review process for projects.

(B) **CONSULTATION.**-In conducting the review under subparagraph (A), the Secretary shall consult, as appropriate, with the heads of other Federal agencies that participate in the environmental review process.

(C) **REPORT.**-Not later than 2 years after the date of enactment of the Surface Transportation Reauthorization Act of 2021, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that includes-

(i) the results of the review under subparagraph (A); and

(ii) an analysis of whether additional funding would help the Secretary meet the requirements applicable to projects under this section.

(d) PARTICIPATING AGENCIES.-

(1) **IN GENERAL.**-The lead agency shall be responsible for inviting and designating participating agencies in accordance with this subsection.

(2) **INVITATION.**-Not later than 45 days after the date of publication of a notice of intent to prepare an environmental impact statement or the initiation of an environmental assessment, the lead agency shall identify any other Federal and non-Federal agencies that may have an interest in the project, and shall invite such agencies to become participating agencies in the environmental review process for the project. The invitation shall set a deadline for responses to be submitted. The deadline may be extended by the lead agency for good cause.

(3) **FEDERAL PARTICIPATING AGENCIES.**-Any Federal agency that is invited by the lead agency to participate in the environmental review process for a project shall be designated as a participating agency by the lead agency unless the invited agency informs the lead agency, in writing, by the deadline specified in the invitation that the invited agency-

(A) has no jurisdiction or authority with respect to the project;

(B) has no expertise or information relevant to the project; and

(C) does not intend to submit comments on the project.

(4) **EFFECT OF DESIGNATION.**-

(A) **REQUIREMENT.**-A participating agency shall comply with the requirements of this section.

(B) **IMPLICATION.**-Designation as a participating agency under this subsection shall not imply that the participating agency-

(i) supports a proposed project; or

(ii) has any jurisdiction over, or special expertise with respect to evaluation of, the project.

(5) **COOPERATING AGENCY.**-A participating agency may also be designated by a lead agency as a "cooperating agency" under the regulations contained in part 1500 of title 40, Code of Federal Regulations.

(6) **DESIGNATIONS FOR CATEGORIES OF PROJECTS.**-The Secretary may exercise the authorities granted under this subsection for a project, class of projects, or program of projects.

(7) **CONCURRENT REVIEWS.**-Each participating agency and cooperating agency shall-

(A) carry out the obligations of that agency under other applicable law concurrently, and in conjunction, with the review required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), unless doing so would impair the ability of the Federal agency to conduct needed analysis or otherwise carry out those obligations; and

(B) formulate and implement administrative, policy, and procedural mechanisms to enable the agency to ensure completion of the environmental review process in a timely, coordinated, and environmentally responsible manner.

(8) SINGLE ENVIRONMENTAL DOCUMENT.-

(A) **IN GENERAL.-**Except as inconsistent with paragraph (7) and except as provided in paragraph (D), to the maximum extent practicable and consistent with Federal law, all Federal authorizations and approvals for a project shall rely on a single environmental document prepared in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) under the leadership of the lead agency.

(B) USE OF DOCUMENT.-

(i) **IN GENERAL.-**To the maximum extent practicable, the lead agency shall develop any environmental documents sufficient to satisfy the requirements for any Federal approval or other Federal action related to the project, including authorizations by other Federal agencies.

(ii) **COOPERATION OF PARTICIPATING AGENCIES.-**Other participating agencies shall cooperate with the lead agency and provide timely information to help the lead agency carry out this subparagraph.

(C) **TREATMENT AS PARTICIPATING AND COOPERATING AGENCIES.-**A Federal agency that does not take an approval or take an action for a project, as described in subparagraph (B), shall act with the lead agency to the project to ensure that the agency making the approval or taking the action is treated as being bound by the findings and cooperating agency for the project.

(D) **EXCEPTIONS.-**The lead agency may waive the application of subparagraph (A) with respect to a project if-

(i) the project sponsor requests that agencies issue separate environmental documents;

(ii) the obligations of a cooperating agency or participating agency under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) have already been satisfied with respect to the project; or

(iii) the lead agency determines that reliance on a single environmental document (as described in subparagraph (A)) would not facilitate timely completion of the environmental review process for the project.

(9) PARTICIPATING AGENCY RESPONSIBILITIES.-An agency participating in the environmental review process under this section shall-

(A) provide comments, responses, studies, or methodologies on those areas within its jurisdiction, expertise, or jurisdiction of the agency; and

(B) use the process to address any environmental issues of concern to the agency.

(10) TIMELY AUTHORIZATIONS FOR MAJOR PROJECTS.-

(A) **DEADLINE.-**Except as provided in subparagraph (C), all authorization decisions and approvals for construction of a major project shall be completed by not later than 90 days after the date of the issuance of a record of decision for the major project.

(B) **DETAIL.-**The final environmental impact statement for a major project shall include an adequate level of detail to inform decisions necessary for the role of the participating agencies and cooperating agencies in the environmental review process.

(C) **EXTENSION OF DEADLINE.-**The head of the lead agency may extend the deadline under subparagraph (A) if-

(i) Federal law prohibits the lead agency or another agency from issuing an approval or permit within the period described in that subparagraph;

(ii) the project sponsor requests that the permit or approval follow a different timeline; or

(iii) an extension would facilitate completion of the environmental review and authorization process of the major project.

(e) PROJECT INITIATION.-

(1) **IN GENERAL.-**The project sponsor shall notify the Secretary of the type of work, location, and general location of the proposed project (including any additional information that the project sponsor deems to be important to initiate the process for the proposed project), together with a statement of any Federal approvals anticipated to be necessary for the proposed project, for the purpose of informing the Secretary that the environmental review process should be initiated.

(2) **SUBMISSION OF DOCUMENTS.-**The project sponsor may satisfy the requirement under paragraph (1) by submitting to the Secretary any relevant documents containing the information described in paragraph (1), including a draft notice for publication in the Federal Register announcing the preparation of an environmental review for the project.

(3) **REVIEW OF APPLICATION.-**Not later than 45 days after the date on which the Secretary receives notification under paragraph (1), the Secretary shall provide to the project sponsor a written response that, as applicable-

(A) describes the determination of the Secretary-

(i) to initiate the environmental review process, including a timeline and an expected date for the publication in the Federal Register of the relevant notice of intent; or

(ii) to decline the application, including an explanation of the reasons for that decision; or

(B) requests additional information, and provides to the project sponsor an accounting regarding what documentation is necessary to initiate the environmental review process.

(4) REQUEST TO DESIGNATE A LEAD AGENCY.-

(A) **IN GENERAL.**-Any project sponsor may submit to the Secretary a request to designate the operating administration or secretarial office within the Department of Transportation with the expertise on the proposed project to serve as the Federal lead agency for the project.

(B) **SECRETARIAL ACTION.-**

(i) **IN GENERAL.**-If the Secretary receives a request under subparagraph (A), the Secretary shall respond to the request not later than 45 days after the date of receipt.

(ii) **REQUIREMENTS.**-The response under clause (i) shall-

(I) approve the request;

(II) deny the request, with an explanation of the reasons for the denial; or

(III) require the submission of additional information.

(iii) **ADDITIONAL INFORMATION.**-If additional information is submitted in accordance with clause (i)(II), the Secretary shall respond to the submission not later than 45 days after the date of receipt.

(5) ENVIRONMENTAL CHECKLIST.-

(A) **DEVELOPMENT.**-The lead agency for a project, in consultation with participating agencies and, where appropriate, as appropriate, a checklist to help project sponsors identify potential natural, cultural, and historic resources in the area of the project.

(B) **PURPOSE.**-The purposes of the checklist are-

(i) to identify agencies and organizations that can provide information about natural, cultural, and historic resources;

(ii) to develop the information needed to determine the range of alternatives; and

(iii) to improve interagency collaboration to help expedite the permitting process for the lead agency and participating agencies.

(f) PURPOSE AND NEED; ALTERNATIVES ANALYSIS.-

(1) **PARTICIPATION.**-As early as practicable during the environmental review process, the lead agency shall provide an opportunity for involvement by participating agencies and the public in defining the purpose and need for a project.

(2) **DEFINITION.**-Following participation under paragraph (1), the lead agency shall define the purpose and need for purposes of any document which the lead agency is responsible for preparing for the project.

(3) **OBJECTIVES.**-The statement of purpose and need shall include a clear statement of the objectives that the proposed action is intended to achieve, which may include-

(A) achieving a transportation objective identified in an applicable statewide or metropolitan transportation plan;

(B) supporting land use, economic development, or growth objectives established in applicable Federal, state, local, or tribal plans; and

(C) serving national defense, national security, or other national objectives, as established in Federal, state, local, or tribal plans, or policies.

(4) ALTERNATIVES ANALYSIS.-

(A) **PARTICIPATION.-**

(i) **In general.**-As early as practicable during the environmental review process, the lead agency shall provide an opportunity for involvement by participating agencies and the public in determining the range of alternatives to be considered for a project.

(ii) **COMMENTS OF PARTICIPATING AGENCIES.**-To the maximum extent practicable and consistent with applicable law, each participating agency receiving an opportunity for involvement under clause (i) shall limit the comments of the agency to subject matter areas within the special expertise or jurisdiction of the agency.

(iii) **EFFECT OF NONPARTICIPATION.**-A participating agency that declines to participate in the development of the purpose and need and range of alternatives for a project shall be required to comply with the schedule developed under subsection (g)(1)(B).

(B) **RANGE OF ALTERNATIVES.-**

(i) **DETERMINATION.**-Following participation under subparagraph (A), the lead agency shall determine the range of alternatives for consideration in any document which the lead agency is responsible for preparing for the project.

(ii) **USE.**-To the maximum extent practicable and consistent with Federal law, the range of alternatives determined for a project under clause (i) shall be used for all Federal environmental reviews and permit processes required for the project unless the alternatives must be modified-

(I) to address significant new information or circumstances, and the lead agency and participating agencies agree that the alternatives must be modified to address the new information or circumstances;

(II) for the lead agency or a participating agency to fulfill the responsibilities of the agency under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) in a timely manner.

(C) **METHODOLOGIES.**-The lead agency also shall determine, in collaboration with participating agencies, at appropriate times during the study process, the methodologies to be used and the level of detail required in the analysis of each alternative for a project.

(D) **PREFERRED ALTERNATIVE.**-At the discretion of the lead agency, the preferred alternative for a project, after being identified, may be developed to a higher level of detail than other alternatives in order to facilitate the development of mitigation measures or concurrent compliance with other applicable laws if the lead agency determines that the development of such higher level of detail will not prevent the lead agency from making an impartial decision as to whether to accept another alternative which is being considered in the environmental review process.

(E) **REDUCTION OF DUPLICATION.**-

(i) **IN GENERAL.**-In carrying out this paragraph, the lead agency shall reduce duplication, to the maximum extent practicable, between-

(I) the evaluation of alternatives under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(II) the evaluation of alternatives in the metropolitan transportation planning process under section 134 or an environmental review process carried out under State law (referred to in this subparagraph as a "State environmental review process")

(ii) **CONSIDERATION OF ALTERNATIVES.**-The lead agency may eliminate from detailed consideration an alternative proposed in an environmental impact statement regarding a project if, as determined by the lead agency-

(I) the alternative was considered in a metropolitan planning process or a State environmental review process by a metropolitan planning organization or a State or local transportation agency, as applicable;

(II) the lead agency provided guidance to the metropolitan planning organization or State or local transportation agency, as applicable, regarding analysis of alternatives in the metropolitan planning process or State environmental review process, including guidance on the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and any other Federal law necessary for approval of the project;

(III) the applicable metropolitan planning process or State environmental review process included an opportunity for public review and comment;

(IV) the applicable metropolitan planning organization or State or local transportation agency rejected the alternative after considering public comments;

(V) the Federal lead agency independently reviewed the alternative evaluated or approved by the applicable metropolitan planning organization or State or local transportation agency; and

(VI) the Federal lead agency determined-

(aa) in consultation with Federal participating or cooperating agencies, that the alternative to be eliminated from consideration is not necessary for compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); or

(bb) with the concurrence of Federal agencies with jurisdiction over a permit or approval required for a project, that the alternative to be eliminated from consideration is not necessary for any permit or approval under any other Federal law.

(g) **COORDINATION AND SCHEDULING.**-

(1) **COORDINATION PLAN.**-

(A) **IN GENERAL.**-Not later than 90 days after the date of publication of a notice of intent to prepare an environmental impact statement or the initiation of an environmental assessment, the lead agency shall establish a plan for coordinating public and agency participation in and comment on the environmental review process for a project or category of projects. The coordination plan may be incorporated into a memorandum of understanding.

(B) **SCHEDULE.**-

(i) **IN GENERAL.**-The lead agency shall establish as part of such coordination plan, after consultation with and the concurrence of each participating agency for the project and with the State in which the project is located (and, if the State is not the project sponsor, with the project sponsor), a schedule for completion of the environmental review process for the project.

(ii) **FACTORS FOR CONSIDERATION.**-In establishing the schedule, the lead agency shall consider factors such as-

(I) the responsibilities of participating agencies under applicable laws;

(II) resources available to the cooperating agencies;

(III) overall size and complexity of the project;

(IV) the overall time required by an agency to conduct an environmental review and make decisions under applicable Federal law relating to a project (including the issuance or denial of a permit or license) and the cost of the project; and

(V) the sensitivity of the natural and historic resources that could be affected by the project.

(iii) **MAJOR PROJECT SCHEDULE.**-To the maximum extent practicable and consistent with applicable Federal law, in the case of a major project, the lead agency shall develop, in concurrence with the project sponsor, a schedule for the major project that is consistent with an agency average of not more than 2 years for the completion of the environmental review process for major projects, as measured from, as applicable-

(I) the date of publication of a notice of intent to prepare an environmental impact statement to the record of decision; or

(II) the date on which the head of the lead agency determines that an environmental assessment is required to a finding of no significant impact.

(C) **CONSISTENCY WITH OTHER TIME PERIODS.**-A schedule under subparagraph (B) shall be consistent with any other relevant time periods established under Federal law.

(D) **MODIFICATION.**-

(i) **IN GENERAL.**-Except as provided in clause (ii), the lead agency may lengthen or shorten a schedule established under subparagraph (B) for good cause.

(ii) **EXCEPTIONS.**-

(I) **MAJOR PROJECTS.**-In the case of a major project, the lead agency may lengthen a schedule under clause (i) for a cooperating Federal agency by not more than 1 year after the latest deadline established for the major project by the lead agency.

(II) **SHORTENED SCHEDULES.**-The lead agency may not shorten a schedule under clause (i) if doing so would impair the ability of a cooperating Federal agency to conduct necessary analyses or otherwise carry out relevant obligations of the Federal agency for the project.

(E) **FAILURE TO MEET DEADLINE.**-If a cooperating Federal agency fails to meet a deadline established under subparagraph (D)(i)(I)-

(i) the cooperating Federal agency shall submit to the Secretary a report that describes the reasons why the deadline was not met; and

(ii) the Secretary shall-

(I) transmit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a copy of the report under clause (i) and

(II) make the report under clause (i) publicly available on the Internet.

(F) **DISSEMINATION.**-A copy of a schedule under subparagraph (B), and of any modifications to the schedule, shall be-

(i) provided to all participating agencies and to the State transportation department of the State in which the project is located (and, if the State is not the project sponsor, to the project sponsor); and

(ii) made available to the public.

(2) **COMMENT DEADLINES.**-The lead agency shall establish the following deadlines for comment during the environmental review process for a project:

(A) For comments by agencies and the public on a draft environmental impact statement, a period of not more than 60 days after publication in the Federal Register of notice of the date of public availability of such document, unless-

(i) a different deadline is established by agreement of the lead agency, the project sponsor, and all participating agencies; or

(ii) the deadline is extended by the lead agency for good cause.

(B) For all other comment periods established by the lead agency for agency or public comments in the environmental review process, a period of no more than 30 days from availability of the materials on which comment is requested, unless-

(i) a different deadline is established by agreement of the lead agency, the project sponsor, and all participating agencies; or

(ii) the deadline is extended by the lead agency for good cause.

(3) **DEADLINES FOR DECISIONS UNDER OTHER LAWS.**-In any case in which a decision under any Federal law relating to a project (including the issuance or denial of a permit or license) is required to be made by the later of the date that is 180 days after the date on which the Secretary made all final decisions of the lead agency with respect to the project, or 180 days after the date on which an application was submitted for the permit or license, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives and publish on the Internet-

(A) as soon as practicable after the 180-day period, an initial notice of the failure of the Federal agency to make the decision; and

(B) every 60 days thereafter until such date as all decisions of the Federal agency or agencies of jurisdiction have been made by the Federal agency, an additional notice that describes the number of decisions of the Federal agency that remain outstanding as of the date of the additional notice.

(4) INVOLVEMENT OF THE PUBLIC.-Nothing in this subsection shall reduce any time period provided for public comment in the environmental review process under existing Federal law, including a regulation.

(h) ISSUE IDENTIFICATION AND RESOLUTION -

(1) COOPERATION.-The lead agency and the participating agencies shall cooperate to identify and resolve issues that could delay completion of the environmental review process or could result in denial of any approvals required for the project under applicable laws.

(2) LEAD AGENCY RESPONSIBILITIES.-The lead agency shall make information available to the participating agencies as early as practicable in the environmental review process regarding the location of the project, the socioeconomic resources located within the project area, and the general location of the lead agency's lands for consideration. Such information may be based on existing data sources, including geographic information systems mapping.

(3) PARTICIPATING AGENCY RESPONSIBILITIES.-Based on information received from the lead agency, participating agencies shall identify, as early as practicable, any issues of concern regarding the project's potential environmental or socioeconomic impacts. In this paragraph, issues of concern include any issue that could substantially delay or prevent an agency from granting a permit or other approval that is needed for the project.

(4) ISSUE RESOLUTION.-Any issue resolved by the lead agency with the concurrence of participating agencies may not be reconsidered unless significant new information or circumstances arise.

(5) INTERIM DECISION ON ACHIEVING ACCELERATED DECISIONMAKING -

(A) IN GENERAL.-Not later than 30 days after the close of the public comment period on a draft environmental impact statement, the Secretary may convene a meeting with the project sponsor, the lead agency, participating agencies, and any relevant State agencies to ensure that all parties are prepared to make accelerated decision-making decisions to be made regarding the project.

(B) DEADLINES.-The deadlines referred to in subparagraph (A) shall be those established under subsection (g), or any other deadlines established by the lead agency, in consultation with the project sponsor and other relevant agencies.

(C) FAILURE TO ASSURE.-If the relevant agencies cannot provide reasonable assurance that the conditions described in subparagraph (B) will be met, the Secretary may initiate the issue resolution and referral process described under paragraph (6) before the completion of the record of decision.

(6) ACCELERATED ISSUE RESOLUTION AND REFERRAL -

(A) AGENCY ISSUE RESOLUTION MEETING -

(i) IN GENERAL.-A Federal agency of jurisdiction, project sponsor, or the chief executive officer of a State in which a project is located may request an issue resolution meeting to be conducted by the lead agency.

(ii) ACTION BY LEAD AGENCY.-The lead agency shall convene an issue resolution meeting under paragraph (i) with the relevant participating agencies and the project sponsor, including the Governor only if the meeting was requested by the Governor, to resolve issues that could-

- (I) delay completion of the environmental review process; or
- (II) result in denial of any approvals required for the project under applicable laws.

(iii) DATE.-A meeting requested under this subparagraph shall be held by not later than 30 days after the date of receipt of the request for the meeting, unless the lead agency determines that there is good cause to extend the time for the meeting.

(iv) NOTIFICATION.-On receipt of a request for a meeting under this subparagraph, the lead agency shall notify all relevant participating agencies of the request, including the issue to be resolved and the date of the meeting.

(v) DISPUTES.-If a relevant participating agency with jurisdiction over an approval required for a project under applicable law determines that the relevant information necessary to resolve the issue has not been obtained and could not have been obtained within a reasonable time, but the lead agency disagrees, the resolution of the dispute shall be forwarded to the heads of the relevant agencies for resolution.

(vi) CONVENTION BY LEAD AGENCY.-A lead agency may convene an issue resolution meeting under this subsection at any time without the request of the Federal agency of jurisdiction, project sponsor, or the Governor of a State.

(B) ELEVATION OF ISSUE RESOLUTION.-

(i) IN GENERAL.-If issue resolution is not achieved by not later than 30 days after the date of a relevant meeting under subparagraph (A), the Secretary shall notify the lead agency, the heads of the relevant participating agencies, and the project sponsor (including the Governor only if the initial issue resolution meeting request came from the Governor) that an issue resolution meeting will be convened.

(ii) **REQUIREMENTS.**-The Secretary shall identify the issues to be addressed at the meeting and convene the meeting not later than 30 days after the date of issuance of the notice.

(C) REFERRAL OF ISSUE RESOLUTION.-

(i) REFERRAL TO COUNCIL ON ENVIRONMENTAL QUALITY.-

(I) **IN GENERAL.**-If resolution is not achieved by not later than 30 days after the date of an issue resolution meeting under subparagraph (B), the Secretary shall refer the matter to the Council on Environmental Quality.

(II) **MEETING.**-Not later than 30 days after the date of receipt of a referral from the Secretary under subclause (I), the Council on Environmental Quality shall hold an issue resolution meeting with the lead agency, the heads of relevant participating agencies, and the project sponsor (including the Governor only if an initial request for an issue resolution meeting came from the Governor).

(ii) **REFERRAL TO THE PRESIDENT.**-If a resolution is not achieved by not later than 30 days after the date of the meeting convened by the Council on Environmental Quality under clause (i)(II), the Secretary shall refer the matter directly to the President.

(7) FINANCIAL PENALTY PROVISIONS.-

(A) IN GENERAL.-A Federal agency of jurisdiction over an approval required for a project under applicable laws shall complete any required approval on an expeditious basis using the shortest existing applicable process.

(B) FAILURE TO DECIDE.-

(i) **IN GENERAL.**-If an agency described in subparagraph (A) fails to render a decision under any Federal law relating to a project that requires the preparation of an environmental impact statement or environmental assessment, including the issuance or denial of a permit, license, or other approval by the date described in clause (ii), an amount of funding equal to the amounts specified in subclause (I) or (II) shall be rescinded from the applicable office of the head of the agency, or equivalent office to which the authority for rendering the decision has been delegated by law by not later than 1 day after the applicable date under clause (ii), and once each week thereafter until a final decision is rendered, subject to subparagraph (C)-

(I) \$20,000 for any project for which an annual financial plan is required under subsection (h) or (i) of section 106; or

(II) \$10,000 for any other project requiring preparation of an environmental assessment or environmental impact statement.

(ii) **DESCRIPTION OF DATE.**-The date referred to in clause (i) is-

(I) the date that is 30 days after the date for rendering a decision as described in the project schedule established pursuant to subsection (g)(1)(B);

(II) if no schedule exists, the later of-

(aa) the date that is 180 days after the date on which an application for the permit, license, or approval is complete; and

(bb) the date that is 180 days after the date on which the Federal lead agency issues a decision on the project under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), or

(III) a modified date in accordance with subsection (g)(1)(D).

(C) LIMITATIONS.-

(i) **IN GENERAL.**-No rescission of funds under subparagraph (B) relating to an individual project shall exceed, in any fiscal year, an amount equal to 2.5 percent of the funds made available for the applicable agency office.

(ii) **FAILURE TO DECIDE.**-The total amount rescinded in a fiscal year as a result of a failure by an agency to make a decision by an applicable deadline shall not exceed an amount equal to 7 percent of the funds made available for the applicable agency office for that fiscal year.

(D) NO FAULT OF AGENCY.-A rescission of funds under this paragraph shall not be made if the lead agency for the project certifies that-

(i) the agency has not received necessary information or approvals from another entity, such as the project sponsor, in a manner that affects the ability of the agency to meet any requirements under State, local, or Federal law; or

(ii) significant new information or circumstances, including a major modification to an aspect of the project, requires additional analysis for the agency to make a decision on the project application.

(E) LIMITATION.-The Federal agency with jurisdiction for the decision from which funds are rescinded pursuant to this paragraph shall not reprogram funds to the office of the head of the agency, or equivalent office, to reimburse that office for the loss of the funds.

(F) AUDITS.-In any fiscal year in which any funds are rescinded from a Federal agency pursuant to this paragraph, the Inspector General of that agency shall-

- (i) conduct an audit to assess compliance with the requirements of this paragraph; and
- (ii) not later than 120 days after the end of the fiscal year during which the rescission occurred, submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report describing the reasons why the transfers were levied, including allocations of resources.

(G) EFFECT OF PARAGRAPH.-Nothing in this paragraph affects or limits the application of, or obligation to comply with, any Federal, State, local, or tribal law.

(8) EXPEDIENT DECISIONS AND REVIEWS.-To ensure that Federal environmental decisions and reviews are expeditiously made-

(A) adequate resources made available under this title shall be devoted to ensuring that applicable environmental reviews under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) are completed on an expeditious basis and that the shortest existing applicable process under that Act is implemented; and

(B) the President shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate, not less frequently than once every 120 days after the date of enactment of the MAP-21, a report on the status and progress of the following projects and activities funded under this title with respect to compliance with applicable requirements under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.):

- (i) Projects and activities required to prepare an annual financial plan under section 106(f).
- (ii) A sample of not less than 5 percent of the projects requiring preparation of an environmental impact statement or environmental assessment in each State.

(i) PERFORMANCE MEASUREMENT.-The Secretary shall establish a program of measures and reports designed toward improving and expediting the planning and environmental review process.

(j) ASSISTANCE TO AFFECTED STATE AND FEDERAL AGENCIES.-

(1) IN GENERAL.-

(A) AUTHORITY TO PROVIDE FUNDS.-The Secretary may allow a public entity receiving financial assistance from the Department of Transportation under this title or chapter 53 of title 49 to provide funds to Federal agencies (including the Department), State agencies, and Indian tribes participating in the environmental review process for the project or program.

(B) USE OF FUNDS.-Funds referred to in subparagraph (A) may be provided only to support activities that directly and meaningfully contribute to expediting and improving permitting and review processes, including planning, approval, and consultation processes for the project or program.

(2) ACTIVITIES ELIGIBLE FOR FUNDING.-Activities for which funds may be provided under paragraph (1) include transportation planning activities that precede the initiation of the environmental review process; activities directly related to the environmental review process; dedicated staffing; training of agency personnel; information gathering and mapping; and development of programmatic agreements.

(3) USE OF FEDERAL LANDS HIGHWAY FUNDS.-The Secretary may also use funds made available under section 204 ¹ for a project for the purposes specified in this subsection with respect to the environmental review process for the project.

(4) AMOUNTS.-Requests under paragraph (1) may be approved only for the additional amounts that the Secretary determines are necessary for the Federal agencies, State agencies, or Indian tribes participating in the environmental review process to meet the time limits for environmental review.

(5) CONDITION.-A request under paragraph (1) to expedite time limits for environmental review may be approved only if such time limits are less than the customary time necessary for such review.

(6) AGREEMENT.-Prior to providing funds approved by the Secretary for dedicated staffing at an affected agency under paragraphs (1) and (2), the affected agency and the requesting public entity shall enter into an agreement that establishes the projects and priorities to be addressed by the use of the funds.

(k) JUDICIAL REVIEW AND SAVINGS CLAUSE.-

(1) JUDICIAL REVIEW.-Except as set forth under subsection (l), nothing in this section shall affect the reviewability of any final Federal agency action in a court of the United States or in the court of any State.

(2) SAVINGS CLAUSE.-Nothing in this section shall be construed as superseding, amending, or modifying the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or any other Federal environmental statute or affect the responsibility of any Federal officer to comply with or enforce any such statute.

(3) LIMITATIONS.-Nothing in this section shall preempt or interfere with-

(A) any practice of seeking, considering, or responding to public comment; or

(B) any power, jurisdiction, responsibility, or authority that a Federal, State, or local government agency, metropolitan planning organization, Indian tribe, or project sponsor has with respect to carrying out a project or any other provisions of law applicable to projects, plans, or programs.

(l) LIMITATIONS ON CLAIMS.-

(1) **IN GENERAL.-**Notwithstanding any other provision of law, a claim arising under Federal law seeking judicial review of a permit, license, or approval issued by a Federal agency for a highway or public transportation capital project shall be barred unless it is filed within 150 days after publication of a notice in the Federal Register announcing that the permit, license, or approval is final pursuant to the law under which the agency action is taken, unless a shorter time is specified in the Federal law pursuant to which judicial review is lawfully sought. This subsection shall create a right to judicial review or place any limit on filing a claim that a person has violated the terms of a permit, license, or approval.

(2) **NEW INFORMATION.-**The Secretary shall consider new information received after the close of a comment period if the information satisfies the requirements for a supplemental environmental impact statement under section 771.130 of title 23, Code of Federal Regulations. The preparation of a supplemental environmental impact statement when required shall be considered a separate final agency action and the deadline for filing a claim for judicial review of such action shall be 150 days after the date of publication of a notice in the Federal Register announcing such action.

(m) ENHANCED TECHNICAL ASSISTANCE AND ACCELERATED PROJECT COMPLETION.-

(1) **DEFINITION OF COVERED PROJECT.-**In this subsection, the term "covered project" means a project-

(A) that has an ongoing environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(B) for which at least 2 years, beginning on the date on which a notice of intent is issued, have elapsed without the issuance of a record of decision.

(2) **TECHNICAL ASSISTANCE.-**At the request of a project sponsor or the Governor of a State in which a project is located, the Secretary shall provide additional technical assistance to resolve for a covered project any outstanding issues and project delay, including by-

(A) providing additional staff, training, and expertise;

(B) facilitating interagency coordination;

(C) promoting more efficient collaboration; and

(D) supplying specialized onsite assistance.

(3) **SCOPE OF WORK.-**

(A) **IN GENERAL.-**In providing technical assistance for a covered project under this subsection, the Secretary shall establish a scope of work that describes the actions that the Secretary will take to resolve the outstanding issues and project delays, including establishing a schedule under subparagraph (B).

(B) **SCHEDULE.-**

(i) **IN GENERAL.-**The Secretary shall establish and meet a schedule for the completion of any permit, approval, review, or study, required for the covered project by the date that is not later than 4 years after the date on which a notice of intent for the covered project is issued.

(ii) **INCLUSIONS.-**The schedule under clause (i) shall-

(I) comply with all applicable laws;

(II) require the concurrence of the Council on Environmental Quality and each participating agency for the project with the State in which the project is located or the project sponsor, as applicable; and

(III) reflect any new information that becomes available and any changes in circumstances that may result in new significant impacts that could affect the timeline for completion of any permit, approval, review, or study required for the covered project.

(4) **CONSULTATION.-**In providing technical assistance for a covered project under this subsection, the Secretary shall consult, if appropriate, with resource and participating agencies on all methods available to resolve the outstanding issues and project delays for a covered project as expeditiously as possible.

(5) **ENFORCEMENT.-**

(A) **IN GENERAL.-**All provisions of this section shall apply to this subsection, including the financial penalty provisions under subsection (h)(6).

(B) **RESTRICTION.-**If the Secretary enforces this subsection under subsection (h)(6), the Secretary may use a date included in a schedule under paragraph (3)(B) that is created pursuant to and is in compliance with this subsection in lieu of the dates under subsection (h)(6)(B)(ii).

(n) ACCELERATED DECISIONMAKING IN ENVIRONMENTAL REVIEWS.-

(1) **IN GENERAL.-**In preparing a final environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), if the lead agency modifies the statement in response to comments that are minor and are confined to factual corrections or explanations of why the comments do not warrant additional agency response, the lead agency may write on errata sheets attached to the statement instead of rewriting the draft statement, subject to the condition that the errata sheets-

(A) cite the sources, authorities, and reasons that support the position of the agency; and

(5) if appropriate, indicate the circumstances that would trigger agency reappraisal or further response.

(2) **SINGLE DOCUMENT.**-To the maximum extent practicable, the lead agency shall expeditiously develop a single document that consists of a final environmental impact statement and a record of decision, unless-

(A) the final environmental impact statement makes substantial changes to the proposed action that are relevant to environmental or safety concerns; or

(B) there is a significant new circumstance or information relevant to environmental concerns that bears on the proposed action or the impacts of the proposed action.

(3) **LENGTH OF ENVIRONMENTAL DOCUMENT.**-

(A) **IN GENERAL.**-Notwithstanding any other provision of law and except as provided in subparagraph (B), to the maximum extent practicable, the text of the items described in paragraphs (4) through (6) of section 1502.10(a) of title 40, Code of Federal Regulations (or successor regulations) of an environmental impact statement for a project shall be 200 pages or fewer.

(B) **EXEMPTION.**-An environmental impact statement for a project may exceed 200 pages if the lead agency establishes a new page limit for the environmental impact statement for that project.

(o) **IMPROVING TRANSPARENCY IN ENVIRONMENTAL REVIEWS.**-

(1) **IN GENERAL.**-Not later than 18 months after the date of enactment of this subsection, the Secretary shall-

(A) use the searchable Internet website maintained under section 41003(b) of the FAST Act-

(i) to make publicly available the status and progress of projects requiring an environmental assessment or an environmental impact statement with respect to compliance with applicable requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and any other Federal, State, or local approval required for those projects; and

(ii) to make publicly available the names of participating agencies not participating in the development of a project purpose and need and range of alternatives under subsection (f); and

(B) issue reporting standards to meet the requirements of subparagraph (A).

(2) **FEDERAL, STATE, AND LOCAL AGENCY PARTICIPATION.**-

(A) **FEDERAL AGENCIES.**-A Federal agency participating in the environmental review or permitting process for a project shall provide to the Secretary information regarding the status and progress of the approval of the project for publication on the Internet website referred to in paragraph (1)(A), consistent with the standards established under paragraph (1)(B).

(B) **STATE AND LOCAL AGENCIES.**-The Secretary shall encourage State and local agencies participating in the environmental review permitting process for a project to provide information regarding the status and progress of the approval of the project for publication on the Internet website referred to in paragraph (1)(A).

(3) **STATES WITH DELEGATED AUTHORITY.**-A State with delegated authority for responsibilities under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) pursuant to section 327 shall be responsible for supplying to the Secretary project development and compliance status for all applicable projects.

(p) **ACCOUNTABILITY AND REPORTING FOR MAJOR PROJECTS.**-

(1) **IN GENERAL.**-The Secretary shall establish a performance accountability system to track each major project.

(2) **REQUIREMENTS.**-The performance accountability system under paragraph (1) shall, for each major project, track, at a minimum-

(A) the environmental review process for the major project, including the project schedule;

(B) whether the lead agency, cooperating agencies, and participating agencies are meeting the schedule established for the environmental review process; and

(C) the time taken to complete the environmental review process.

(q) **DEVELOPMENT OF CATEGORICAL EXCLUSIONS.**-

(1) **IN GENERAL.**-Not later than 60 days after the date of enactment of this subsection, and every 4 years thereafter, the Secretary shall-

(A) in consultation with the agencies described in paragraph (2), identify the categorical exclusions described in section 771.117 of title 23, Code of Federal Regulations (or successor regulations), that would accelerate delivery of a project if those categorical exclusions were available to those agencies;

(B) collect existing documentation and substantiating information on the categorical exclusions described in subparagraph (A); and

(C) provide to each agency described in paragraph (2)-

(i) a list of the categorical exclusions identified under subparagraph (A); and

(ii) the documentation and substantiating information under subparagraph (B).

(2) AGENCIES DESCRIBED.-The agencies referred to in paragraph (1) are-

- (A) the Department of the Interior;
- (B) the Department of the Army;
- (C) the Department of Commerce;
- (D) the Department of Agriculture;
- (E) the Department of Energy;
- (F) the Department of Defense; and
- (G) any other Federal agency that has participated in an environmental review process for a project, as determined by the Secretary.

(3) ADOPTION OF CATEGORICAL EXCLUSIONS.-

(A) IN GENERAL.-Not later than 1 year after the date on which the Secretary provides a list under paragraph (1) (C), an agency described in paragraph (2) shall publish a notice of proposed rulemaking to propose any categorical exclusions from the list applicable to the agency, subject to the condition that the categorical exclusion identified under paragraph (1)(A) meets the criteria for a categorical exclusion under section 1508.1 of title 40, Code of Federal Regulations (or successor regulations).

(B) PUBLIC COMMENT.-In a notice of proposed rulemaking under subparagraph (A), the applicable agency may solicit comments on whether any of the proposed new categorical exclusions meet the criteria for a categorical exclusion under section 1508.1 of title 40, Code of Federal Regulations (or successor regulations).

(Added Pub. L. 109–59, title VI, §6002(a), Aug. 10, 2005, 119 Stat. 1857 ; amended Pub. L. 112–141, div. A, title I, §§1305–1309, July 6, 2012, 126 Stat. 533–539 ; Pub. L. 114–94, div. A, title I, §1304(a)–(j)(1), Dec. 4, 2015, 129 Stat. 1378–1385 ; Pub. L. 117–58, div. A, title I, §§11301(a), 11525(h), Nov. 15, 2021, 135 Stat. 525 , 607)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsecs. (a)(3)–(5), (7)(A)(i), (b)(1), (3)(A)(iii)(I), (c)(2), (3), (6)(B), (d)(7)(A), (8)(A), (D)(ii), (f)(4)(B)(ii)(II), (E)(i)(I), (ii)(II), (VI)(aa), (h)(7)(B)(ii)(II)(bb), (8), (k)(2), (m)(1)(A), (n)(1), and (o)(1)(A)(i), (3), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852 , which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

The date of enactment of the Surface Transportation Reauthorization Act of 2021 and the date of enactment of this subsection, referred to in subsecs. (c)(7)(C) and (q)(1), are the date of enactment of div. A of Pub. L. 117–58, which was approved Nov. 15, 2021.

The date of enactment of the MAP–21, referred to in subsec. (h)(8)(B), is deemed to be Oct. 1, 2012, see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of this title.

Section 204 of this title, referred to in subsec. (j)(3), was repealed and a new section 204 enacted by Pub. L. 112–141, div. A, title I, §1119(a), July 6, 2012, 126 Stat. 473 , 489.

The date of enactment of this subsection, referred to in subsec. (o)(1), is the date of enactment of Pub. L. 114–94, which was approved Dec. 4, 2015.

Section 41003(b) of the FAST Act, referred to in subsec. (o)(1)(A), is section 41003(b) of Pub. L. 114–94, known as the FAST Act and also known as the Fixing America's Surface Transportation Act, which is classified to section 4370m–2(b) of Title 42, The Public Health and Welfare.

CODIFICATION

Section 6002(a) of Pub. L. 109–59, which directed that this section be inserted after section 138 of subchapter I of chapter 1 of this title, was executed by adding this section after section 138 of chapter 1 of this title, to reflect the probable intent of Congress and the amendment by Pub. L. 109–59, §1602(b)(6)(A), which struck out the subchapter I heading preceding section 101 of this title.

PRIOR PROVISIONS

A prior section 139, added Pub. L. 90–495, §16(a), Aug. 23, 1968, 82 Stat. 823 ; amended Pub. L. 91–605, title I, §§106(b)(1), 140, Dec. 31, 1970, 84 Stat. 1716 , 1736 ; Pub. L. 94–280, title I, §125, May 5, 1976, 90 Stat. 440 ; Pub. L. 97–134, §10, Dec. 29, 1981, 95 Stat. 1702 ; Pub. L. 97–424, title I, §116(a)(3), Jan. 6, 1983, 96 Stat. 2109 ; Pub. L. 98–229, §8(a), Mar. 9, 1984, 98 Stat. 56 , related to additions to the Interstate System, prior to repeal by Pub. L. 105–178, title I, §1106(c)(2)(A), June 9, 1998, 112 Stat. 136 .

AMENDMENTS

2021-Pub. L. 117-58, §11301(a)(1), substituted "decisionmaking and Decision Making" in section catchline.

Subsec. (a)(2) to (5). Pub. L. 117-58, §11301(a)(2)(A) to (E), redesignated former pars. (2) and (3) as (4) and (5), respectively. Former pars. (4) and (5) redesignated (1) and (3), respectively.

Subsec. (a)(5)(B). Pub. L. 117-58, §11301(a)(2)(C), substituted "process for and completion of any environmental permit" for "process for and completion of any environmental permit".

Subsec. (a)(6). Pub. L. 117-58, §11301(a)(2)(F), redesignated par. (6) as (8). Former par. (6) redesignated (9).

Subsec. (a)(7). Pub. L. 117-58, §11301(a)(2)(D), added par. (7). Former par. (7) redesignated (10).

Subsec. (a)(8) to (11). Pub. L. 117-58, §11301(a)(2)(A), redesignated pars. (8) to (11) as (3), (4), (5), (10), and (11), respectively.

Subsec. (b)(1). Pub. L. 117-58, §11525(h)(1), inserted "(42 U.S.C. 4321 et seq.)" after "Act of 1968".

Pub. L. 117-58, §11301(a)(3), inserted ", including major projects," after "all projects" and "as requested by a project sponsor and" after "applied,".

Subsec. (c). Pub. L. 117-58, §11525(h)(2), inserted "(42 U.S.C. 4321 et seq.)" after "Act of 1968" wherever appearing.

Subsec. (c)(6)(D). Pub. L. 117-58, §11301(a)(4)(A), added subpar. (D).

Subsec. (c)(7). Pub. L. 117-58, §11301(a)(4)(E), added par. (7).

Subsec. (d)(8). Pub. L. 117-58, §11301(a)(5)(A)(i), substituted "environmental" for "NEPA" in heading.

Subsec. (d)(8)(A). Pub. L. 117-58, §11301(a)(5)(A)(ii), inserted "and except as provided in subparagraph (D)" after "paragraph (7)" and substituted "authorizations" for "permits" and "single environmental document for each kind of environmental document" for "single environmental document".

Subsec. (d)(8)(B)(i). Pub. L. 117-58, §11301(a)(5)(A)(iii), substituted "environmental documents" for "an environmental document" and "authorizations" for "permits issued".

Subsec. (d)(8)(D). Pub. L. 117-58, §11301(a)(5)(A)(iv), added subpar. (D).

Subsec. (d)(10). Pub. L. 117-58, §11301(a)(5)(B), added par. (10).

Subsec. (g)(1)(B)(ii)(IV). Pub. L. 117-58, §11301(a)(6)(A)(i), substituted "time required by an agency to conduct an environmental review and make decisions under applicable Federal law relating to a project (including the issuance or denial of a permit or license) and the cost of" for "schedule for and cost of".

Subsec. (g)(1)(B)(iii). Pub. L. 117-58, §11301(a)(6)(A)(ii), added cl. (iii).

Subsec. (g)(1)(D). Pub. L. 117-58, §11301(a)(6)(B), added subpar. (D) and struck out former subpar. (D). Prior to amendment, text read as follows: "The lead agency may-

"(i) lengthen a schedule established under subparagraph (B) for good cause; and

"(ii) shorten a schedule only with the concurrence of the affected cooperating agencies."

Subsec. (g)(1)(E), (F). Pub. L. 117-58, §11301(a)(6)(C), (D), added subpar. (E) and redesignated former subpar. (E) as (F).

Subsec. (k)(2). Pub. L. 117-58, §11525(h)(3), inserted "(42 U.S.C. 4321 et seq.)" after "Act of 1968".

Subsec. (n)(3). Pub. L. 117-58, §11301(a)(7), added par. (3).

Subsecs. (p), (q). Pub. L. 117-58, §11301(a)(8), added subsecs. (p) and (q).

2015-Subsec. (a)(5). Pub. L. 114-94, §1304(a)(1), added par. (5) and struck out former par. (5). Prior to amendment, text read as follows: "The term 'multimodal project' means a project funded, in whole or in part, under this title or chapter 53 of title 49 and involving the participation of more than one Department of Transportation administration or agency."

Subsec. (a)(6). Pub. L. 114-94, §1304(a)(2), added par. (6) and struck out former par. (6). Prior to amendment, text read as follows: "The term 'project' means any highway project, public transportation capital project, or multimodal project that requires the approval of the Secretary."

Subsec. (b)(3)(A). Pub. L. 114-94, §1304(b)(1), struck out "initiate a rulemaking to" after "shall" in introductory provisions.

Subsec. (b)(3)(B). Pub. L. 114-94, §1304(b)(2), added subpar. (B) and struck out former subpar. (B) which related to programmatic compliance requirements.

Subsec. (c)(1)(A). Pub. L. 114-94, §1304(c)(1), inserted ", or an operating administration thereof designated by the Secretary," after "Department of Transportation".

Subsec. (c)(6)(C). Pub. L. 114-94, §1304(c)(2), added subpar. (C).

Subsec. (d)(2). Pub. L. 114-94, §1304(d)(1), substituted "Not later than 45 days after the date of publication of a notice of intent to prepare an environmental impact statement or the initiation of an environmental assessment, the lead agency shall identify" for "The lead agency shall identify, as early as practicable in the environmental review process for a project,".

Subsec. (d)(8), (9). Pub. L. 114-94, §1304(d)(2), added pars. (8) and (9).

Subsec. (e)(1). Pub. L. 114-94, §1304(e)(1), inserted "(including pay and benefits of the lead agency project sponsor considers to be important to initiate the process of the environmental review of the general location of the proposed project)".

Subsec. (e)(3) to (5). Pub. L. 114-94, §1304(e)(2), added pars. (3) to (5).

Subsec. (f). Pub. L. 114-94, §1304(f)(1) inserted "Alternatives Analysis" and "scoping" headings.

Subsec. (f)(4)(A). Pub. L. 114-94, §1304(f)(2)(A), added subpar. (A) and struck out former subpar. (A). Prior to amendment, text read as follows: "As early as practicable during the environmental review process, the lead agency shall provide an opportunity for input from by participating agencies of the public in determining the range of alternatives to be considered for a project."

Subsec. (f)(4)(B). Pub. L. 114-94, §1304(f)(2)(B), designated existing provisions as subpar. (A) under heading, substituted "Following participation under subgraph (A) for life-cycle evaluation under paragraph (1)", and added cl. (ii).

Subsec. (f)(4)(E). Pub. L. 114-94, §1304(f)(2)(C), added subpar. (E).

Subsec. (g)(1)(A). Pub. L. 114-94, §1304(g)(1)(A), substituted "Not later than 60 days after the date of publication of a notice of intent to prepare an environmental impact statement or the initiation of an environmental assessment, the lead agency" for "The lead agency".

Subsec. (g)(1)(B)(i). Pub. L. 114-94, §1304(g)(1)(B), substituted "shall establish as part of such coordination plan" for "may establish as part of the coordination plan".

Subsec. (g)(3). Pub. L. 114-94, §1304(g)(2), inserted "and publish on the public information site of Representatives" in introductory provisions.

Subsec. (h)(4). Pub. L. 114-94, §1304(h)(1)(B), added par. (4). Former par. (4) redesignated (5).

Subsec. (h)(5). Pub. L. 114-94, §1304(h)(1)(A), redesignated par. (4) as (5), former par. (5) redesignated (6).

Subsec. (h)(5)(C). Pub. L. 114-94, §1304(h)(2), substituted "paragraph (6)" for "paragraph (a) and (c)".

Subsec. (h)(6). (7). Pub. L. 114-94, §1304(h)(1)(A) redesignated pars. (5) and (6) as (6) and (7), respectively. Former par. (7) redesignated (8).

Subsec. (h)(7)(B)(i)(I). Pub. L. 114-94, §1304(h)(3)(A), substituted "is required under subsection (f) or (i) of section 106" for "under section 106(i) is required".

Subsec. (h)(7)(B)(ii). Pub. L. 114-94, §1304(h)(3)(B), added cl. (ii) and struck out former cl. (i). Prior to amendment, text read as follows: "The date referred to in clause (i) is the date of:

"(I) the date that is 180 days after the date on which an application for the public use permit approval is complete; and

"(II) the date that is 180 days after the date on which the Federal lead agency issues a decision on the project under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)."

Subsec. (h)(8). Pub. L. 114-94, §1304(h)(1)(A), redesignated par. (7) as (8).

Subsec. (j)(1). Pub. L. 114-94, §1304(i)(1), added par. (1) and struck out former par. (1). Prior to amendment, text read as follows: "For a project that is subject to the environmental review process established under this section and for which funds are made available to a State under this title or chapter 53 of title 49, the Secretary may approve a request by the State to provide funds not made available under this title or such chapter 53 to affected Federal agencies (including the Department of Transportation), State agencies, and Indian tribes participating in the environmental review process for the projects in that State or participating in a State process that has been approved by the Secretary for that State. Such funds may be provided only to support activities that directly and meaningfully contribute to expediting and improving transportation project planning and delivery for projects in that State."

Subsec. (j)(2). Pub. L. 114-94, §1304(i)(2), inserted "activities directly related to the environmental review process," before "dedicated staffing."

Subsec. (j)(6). Pub. L. 114-94, §1304(i)(3), added par. (6) and struck out former par. (6). Prior to amendment, text read as follows: "Prior to providing funds approved by the Secretary for dedicated staffing at an affected Federal agency under paragraphs (1) and (2), the affected Federal agency and the State agency shall enter into a memorandum of understanding that establishes the projects and priorities to be addressed by the use of the funds."

Subsecs. (n), (o). Pub. L. 114-94, §1304(j)(1), added subsec. (n) and (o).

2012-Subsec. (b)(2). Pub. L. 112-141, §1305(a)(1), inserted ", and any requirements established under this section may be satisfied," after "exercised".

Subsec. (b)(3). Pub. L. 112-141, §1305(a)(2), added par. (3).

Subsec. (c)(1). Pub. L. 112-141, §1305(b)(1), designated existing provisions as subpar. (A), inserted subpar. heading, and added subpar. (B).

Subsec. (d)(4). Pub. L. 112-141, §1305(c)(1), added par. (4) and struck out former par. (4). Prior to amendment, text read as follows: "Designation as a participating agency under this subsection shall not imply that the participating agency-

"(A) supports a proposed project; or

"(B) has any jurisdiction over, or special expertise with respect to evaluation of, the project."
Subsec. (d)(7). Pub. L. 112–141, §1305(c)(2), added par. (7) and struck out former par. (7). Prior to amendment, text read as follows: "Each Federal agency shall, to the maximum extent practicable—
"(A) carry out obligations of the Federal agency under other applicable law concurrently, and in conjunction, with the review required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), unless doing so would impair the ability of the Federal agency to carry out those obligations; and
"(B) formulate and implement administrative, policy, and procedural mechanisms to enable the agency to ensure completion of the environmental review process in a timely, coordinated, and environmentally responsible manner."
Subsec. (e). Pub. L. 112–141, §1305(d), designated existing provisions as par. (1), inserted par. heading, and added par. (2).
Subsec. (g)(1)(B)(i). Pub. L. 112–141, §1305(e), inserted "and the concurrence of" after "consultation with".
Subsec. (h)(4) to (7). Pub. L. 112–141, §1306, added pars. (4) to (7) and struck out former par. (4) which related to issue resolution.
Subsec. (j)(6). Pub. L. 112–141, §1307, added par. (6).
Subsec. (l). Pub. L. 112–141, §1308, substituted "150 days" for "180 days" in pars. (1) and (2).
Subsec. (m). Pub. L. 112–141, §1309, added subsec. (m).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–58 effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

IMPLEMENTATION OF PROGRAMMATIC COMPLIANCE

Pub. L. 114–94, div. A, title I, §1304(k), Dec. 4, 2015, 129 Stat. 1386, provided that:

"(1) RULEMAKING.—Not later than 1 year after the date of enactment of this Act [Dec. 4, 2015], the Secretary [of Transportation] shall complete a rulemaking to implement the provisions of section 139(b)(3) of title 23, United States Code, as amended by this section.

"(2) CONSULTATION.—Before initiating the rulemaking under paragraph (1), the Secretary shall consult with relevant Federal agencies, relevant State resource agencies, State departments of transportation, Indian tribes, and the public on the appropriate use and scope of the programmatic approaches.

"(3) REQUIREMENTS.—In carrying out this subsection, the Secretary shall ensure that the rulemaking meets the requirements of section 139(b)(3)(B) of title 23, United States Code, as amended by this section.

"(4) COMMENT PERIOD.—The Secretary shall—

"(A) allow not fewer than 60 days for public notice and comment on the proposed rule; and

"(B) address any comments received under this subsection."

EXISTING ENVIRONMENTAL REVIEW PROCESS

Pub. L. 109–59, title VI, §6002(b), Aug. 10, 2005, 119 Stat. 1865, provided that: "Nothing in this section [enacting this section and repealing provisions set out as a note under section 109 of this title] affects any existing State environmental review process, program, agreement, or funding arrangement approved by the Secretary [of Transportation] under section 1309 of the Transportation Equity Act for the 21st Century [Pub. L. 105–178] (112 Stat. 232; 23 U.S.C. 109 note) as such section was in effect on the day preceding the date of enactment of the SAFETEA–LU [Aug. 10, 2005]."

EXECUTIVE DOCUMENTS

MEMORANDA OF AGENCY AGREEMENTS FOR EARLY COORDINATION

Pub. L. 112–141, div. A, title I, §1320, July 6, 2012, 126 Stat. 551, provided that:

"(a) **IN GENERAL.**—It is the sense of Congress that—

"(1) the Secretary [of Transportation] and other Federal agencies with relevant jurisdiction in the environmental review process should cooperate with each other and other agencies in early environmental review and project delivery activities at the earliest practicable time to minimize duplication of effort later in the process, head off potential conflicts, and ensure that planning and project development decisions reflect environmental values; and

"(2) such cooperation should include the development of policies and the interpretation of laws that advise planning agencies or project sponsors of studies or other information to enable regulation for later Federal action and early consultation with appropriate State and local agencies and officials.

"(b) **TECHNICAL ASSISTANCE.**—If requested at any time by a State or local planning agency, the Secretary and other Federal agencies with relevant jurisdiction in the environmental review process shall, to the extent practicable and appropriate, as determined by the agencies, provide technical assistance to the State or local planning agency on accomplishing the early coordination activities described in subsection (d).

"(c) **MEMORANDUM OF AGENCY AGREEMENT.**—If requested at any time by a State or local planning agency, the lead agency, in consultation with other Federal agencies with relevant jurisdiction in the environmental review process, may establish memoranda of agreement with the project sponsor, State, and local governments and other appropriate entities to accomplish the early coordination activities described in subsection (d).

"(d) **EARLY COORDINATION ACTIVITIES.**—Early coordination activities shall include, to the maximum extent practicable, the following:

"(1) Technical assistance on identifying potential impacts and mitigation issues in an integrated fashion.

"(2) The potential appropriateness of using planning products and decisions in later environmental reviews.

"(3) The identification and elimination from detailed study in the environmental review process of the issues that are not significant or that have been covered by prior environmental reviews.

"(4) The identification of other environmental review and consultation requirements so that the lead and cooperating agencies may prepare, as appropriate, other required analyses and studies concurrently with planning activities.

"(5) The identification by agencies with jurisdiction over any permits related to the project of any and all relevant information that will reasonably be required for the project.

"(6) The reduction of duplication between requirements under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and State and local planning and environmental review requirements, unless the agencies are specifically barred from doing so by applicable law.

"(7) Timelines for the completion of agency actions during the planning and environmental review processes.

"(8) Other appropriate factors."

DELEGATION OF A REPORTING AUTHORITY

Memorandum of President of the United States, Jan. 31, 2013, 78 F.R. 8351, provided:
Memorandum for the Secretary of Transportation

By the authority vested in me as President by the Constitution and the laws of the United States, including section 301 of title 3, United States Code, I hereby delegate to you the functions and authority conferred upon the President by section 1306 of the Moving Ahead for Progress in the 21st Century Act (MAP–21), Public Law 112–141, to make the specified reports to the Congress.

You are authorized and directed to notify the appropriate congressional committees and publish this memorandum in the Federal Register.

BARACK OBAMA.

¹ See References in Text note below.

Date: 4/26/2023

202301232

To: Mayor and Members of City Council
From: Sheryl M. M. Long, City Manager
Subject: **SPECIAL EVENT PERMIT APPLICATION: (Rhinehaus 10 Year Anniversary Block Party)**

In accordance with Cincinnati Municipal Code, Chapter 765; (Aaron Kohlhepp - KW OTR Ventures, LLC) has submitted a Special Event Permit Application Form to the Chief of Police. The Special Event Permit Application has been reviewed by the following department(s): (Cincinnati Police Department, Fire Department, Health Department, Parks Department, Department of Building and Inspections, Department of Community and Economic Development, Department of Finance, Department of Public Services, and Department of Transportation and Engineering). There are no objections to issuing the Special Events Permit.

The particulars of the requested event are as indicated:

EVENT NAME/TITLE: Rhinehaus 10 Year Anniversary Block Party
EVENT SPONSOR/PRODUCER: KW OTR Ventures, LLC
CONTACT PERSON: Aaron Kohlhepp
LOCATION: 1100-1200 Clay Street
DATE(S) AND TIME(S): 05/20/2023 12:00pm—05/20/2023 11:00pm
EVENT DESCRIPTION: Block party for anniversary party. Beer stands and food truck.
Stage for band to play.
ANTICIPATED ATTENDANCE: 200
ALCOHOL SALES: YES. NO.
TEMPORARY LIQUOR PERMIT HOLDER IS: KW OTR Ventures, LLC)

cc: Colonel Teresa A. Theetge, Police Chief

Date: 04/26/23

202301234

To: Mayor and Members of City Council
From: Sheryl M. M. Long, City Manager
Subject: **SPECIAL EVENT PERMIT APPLICATION: Juneteenth Block Party 2023**

In accordance with Cincinnati Municipal Code, Chapter 765; Marquitta Minniefield has submitted a Special Event Permit Application Form to the Chief of Police. The Special Event Permit Application has been reviewed by the following department(s): (Cincinnati Fire Department, Metro, Cincinnati Police Special Events Unit, Cincinnati Police District One, Traffic and Engineering Department, Traffic and Road Operations Department and The Health Department. There are no objections to issuing the Special Events Permit.

The particulars of the requested event are as indicated:

EVENT NAME/TITLE: Juneteenth Block Party 2023
EVENT SPONSOR/PRODUCER: Paloozanoire, LLC.
CONTACT PERSON: Marquitta Minniefield
LOCATION: 50 East Freedom Way
DATE(S) AND TIME(S): 06/17/23 1600-2300 Hours
EVENT DESCRIPTION: Annual Juneteenth celebration held at the Banks
ANTICIPATED ATTENDANCE: 15,000
ALCOHOL SALES: YES. NO.
TEMPORARY LIQUOR PERMIT HOLDER IS: N/A

cc: Colonel Teresa A. Theetge, Police Chief

April 26, 2023

To: Mayor and Members of City Council

202301235

From: Sheryl M.M. Long, City Manager

Subject: Emergency Ordinance – Approving and Authorizing a CRA Tax Abatement with MCA Center, LLC

Attached is an Emergency Ordinance captioned:

APPROVING AND AUTHORIZING the City Manager to execute a *Community Reinvestment Area Tax Exemption Agreement* with MCA Center, LLC, an affiliate of Model Group, Inc., thereby authorizing a fifteen-year tax exemption for 100 percent of the value of improvements made to real property located at 414 Walnut Street and 115 Fifth Street in the Central Business District of Cincinnati, in connection with the remodeling of two existing buildings into mixed-use space containing, in aggregate, approximately 47,103 square feet of commercial space, approximately 27,826 square feet of office space, and approximately 124,302 square feet of residential space, consisting of approximately 156 residential units, at a total construction cost of approximately \$52,700,523.

BACKGROUND/CURRENT CONDITIONS

MCA Center, LLC will be renovating the office buildings located at 414 Walnut Street and 115 Fifth Street in the Central Business District neighborhood of Cincinnati. 414 Walnut Street is home to the Mercantile Library. This project will transform the mostly vacant buildings into 156 apartment units (124,302 square feet of residential space), 47,103 square feet of commercial space and 27,826 square feet of office space, as well as the expansion of the Mercantile Library.

DEVELOPER INFORMATION

MCA Center, LLC is affiliated with The Model Group, who has developed more than \$750 Million in real estate, including over 400 historic properties in Ohio. This includes a diverse mix of market rate and affordable residential, as well as commercial real estate. TMG has extensive experience working with multiple funding sources, routinely layering them together in complex financing structures to maximize the impact of scarce resources and get challenging projects completed.

RECOMMENDATION

The Administration recommends approval of this Ordinance.

CRA Tax Abatement

Common Ground Community Development, LLC Page 2 of 4

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	Mercantile Library Redevelopment
Street Address	414 Walnut Street 115 Fifth Street
Property Condition	Office buildings currently sit mostly vacant; The Mercantile Library is in 414 Walnut Street.
Neighborhood	Central Business District
Incentive Application Process	Commercial CRA – Streetcar (Non-LEED)
Recent or other projects by Developer	Findlay Market Square
Approval at planning commission/Neighborhood support	Downtown Residents Council has submitted a letter of support
Plan Cincinnati Goals	Achieves the Compete Initiative Area Goal 2 (pages 114-120) and Sustain Initiative Area Goal 2 (pages 193-198) of Plan Cincinnati

Project Image



<u>Incentive Summary Category</u>	<u>Explanation</u>
Abatement Term and amount	15-year, net 59.5%
Construction Cost & Private investment committed	\$52,700,523 in hard construction costs, \$23,878,311 in soft costs; Developer has received a construction loan for up to \$33,000,000.
Sq. Footage by Use	124,302 – residential 47,103 – commercial 27,826 – office
Number of units and rental ranges	156 residential units Ranging from \$1,350/month- \$4,800/month
Jobs created/retained and payroll (living wage)	Projected to create 72 FTE positions at \$2,546,600 in annual payroll (avg. of \$35,369 annually per job)
“But For”	This project would not proceed without an abatement; the developer would lose money on the project post-construction with their projected ROI
Cash on Cash Return for developer (Market return between 8-12%, depends on investment risk)	Without Abatement: Year 5: -1.88% (stabilized vacancy) With Abatement: Year 5: 2.6% (stabilized vacancy)
LEED or other environmental build	Non-LEED
Neighborhood VTICA	Streetcar VTICA – 7.5%, with payments beginning in year 10 of the agreement.
Total Public Benefit (Benefits Realized vs Taxes Forgone)	\$4.65 of new CPS/VTICA/Income taxes for each \$1 forgone
Projected Income Tax Revenue	\$3,374,333
MBE/WBE Goals	N/A
Transit Access/Walkability	Sits along Streetcar line near Fountain Square stop, one block from METRO’s Government Square hub 96 Walk Score
Geography	Located in an Opportunity Zone
Historic Preservation/Existing Building Renovation	This project will renovate two largely vacant office buildings and bring them back into use, as well as result in the expansion of the historic Mercantile Library.
Public Infrastructure Improvements	N/A

Rent	Affordable to Salary	City Jobs (Min Salary exceeds affordable salary)
\$1350.00	\$53,520	Building And Ground Maintenance Crew Leader, Assistant Parking Services Supervisor, Building and Grounds Crew Leader, Automotive Street Cleaning Equipment Operator
\$4,800.00	\$192,000	Director Level and Higher

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

ZDS

- 2023

APPROVING AND AUTHORIZING the City Manager to execute a *Community Reinvestment Area Tax Exemption Agreement* with MCA Center LLC, an affiliate of The Model Group, Inc., thereby authorizing a fifteen-year tax exemption for 100 percent of the value of improvements made to real property located at 414 Walnut Street and 115 Fifth Street in the Central Business District of Cincinnati, in connection with the remodeling of two existing buildings into mixed-use space containing, in aggregate, approximately 47,103 square feet of commercial space, approximately 27,826 square feet of office space, and approximately 124,302 square feet of residential space, consisting of approximately 156 residential rental units, at a total construction cost of approximately \$52,700,523.

WHEREAS, to encourage the development of real property and the acquisition of personal property, Council, 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 (“R.C.”) Sections 3735.65 through 3735.70 (the “Statute”); and

WHEREAS, Ordinance No. 275-2017 passed by Council on September 27, 2017, as amended by Ordinance No. 339-2018, passed by 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, MCA Center LLC (the “Company”) desires to remodel two existing buildings on real property at 414 Walnut Street and 115 Fifth Street located within the corporate boundaries of the City of Cincinnati into mixed-use space containing, in aggregate, approximately 47,103 square feet of commercial space, approximately 27,826 square feet of office space, and approximately 124,302 square feet of residential space, consisting of approximately 156 residential rental units (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 percent 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 percent of the exempt real property taxes; and

WHEREAS, the City of Cincinnati’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 \$605,552; 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 7.5 percent of the exempt real property taxes for years ten through fifteen of the exemption, which funds shall be committed by the third-party organization to support the streetcar that specially benefits the property; and

WHEREAS, the Improvements do not involve relocation of part or all of the Company’s operations from another county or municipal corporation in Ohio or, if there is relocation, notice has been given per R.C. 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 MCA Center LLC (the “Agreement”), thereby authorizing a fifteen-year tax exemption for 100 percent of the assessed value of improvements to be made to real property located at 414 Walnut Street and 115 Fifth Street in Cincinnati, as calculated by the Hamilton County Auditor, in connection with the remodeling of two existing buildings into mixed-use space containing, in aggregate, approximately 47,103 square feet of commercial space, approximately 27,826 square feet of office space, and approximately 124,302 square feet of residential space, consisting of approximately 156 residential rental units, to be completed at a total construction cost of approximately \$52,700,523.

Section 2. That Council authorizes the City Manager:

- (i) to execute the Agreement on behalf of the City of Cincinnati (the “City”) in substantially the form of Attachment A to this ordinance; and
- (ii) to submit on behalf of Council annual reports on the Agreement to the Director of the Ohio Department of Development, in accordance with Ohio Revised Code Section 3735.672, and to the Board of Education of the Cincinnati City School District, as necessary; and
- (iii) to take all necessary and proper actions to fulfill the City’s obligations under the Agreement.

Section 3. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to allow the remodeling described in this ordinance and the corresponding revitalization of the City 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 MCA CENTER LLC, an Ohio limited liability company (the "Company"), an affiliate of The Model Group, Inc.

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 414 Walnut Street and 115 Fifth Street, Cincinnati, Ohio 45202 (the "Property"), as further described in Exhibit A (Legal Description of Property) hereto. Notwithstanding the foregoing, the Property shall not include any residential condominiums being developed in connection with the Project (as defined below) (the "Excluded Property"), and the Company acknowledges and agrees that the City's Community Reinvestment Area program entails separate applications by the owner of any residential condominium units included within the Project. For the avoidance of doubt, the Excluded Property shall not be exempt under this Agreement; however, this provision shall not be deemed to prohibit any owners from time to time of any Excluded Property from separately applying for a tax abatement in accordance with applicable law.
- E. The Company has proposed to remodel two buildings located on the Property, within the boundaries of the City of Cincinnati, as more fully described in Section 1 herein (the "Project"), provided that the appropriate development incentives are available to support the economic viability of the Project.
- F. The Statute provides that if any part of a project is to be used for commercial or industrial purposes, including projects containing 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, and has remitted with the Application the City application fee of One Thousand Two Hundred Fifty Dollars (\$1,250) made payable to the City.
- 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 three (3) years neither the Company, any related member of the Company, nor any entity to which the Company is a successor has discontinued operations at a project site in the State during the term of a property tax exemption agreement (under Ohio Revised Code Section 3735.671, 5709.62, 5709.63 or 5709.632) applicable to that site, and the Company acknowledges that misrepresentation hereunder will result in voiding of this Agreement.
- N. The Company represents and warrants to the City that the Company is not subject to an Enterprise Zone Agreement with the City of Cincinnati for the Property or the Project.
- O. City Council passed (i) Motion No. 201401368 on November 19, 2014, establishing a tax incentive policy that incentivizes each applicant for a real property tax abatement in the neighborhoods of Downtown and OTR to enter into a voluntary tax incentive contribution agreement with a third-party organization ("VTICA") for an amount equal to a percentage of the real property taxes that would have been payable on the abated property but for the City-authorized tax abatement, which funds shall be committed by a third-party organization to support the streetcar that specially benefits the abated property, and (ii) Motion No. 201501592 on December 16, 2015, which established that the VTICA contribution to be recognized by the Director of the Department of Community and Economic Development is 15% of the real property taxes that would have been payable on the abated property but for the City-authorized tax abatement. The Commercial Policy Ordinance confirmed that such motions have not been superseded and remain the will of Council.
- P. Notwithstanding the foregoing, the Company is willing to make a 7.5% VTICA contribution (the "VTICA Contribution") for years 10 through 15 of the exemption period, and the Department of Community and Economic Development believes that, on balance, the Project merits the assistance described in this Agreement because of the financial constraints of the Project, the value of the VTICA Contribution, the scale and significance of the investment in the Property and the transformative nature of the Project, the job and payroll creation in connection with the Project, and the impact that a continuous 15% contribution would have on the Project's feasibility.

- Q. The Company acknowledges that the Streetcar will specially benefit the Project due to (a) the Streetcar's enhancement of public transit options in such neighborhoods and (b) the anticipated increase in property values attributable to public investment in Streetcar infrastructure.
- R. The Company represents and warrants to the City that the Company has entered or will enter into a VTICA and shall pay the VTICA Contribution each year for the term of the abatement beginning in the 10th year of exemption.
- S. This Agreement has been authorized by Ordinance No. _____-2023, passed by Cincinnati City Council on _____, 2023.
- T. In determining to recommend and authorize this Agreement, the Department of Community and Economic Development and City Council, respectively, have acted in material reliance on the Company's representations in the Application and herein regarding the Project including, but not limited to, representations relating to the number of jobs to be created and/or retained by the Company, the Board of Education Agreement, the VTICA Contribution, and the Project's effect in promoting the general welfare of the people of Cincinnati by, for example, encouraging the development of real property located in the Community Reinvestment Area and thereby promoting economic growth and vitality in Cincinnati.

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

Section 1. Project. Upon issuance of the necessary zoning and building approvals, the Company agrees to remodel two existing buildings on the Property into mixed-use space containing, in aggregate, approximately 47,103 square feet of commercial space, approximately 27,826 square feet of office space, and approximately 124,302 square feet of residential space, consisting of approximately 156 residential rental units (collectively, the "Improvements") at an estimated aggregate cost of Fifty-Two Million Seven Hundred Thousand Five Hundred Twenty-Three Dollars (\$52,700,523) to commence after the execution of this Agreement and to be completed no later than December 31, 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.

Section 5. Duty of Company to Pay Taxes. As required by Ohio Revised Code Section 3735.671(B)(3), 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(B)(4), 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 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(B), 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(B), 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 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: fifteen percent (15%) MBE participation; and fifteen percent (15%) 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.

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

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

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

(vi) The Company shall periodically document its best efforts and affirmative steps to meet the above 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 Firms 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, there are (i) 182 full-time equivalent employees at the Property with a total annual payroll of \$8,190,000 (the "Retained Jobs"), and (ii) the Company has no existing employment at any other locations in the State.

Section 13. Job Creation and Retention.

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

B. Jobs to be Created by Company. The Company agrees to use its best efforts to create (i) 72 full-time equivalent permanent jobs, and (ii) 1,101 full-time temporary construction jobs at the Property in connection with the Project. In the case of the construction jobs, the job creation and retention period shall be concurrent with remodeling, and in the case of the other jobs described herein, the job creation period shall begin upon completion of remodeling and shall end three (3) years thereafter.

C. Company's Estimated Payroll Increase. The Company's increase in the number of employees will result in approximately (i) \$2,546,600 of additional annual payroll with respect to the full-time permanent jobs, and (ii) \$15,848,351 of additional annual payroll prior to the completion of the Project with respect to the full-time temporary construction jobs.

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

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

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

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

Section 16. Default. As provided in Ohio Revised Code Section 3735.671(B), 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(B)(5) 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 (C) 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(C) from entering into this Agreement. As required by Ohio Revised Code Section 3735.671(B)(7), 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 (C) of Ohio Revised Code Section 3735.671) has violated the prohibition against entering into this Agreement under division (C) of Ohio Revised Code Section 3735.671 or under Ohio Revised Code Sections 5709.62, 5709.63, or 5709.632 prior to the time prescribed by that division or either of those sections.

Section 19. False Statements; Penalties; Material Representations.

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

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

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

Section 21. Annual Fee. 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(C), 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 three (3) 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(C).

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:

MCA Center LLC
Attn: Jason Chamlee
1826 Race Street
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.

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(B)(6), 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, 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

MCA CENTER LLC,
an Ohio limited liability company

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

By: _____

Date: _____, 2023

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

PARCEL ONE:

Auditor's Parcel No.: 081-0003-0126-00

Situate in Section 18, Town 4, Fractional Range 1, Miami Purchase, Cincinnati Township, in the City of Cincinnati, Hamilton County, Ohio, being part of In Lots 139 and 140 of said city and being more particularly described as follows: Beginning at a point in the east line of Walnut Street (a 66 foot street) which is North 16° 11' West, 51.33 feet from the north line of Fourth Street (a 66 foot street); thence North 16 deg. 11' West, along the east line of Walnut Street, 148.47 feet to the south line of Mercantile Place; thence North 74° 03' 30" East, along the south line of Mercantile Place, 110.13 feet to the westerly line of the land described in Registered Land Certificate of Title 62144; thence along the westerly line of said Registered Land, South 16° 13' East 60.17 feet, South 74° 03' 30" West 10 feet, South 16° 13' East 76.46 feet, North 74° 00' East 0.73 feet and South 16° 13' East 11.73 feet; and thence South 74° 00' West 100.95 feet to the place of beginning. ~~Being the same premises described in Registered Land Certificate of Title No. 170856.~~

PARCEL TWO:

Auditor's Parcel No.: 083-0001-0141-00

Situate, lying and being in Section 18, Town 4, Fractional Range 1, Cincinnati Township, City of Cincinnati, Hamilton County, Ohio and being all of Lots 12 through 15 and part of Lot 11 of Hamilton County Subdivision as recorded in Deed Book V-2, Page 417, Hamilton County Recorder's Office, and also being part of In Lots 139 and 140 of the In Lots as recorded in Deed Book E-2, Pages 62 to 66, Hamilton County Recorder's Office and also being all of Tract B (a fee simple estate), all of Tract C (a fee simple estate) and all of Tract E (a fee simple estate) and also being part of Tract A (a fee simple estate) and part of Tract D (a fee simple estate) of Registered Land Certificate No. 78982 (City of Cincinnati) which is recorded in Hamilton County, Ohio Registered Land Records, and also being all of Traction Place (a 10 foot alley), and also being part of Mercantile Place (an 18 foot street), and being more particularly described as follows:

Beginning at the intersection of the south line of Fifth Street (a 130 foot street) and the west line of Traction Place (a 10 foot alley); thence North $81^{\circ} 08' 30''$ East along the south line of Fifth Street 112.70 feet to the west line of Tract B-2, Parcel 2 (Federal Reserve Bank); thence South $9^{\circ} 23' 30''$ East along the west line of Tract B-2, Parcel 2, and the west line of Tract B-2, Parcel 1 (Federal Reserve Bank) 334.83 feet to a point in the north line of Fourth Street (said point being 225.00 feet westwardly from the northwest corner of Fourth Street and Main

Street (a 66 foot street); thence South $81^{\circ} 04' 50''$ West along the north line of Fourth Street 172.52 feet to the east line of Walnut Street (a 66 foot street); thence North $9^{\circ} 06' 00''$ West along the east line of Walnut Street 51.33 feet to the south line of the property presently owned by the Cincinnati College, an Ohio corporation, thence North $81^{\circ} 04' 50''$ East along said south line and 51.33 feet north of and parallel to the north line of Fourth Street 100.95 feet to the west line of Tract C of Registered Land Certificate No. 78982; thence North $9^{\circ} 08' 10''$ West along said west line 11.73 feet to the south line of Tract E of Registered Land Certificate No. 78982; thence South $81^{\circ} 04' 50''$ West along said south line 0.73 feet to the west line of said Tract E; thence North $9^{\circ} 08' 10''$ West along said west line 76.46 feet to the north line of said Tract E; thence North $81^{\circ} 08' 20''$ East along said north line 10.00 feet to a point in the west line of Tract C of Registered Land Certificate No. 78982; thence North $9^{\circ} 08' 10''$ West along said west line and the west line extended northwardly 75.17 feet to a point 15 feet north of the south line of Mercantile Place (an 18 foot street); thence South $81^{\circ} 08' 30''$ West along a line 15 feet north of and parallel to the south line of Mercantile Place 51.99 feet to the west line of Traction Place; thence North $9^{\circ} 06' 00''$ West along the west line of Traction Place 120.20 feet to the south line of Fifth Street and the Place of Beginning and containing 33,378 square feet, more or less.

Included in the above described Tract are the following parcels of land registered under Registered Land Certificate Nos. 177272 and 177273:

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

Tract A

Beginning at a point in the north line of Fourth Street (a 66 foot street) a distance of 225.22 feet - westwardly from the northwest corner of Fourth Street and Main Street (a 66 foot street); thence North $16^{\circ} 27'$ West a distance of 63.00 feet; thence South 74° West a distance of 11.72 feet; thence South 16° East a distance of 63.00 feet to the north line of Fourth Street; thence North 74° East along the north line of Fourth Street a distance of 12.24 feet to the Place of Beginning.

Tract B

Beginning at a point in the north line of Fourth Street (a 66 foot street) a distance of 237.46 feet westwardly from the northwest corner of Fourth Street and Main Street (a 66 foot street); thence North 16° West a distance of 63.00 feet; thence South 74° West a distance of 21.50 feet; thence South 16° East a distance of 63.00 feet to the north line of Fourth Street; thence North 74° East along the north line of Fourth Street a distance of 21.50 feet to the Place of Beginning.

Tract C

Beginning at a point in the North line of Fourth Street (a 66 foot street) a distance of 258.96 feet westwardly from the northwest corner of Fourth Street and Main Street (a 66 foot street); thence North $16^{\circ} 00'$ a distance of 90 feet; thence North 74° East a distance of 7.14 feet; thence 16° West a distance of 26.31 feet; thence South 74° West a distance of 23.86 feet; thence North 16° West a distance of 83.19 feet to the north line of said Registered Land; thence South $74^{\circ} 03' 30''$ West along the north line of said Registered Land, a distance of 12.55 feet; thence South $16^{\circ} 13'$ East a distance of 136.45 feet; thence South 74° West a distance of 9.27 feet; thence South $16^{\circ} 13'$ East a distance of 63.06 feet to a point in the north line of Fourth Street and thence North 74° East along the north line of Fourth Street, a distance of 37.79 feet to the Place of Beginning.

Tract D

From a point in the north line of Fourth Street (a 66 foot street) which is 258.96 feet westwardly from the northwest corner of Fourth Street and Main Street (a 66 foot street); measure North 16° West a distance of 63.00 feet to the Place of Beginning; thence North 74° East a distance of 33.22 feet; thence North $16^{\circ} 28' 20''$ West a distance of 136.46 feet to the north line of said Registered Land; thence South $74^{\circ} 03' 30''$ West along the north line of said Registered Land a distance of 48.82 feet; thence South 16° East a distance of 83.19 feet; thence North 74° East a distance of 23.86 feet; thence South 16° East a distance of 26.31 feet; thence South 74° West a distance of 7.14 feet; thence South 16° East a distance of 27.00 feet to the Place of Beginning.

Tract E

From a point in the north line of Fourth Street (a 66 foot street) which is South 74° West a distance of 296.75 feet from the northwest corner of Fourth Street and Main Street (a 66 foot street); measure North $16^{\circ} 13'$ West a distance of 63.06 feet to the Place of Beginning; thence North 74° East a distance of 9.27 feet; thence North $16^{\circ} 13'$ West a distance of 76.45 feet; thence South $74^{\circ} 03' 30''$ West a distance of 10 feet; thence South $16^{\circ} 13'$ East a distance of 76.46 feet; thence North 74° East a distance of 0.73 feet to the Place of Beginning.

PARCEL THREE:

Auditor's Parcel No.: 083-0001-0257-00

Beginning at the intersection of the east line of Walnut Street (a 66 foot street) and the south line of Mercantile Place (a 15 foot alley), thence North $81^{\circ} 08' 30''$ East, along the south line of said Mercantile Place, a distance of 110.14 feet to the westerly line of that part of Mercantile Place vacated by Ordinance 345-1968, City of Cincinnati; thence North $9^{\circ} 08' 10''$ West along the westerly line of said vacated Mercantile Place, a distance of 15 feet; thence South $81^{\circ} 08' 30''$ West, along the northerly line of said Mercantile Place, as narrowed, and the North line of Mercantile Place a distance of 110.13 feet to the east line of said Walnut Street; thence South $9^{\circ} 06''$ East, along the east line of said Walnut Street, a distance of 15 feet to the place of beginning.

Exhibit B to CRA Agreement
APPLICATION FOR TAX EXEMPTION

TO BE ATTACHED

April 26, 2023

To: Mayor and Members of City Council

202301237

From: Sheryl M. M. Long, City Manager

Subject: Ordinance – Police: FY 2023 Law Enforcement Mental Health and Wellness Act Grant Program

Attached is an Ordinance captioned:

AUTHORIZING the City Manager to apply for, accept, and appropriate grant resources in an amount up to \$200,000 from the U.S. Department of Justice, Office of Community Oriented Policing Services, FY23 Law Enforcement Mental Health and Wellness Act Grant Program (ALN 16.710) for the purpose of providing assistance with expansion of the Cincinnati Police Department’s current law enforcement mental health and wellness efforts; and **AUTHORIZING** the Director of Finance to deposit the grant funds into Law Enforcement Grant Fund 368, Project Account no. 23LEMH.

This Ordinance authorizes the City Manager to apply for, accept, and appropriate a grant in an amount up to \$200,000 from the U.S. Department of Justice (DOJ), Office of Community Oriented Policing Services (COPS), FY 2023 Law Enforcement Mental Health and Wellness Act Grant Program (ALN 16.710) for the purpose of providing assistance with the expansion of the Cincinnati Police Department’s current law enforcement mental health and wellness efforts. This Ordinance also authorizes the Finance Director to deposit the grant resources into Law Enforcement Grant Fund 368, project account no. 23LEMH.

The FY 2023 Law Enforcement Mental Health and Wellness Act Grant is available through the U.S. Department of Justice, Office of Community Oriented Policing Services, for the purpose of providing assistance with expansion of the Cincinnati Police Department’s (CPD) current law enforcement mental health and wellness efforts, which may include research, training, and the Terrace Metrics Assessment.

The grant application deadline was April 21, 2023, and to meet the application deadline, CPD has applied for the grant, but no grant funds will be accepted prior to City Council approval. There are no new FTEs associated with this grant, and no matching funds are required.

Acceptance of this grant is in accordance with the “Live” goal to “[c]reate a more livable community” as described on page 156 of Plan Cincinnati (2012).

The Administration recommends passage of this Ordinance.

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



Attachment

AUTHORIZING the City Manager to apply for, accept, and appropriate grant resources in an amount up to \$200,000 from the U.S. Department of Justice, Office of Community Oriented Policing Services, FY23 Law Enforcement Mental Health and Wellness Act Grant Program (ALN 16.710) for the purpose of providing assistance with expansion of the Cincinnati Police Department’s current law enforcement mental health and wellness efforts; and **AUTHORIZING** the Director of Finance to deposit the grant funds into Law Enforcement Grant Fund 368, Project Account No. 23LEMH.

WHEREAS, a grant in an amount of up to \$200,000 is available from the U.S. Department of Justice, Office of Community Oriented Policing Services, FY23 Law Enforcement Mental Health and Wellness Act Grant Program (ALN 16.710) for the purpose of assisting with expansion of the Cincinnati Police Department’s (“CPD”) current law enforcement mental health and wellness efforts, which may include research, training, and the Terrace Metrics Assessment; and

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

WHEREAS, the grant application deadline is April 21, 2023, and CPD intends to apply by this date, but no grant funds will be accepted before approval by Council; and

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

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

Section 1. That the City Manager is authorized to apply for, accept, and appropriate grant resources in an amount up to \$200,000 from the U.S. Department of Justice, Office of Community Oriented Policing Services, FY23 Law Enforcement Mental Health and Wellness Act Grant Program (ALN 16.710) for the purpose of assisting with expansion of the Cincinnati Police Department’s current law enforcement mental health and wellness efforts.

Section 2. That the Director of Finance is authorized to deposit the grant funds into Law Enforcement Grant Fund 368, Project Account No. 23LEMH.

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

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

April 26, 2023

To: Mayor and Members of City Council

202301238

From: Sheryl M. M. Long, City Manager

Subject: Emergency Ordinance – Cincinnati Fire Department (CFD): Lift Assistance Belts In-Kind Donation

Attached is an Emergency Ordinance captioned:

AUTHORIZING the City Manager to accept an in-kind donation of sixty new lift assistance belts from the Cincinnati Fire Foundation valued at \$17,940 to be used by the Cincinnati Fire Department in fire apparatus.

Approval of this Emergency Ordinance will authorize the City Manager to accept an in-kind donation of sixty new lift assistance belts from the Cincinnati Fire Foundation valued at \$17,940 to be used by the Cincinnati Fire Department in fire apparatus.

An anonymous donor has worked with the Cincinnati Fire Foundation to purchase sixty new lift assistance belts, which the Foundation is donating to the Fire Department. The lift assistance belts will be used to ensure patient and firefighter safety while moving patients in emergency situations.

There are no new FTEs or matching funds associated with the in-kind donation.

Acceptance of this donation is in accordance with the “Collaborate” goal to “[w]ork in synergy with the Cincinnati community” and the strategy to “[u]nite our communities,” as described on pages 209-212 of Plan Cincinnati (2012).

The reason for the emergency is the immediate need to incorporate the lift assistance belts with fire apparatus to ensure patient and firefighter safety.

The Administration recommends passage of this Emergency Ordinance.

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

Attachment



EMERGENCY

MSS

- 2023

AUTHORIZING the City Manager to accept an in-kind donation of sixty new lift assistance belts from the Cincinnati Fire Foundation valued at \$17,940 to be used by the Cincinnati Fire Department in fire apparatus.

WHEREAS, an anonymous donor worked with the Cincinnati Fire Foundation to purchase sixty new lift assistance belts, which the Foundation is donating to the City for use in all Cincinnati Fire Department (“CFD”) fire apparatus; and

WHEREAS, CFD will use the lift assistance belts to aid in safely and securely lifting and moving patients and firefighters in situations where such assistance is needed; and

WHEREAS, there are no match requirements or new FTEs/full time equivalents associated with acceptance of this in-kind donation; and

WHEREAS, acceptance of this donation is in accordance with the “Collaborate” goal to “[w]ork in synergy with the Cincinnati community” and strategy to “[u]nite our communities,” as described on pages 209-212 of Plan Cincinnati (2012); now, therefore,

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

Section 1. That the City Manager is authorized to accept an in-kind donation of sixty new lift assistance belts from the Cincinnati Fire Foundation valued at \$17,940 to be used by the Cincinnati Fire Department in fire apparatus.

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

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 incorporate the lift assistance belts with fire apparatus to ensure patient and firefighter safety.

Passed: _____, 2023

Aftab Pureval, Mayor

Attest: _____
Clerk

April 26, 2023

To: Mayor and Members of City Council

202301239

From: Sheryl M. M. Long, City Manager

Subject: Ordinance – Cincinnati Recreation Commission (CRC): Senior Trip Program Donation

Attached is an Ordinance captioned:

AUTHORIZING the City Manager to accept and appropriate a donation in the amount of \$2,000 from the Cincinnati Recreation Foundation for the purpose of providing resources for the newly established Senior Trip Program; and **AUTHORIZING** the Director of Finance to deposit the donated resources into Contributions for Recreation Purposes Fund 319x8571.

Approval of this Ordinance will authorize the City Manager to accept a donation in the amount of \$2,000 from the Cincinnati Recreation Foundation for the purpose of providing resources for a new Senior Trip Program. This Ordinance further authorizes the Finance Director to deposit the donated funds into Contributions for Recreation Purposes Fund 319 revenue account no. 319x8571.

Cincinnati Recreation Center’s new Senior Trip Program will provide senior citizens living in Millvale, South Cumminsville, and North Fairmount an opportunity to travel beyond their neighborhoods and have experiences they otherwise may not be afforded due to transportation or financial needs. The donation will subsidize the cost of admissions and transportation for each individual in the program.

There are no new FTEs or matching funds associated with the donation.

Acceptance of this donation is in accordance with the “Collaborate” goal to “[w]ork in synergy with the Cincinnati community,” and the strategy to “[u]nite our communities,” as described on pages 209-212 of Plan Cincinnati (2012).

The Administration recommends passage of this Ordinance.

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



Attachment

AUTHORIZING the City Manager to accept and appropriate a donation in the amount of \$2,000 from the Cincinnati Recreation Foundation for the purpose of providing resources for the newly established Senior Trip Program; and **AUTHORIZING** the Director of Finance to deposit the donated resources into Contributions for Recreation Purposes Fund 319x8571.

WHEREAS, the Cincinnati Recreation Foundation has graciously offered to donate \$2,000 to support the creation of a Senior Trip Program; and

WHEREAS, the Senior Trip Program will provide senior citizens living in Millvale, South Cumminsville, and North Fairmount an opportunity to travel outside their neighborhoods and have experiences they otherwise may not be afforded due to transportation or financial needs; and

WHEREAS, the donation will subsidize the cost of admission and transportation for each individual in the program; and

WHEREAS, acceptance of this donation requires no matching funds, and no FTEs are associated with the donation; and

WHEREAS, acceptance of this donation is in accordance with the “Collaborate” goal to “[w]ork in synergy with the Cincinnati community,” and the strategy to “[u]nite our communities,” as described on pages 209-212 of Plan Cincinnati (2012); now, therefore,

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

Section 1. That the City Manager is hereby authorized to accept and appropriate a donation in the amount of \$2,000 from the Cincinnati Recreation Foundation for the purpose of providing resources for the newly established Senior Trip Program.

Section 2. That the Director of Finance is hereby authorized to deposit the donated funds into Contributions for Recreation Purposes Fund 319x8571.

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

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

Passed: _____, 2023

Aftab Pureval, Mayor

Attest: _____
Clerk

April 26, 2023

To: Mayor and Members of City Council

202301240

From: Sheryl M. M. Long, City Manager

Subject: Emergency Ordinance – Cincinnati Recreation Commission (CRC): Trees and Plants In-Kind Donation

Attached is an Emergency Ordinance captioned:

AUTHORIZING the City Manager to accept an in-kind donation of new trees and plants from the Cincinnati Zoo and Botanical Garden valued at up to \$25,000 for the purpose of beautification of green space at the Forest and Irving Recreation Area.

Approval of this Emergency Ordinance will authorize the City Manager to accept an in-kind donation of trees and plants from the Cincinnati Zoo and Botanical Garden valued at up to \$25,000 for the beautification of green space at the Forest and Irving Recreation Area.

The Cincinnati Zoo and Botanical Garden has offered to donate new trees and plants for planting at the Forest and Irving Recreation Area for the activation and beautification of Cincinnati Recreation Commission green space in the Avondale neighborhood.

There are no new FTEs or matching funds associated with the in-kind donation.

Acceptance of this donation is in accordance with the “Collaborate” goal to “[w]ork in synergy with the Cincinnati community” and the strategy to “[u]nite our communities,” as described on pages 209-212 of Plan Cincinnati (2012).

The reason for the emergency is the immediate need to accept the donation and proceed with the plantings at the request of the donor.

The Administration recommends passage of this Emergency Ordinance.

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

Attachment



EMERGENCY

IMD

- 2023

AUTHORIZING the City Manager to accept an in-kind donation of new trees and plants from the Cincinnati Zoo and Botanical Garden valued at up to \$25,000 for the purpose of beautification of green space at the Forest and Irving Recreation Area.

WHEREAS, the Cincinnati Zoo and Botanical Garden has generously offered to donate new trees and plants, valued at up to \$25,000, to the City for planting at the Forest and Irving Recreation Area, which will go toward the activation and beautification of Cincinnati Recreation Commission green space in the Avondale neighborhood; and

WHEREAS, acceptance of this in-kind donation requires no matching funds, and there are no additional FTEs/full time equivalents associated with the donation; and

WHEREAS, acceptance of this donation is in accordance with the “Collaborate” goal to “[w]ork in synergy with the Cincinnati community,” and strategy to “[u]nite our communities,” as described on pages 209-212 of Plan Cincinnati (2012); now, therefore,

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

Section 1. That the City Manager is hereby authorized to accept an in-kind donation of new trees and plants from the Cincinnati Zoo and Botanical Garden valued at up to \$25,000 for the purpose of beautification of green space at the Forest and Irving Recreation Area.

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

Section 3. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is

the immediate need to accept the donation and proceed with the plantings at the request of the donor.

Passed: _____, 2023

Aftab Pureval, Mayor

Attest: _____
Clerk

Date: April 26, 2023

202301242

To: Mayor and Members of City Council

From: Sheryl M. M. Long, City Manager

Subject: EMERGENCY ORDINANCE – DEDICATION OF PORTION OF JOHN STREET – WEST
END

Attached is an emergency ordinance captioned as follows:

AMENDING Ordinance No. 234-2010 to accept and confirm the dedication to public use for street purposes of a portion of John Street in the Lincoln Court North Subdivision in the West End neighborhood in accordance with the plat entitled “Lincoln Court North Plat of Subdivision,” as recorded in Plat Book 392, Pages 58 through 65, Hamilton County, Ohio Records.

On June 16, 2010, Council approved Ordinance No. 234-2010 to accept and confirm the dedication of streets dedicated to public use for street purposes within the Lincoln Court North Subdivision in the West End neighborhood, in accordance with the plat entitled “Lincoln Court North Plat of Subdivision,” as recorded in Plat Book 392, Pages 58 through 65, Hamilton County Ohio Records.

By mistake of inadvertence, Ordinance No. 234-201 omitted John Street from the list of streets to accept and confirm the dedication to public use in accordance with the Subdivision Plat.

The City Manager upon consultation with the City’s Department of Transportation and Engineering, recommends that Council amend Ordinance No. 234-2010 to accept and confirm the dedication to public use for street purposes of a portion of John Street in accordance with the Subdivision Plat.

The reason for the emergency is the immediate need to file the necessary documentation with the Hamilton County, Ohio Auditor’s Office and record the documentation in the Hamilton County, Ohio Recorder’s Office at the earliest possible time.

The Administration recommends passage of the attached ordinance.

Attachment I - Ordinance No. 234-2010

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

EMERGENCY

JRS

- 2023

AMENDING Ordinance No. 234-2010 to accept and confirm the dedication to public use for street purposes of a portion of John Street in the Lincoln Court North Subdivision in the West End neighborhood in accordance with the plat entitled “Lincoln Court North Plat of Subdivision,” as recorded in Plat Book 392, Pages 58 through 65, Hamilton County, Ohio Records.

WHEREAS, on June 16, 2010, Council approved Ordinance No. 234-2010 to accept and confirm the dedication of streets dedicated to public use for street purposes within the Lincoln Court North Subdivision in accordance with the plat entitled “Lincoln Court North Plat of Subdivision,” as recorded in Plat Book 392, Pages 58 through 65, Hamilton County, Ohio Records (“Subdivision Plat”); and

WHEREAS, by mistake or inadvertence Ordinance No. 234-2010 omitted John Street from the list of streets to accept and confirm the dedication to public use in accordance with the Subdivision Plat; and

WHEREAS, based on the foregoing, the City Manager, upon consultation with the City’s Department of Transportation and Engineering, recommends that Council amend Ordinance No. 234-2010 to accept and confirm the dedication to public use for street purposes of a portion of John Street in accordance with the Subdivision Plat; now, therefore,

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

Section 1. That Section 1 of Ordinance No. 234-2010 is hereby amended as follows:

Section 1. That the dedication of Cutter Street, portions of John Street, Hopkins Street, Helgolander Alley, Essen Alley, Munchen Alley, Rhine Alley, Ruhr Alley, Danube Alley, and Weser Alley in the Lincoln Court North Subdivision in the West End neighborhood, as depicted and described on the plat entitled “Lincoln Court North Plat of Subdivision,” as recorded in Plat Book 392, Pages 58 through 65, Hamilton County, Ohio Records, is hereby accepted and confirmed. That the dedication of the following streets: Helgolander Alley from Essen Alley to Hopkins Street; Ruhr Alley from Essen Alley to Munchen Alley; Rhine Alley from Hopkins Street to Munchen Alley; Essen Alley from Helgolander Alley to Ruhr Alley; Hopkins Street from Linn Street to Cutter Street; Munchen Alley from Rhine Alley to Ruhr Alley; and Cutter Street from Ezzard Charles Drive to Clark Street on the plat for the Lincoln Court North Subdivision recorded in the Hamilton County, Ohio Recorder’s Office in Plat Book 392, Pages 58 through 65, is hereby accepted and confirmed.

Section 2. That existing Section 1 of Ordinance No. 234-2010 is hereby repealed.

Section 3. That all terms of Ordinance No. 234-2010 not amended in this ordinance remain in full force and effect.

Section 4. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to file the necessary documentation with the Hamilton County, Ohio Auditor's Office and record the documentation in the Hamilton County, Ohio Recorder's Office at the earliest possible time.

Passed: _____, 2023

Aftab Pureval, Mayor

Attest: _____
Clerk

Deletions are struck through. Additions are underlined.

DNCB/AA

City of Cincinnati

An Ordinance No. 234 - 2010

ACCEPTING AND CONFIRMING the dedication of the following streets: Helgolander Alley from Essen Alley to Hopkins Street; Ruhr Alley from Essen Alley to Munchen Alley; Rhine Alley from Hopkins Street to Munchen Alley; Essen Alley from Helgolander Alley to Ruhr Alley; Hopkins Street from Linn Street to Cutter Street; Munchen Alley from Rhine Alley to Ruhr Alley; and Cutter Street from Ezzard Charles Drive to Clark Street to public use for street purposes as shown on the subdivision plat for Lincoln Court North Subdivision.

WHEREAS, Cincinnati Metropolitan Housing Authority, owner of all of the property comprising Lincoln Court North Subdivision, duly dedicated Helgolander Alley from Essen Alley to Hopkins Street; Ruhr Alley from Essen Alley to Munchen Alley; Rhine Alley from Hopkins Street to Munchen Alley; Essen Alley from Helgolander Alley to Ruhr Alley; Hopkins Street from Linn Street to Cutter Street; Munchen Alley from Rhine Alley to Ruhr Alley and Cutter Street from Ezzard Charles Drive to Clark Street (together the "Streets") to public use for street purposes; and

WHEREAS, the plat for Lincoln Court North Subdivision was recorded in the Hamilton County, Ohio Recorder's Office in Plat Book 392, Pages 58 through 65; and

WHEREAS, at its meeting on March 4, 2005, the City Planning Commission approved the dedication of the Streets; and

WHEREAS, Kenneth P. Kreider, Attorney at Law, has certified that Cincinnati Metropolitan Housing Authority is the owner of the Streets and that the Streets are free and clear of all encumbrances, including real estate taxes; and

WHEREAS, the dedication plat was examined and checked as to its technical features by the office of the City Engineer and found to be correct; now, therefore,

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

Section 1. That the dedication of the following streets: Helgolander Alley from Essen Alley to Hopkins Street; Ruhr Alley from Essen Alley to Munchen Alley; Rhine Alley from Hopkins Street to Munchen Alley; Essen Alley from Helgolander Alley to Ruhr Alley; Hopkins Street from Linn Street to Cutter Street; Munchen Alley from Rhine Alley to Ruhr Alley; and Cutter Street from Ezzard Charles Drive to Clark Street on the plat for the Lincoln Court North

Subdivision recorded in the Hamilton County, Ohio Recorder's Office in Plat Book 392, Pages 58 through 65, is hereby accepted and confirmed.

Section 2. That the following streets dedicated on the plat for Lincoln Court North Subdivision are not being accepted by the City of Cincinnati at this time: Essen Alley from Weser Alley to Danube Alley; Hopkins Street from Cutter Street to John Street; Munchen Alley from Weser Alley to Danube Alley; Danube Alley from Essen Alley to Munchen Alley.

Section 3. That the City Solicitor shall cause an authenticated copy of this ordinance to be filed with the Hamilton County, Ohio Auditor's Office, and recorded in the Hamilton County, Ohio Recorder's Office.

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

Passed: June 16, 2010

[Signature]
Vice Mayor

Attest: [Signature]
Clerk

I HEREBY CERTIFY THAT ORDINANCE NO 234-2010
WAS PUBLISHED IN THE CITY BULLETIN
IN ACCORDANCE WITH THE CHARTER ON 6-29-2010
[Signature]
CLERK OF COUNCIL

Date: April 26, 2023

To: Mayor and Members of City Council 202301243
From: Sheryl M. M. Long, City Manager
Subject: EMERGENCY ORDINANCE – MARYLAND AVENUE ARTWORK

Attached is an emergency ordinance captioned as follows:

AMENDING Ordinance 07-2021 to depict the actual artwork to be donated to the City in Exhibit A to the ordinance.

On January 6, 2021, Council passed Emergency Ordinance 0007-2021 for artwork donated by Price Hill Will, depicting a mural, freestanding planters with artwork, and a sculpture, to be installed in the public right-of-way on Maryland Avenue in the Lower Price Hill and East Price Hill neighborhoods.

The mural and planters have been installed. The vision for the sculpture installation has evolved, as structural, maintenance, and utility concerns were noted during review of the detail drawings. The sculpture depicted in Attachment B reflects the coordination between DOTE, the artist, and Price Hill Will.

This amendment to the original ordinance is needed due to the change in the artwork image and shape. The location of the sculpture has not changed. An emergency ordinance is needed to allow for installation by Price Hill Will at the earliest time possible.

The Administration recommends passage of the attached ordinance.

Attachment A – Ordinance #0007-2021
Attachment B – Proposed Artwork, updated April 7, 2023

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

EMERGENCY

JRS

- 2023

AMENDING Ordinance 07-2021 to depict the actual artwork to be donated to the City in Exhibit A to the ordinance.

WHEREAS, on January 6, 2021, Council approved Ordinance 07-2021 authorizing the City Manager to install and maintain artwork within City-owned right-of-way in the Lower Price Hill and East Price Hill neighborhoods known as Maryland Avenue; and

WHEREAS, Exhibit A to Ordinance 07-2021 depicted a mural and sculptural arches to be displayed as the City's own expression notwithstanding any provisions of the Cincinnati Municipal Code that would normally restrict such displays; and

WHEREAS, the neighborhood communities, including Price Hill are, upon further reflection and additional community engagement with the Administration, seeking to modify the artwork intended to be donated to and displayed by the City; and

WHEREAS, Ordinance 07-2021 must be amended to substitute the attached Attachment A, which depicts the actual artwork to be donated to and displayed by the City; now, therefore,

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

Section 1. That Ordinance 07-2021, approved by Council on January 6, 2021, is hereby amended to substitute the attached Attachment A for Exhibit A attached to Ordinance 07-2021.

Section 2. That all terms of Ordinance No. 07-2021 not amended by this ordinance remain in full force and effect.

Section 3. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to allow the public art project to proceed to allow for the

corresponding benefits to the City and the neighborhoods of Lower Price Hill and East Price Hill to begin at the earliest possible time.

Passed: _____, 2023

Aftab Pureval, Mayor

Attest: _____
Clerk



EMERGENCY

City of Cincinnati

An Ordinance No. 7

JRS

- 2020

AWG

AUTHORIZING the City Manager to install and maintain a mural and sculpture arches in certain public right-of-way in the Lower Price Hill and East Price Hill neighborhoods known as Maryland Avenue, notwithstanding any conflicting Department of Transportation and Engineering rules and regulations or any provision of the Cincinnati Municipal Code that would prohibit the installation and maintenance of the mural and sculpture arches.

WHEREAS, the City of Cincinnati wishes to install a mural and sculpture arches (“Artwork”), as depicted in Exhibit A to this ordinance, in certain City-owned right-of-way known as Maryland Avenue in the Lower Price Hill and East Price Hill neighborhoods in order to enliven the space and to promote public awareness of the arts; and

WHEREAS, the City may designate one or more agents or contractors, including Price Hill Will (“Price Hill Will”), to carry out all or a portion of the work required to install and maintain the Artwork; and

WHEREAS, the City may also accept donations from one or more persons, including Price Hill Will, in order to offset the cost and expense associated with the installation and maintenance of the Artwork and to ensure the installation and maintenance of the Artwork shall have little or no impact on the General Fund of the City of Cincinnati; and

WHEREAS, the installation and maintenance of the Artwork shall be performed under the management of the Department of Transportation and Engineering (“DOTTE”), and any agents or contractors of the City, including Price Hill Will, shall comply with rules and regulations established by DOTTE regarding the installation and maintenance of the mural, including rules and regulations concerning its location, size, materials, and means of installation and maintenance as necessary to ensure public safety; and

WHEREAS, the City’s installation and maintenance of the Artwork is the City’s own expression, constitutes government speech, and does not signify the City’s intent to create a free speech forum; and

WHEREAS, the City will own the Artwork created under this project, will maintain complete control over the public right-of-way as necessary for public safety, and will require the artists who install and maintain the mural to waive their rights to the installation, including waiving all applicable rights to the Artwork under the federal Visual Artists Rights Act of 1990, 17 U.S.C. §§ 106A and 113(d), so as to ensure that expression made through the Artwork constitutes government speech; and

WHEREAS, the extent of maintenance and repair of the Artwork shall remain within the City's discretion, and the Artwork shall remain subject to removal by the City, in part or in whole, at any time; and

WHEREAS, DOTE has determined that the Artwork will not detract from, interfere with, or obscure official traffic control devices, will be safe, and will not unreasonably interfere with the use of Maryland Avenue by pedestrians and motorists; and

WHEREAS, the City has an interest in promoting the arts, including within the public right-of-way, notwithstanding the provisions of the Cincinnati Municipal Code that would normally prohibit such displays, when the proposed display will not negatively impact the health, safety, or welfare of residents and users of the right-of-way; and

WHEREAS, Council finds that the installation and maintenance of the Artwork in Lower Price Hill and East Price Hill will beautify the public right-of-way, enhance civic pride, and advance public health and wellness goals; and

WHEREAS, the installation and maintenance of this Artwork is consistent with the "Live" goal to "Create a more livable community" as described on page 156 of Plan Cincinnati (2012); now, therefore,

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

Section 1. That the City Council hereby declares the installation and maintenance of the mural and sculpture arches identified on the attached Exhibit A ("Artwork") in certain City-owned right-of-way in the Lower Price Hill and East Price Hill neighborhoods known as Maryland Avenue to be a matter of significant public interest, and it hereby resolves to raise public awareness of the arts through the installation and maintenance of this conspicuous interactive and visual art; further that, notwithstanding the provisions of the Cincinnati Municipal Code that would normally restrict such displays within the public right-of-way, Council has determined that the installation and maintenance of the Artwork is in the interest of the public health, safety, morals, and general welfare and will not negatively impact the health, safety, morals, or welfare of residents and users of the public right-of-way.

Section 2. That the City's installation and maintenance of the Artwork is the City's own expression, constitutes government speech, and does not signify the City's intent to create a free speech forum.

Section 3. That the City Manager is hereby authorized to install and maintain the Artwork in that certain City-owned right-of-way in the Lower Price Hill and East Price Hill neighborhoods known as Maryland Avenue, which Artwork shall be substantially consistent with the design depicted on the attached Exhibit A, attached hereto and incorporated herein by reference, and shall be located in the area depicted on the same exhibit, notwithstanding any conflicting Department of Transportation and Engineering ("DOTE") rules and regulations, and any provisions of the Cincinnati Municipal Code.

Section 4. That the installation and maintenance of the Artwork shall be performed under the management of the Department of Transportation and Engineering ("DOTE"), and any agents or contractors of the City, including Price Hill Will, shall comply with rules and regulations established by DOTE regarding the installation and maintenance of the Artwork, including rules and regulations concerning its location, size, materials, and means of installation and maintenance as necessary to ensure public safety.

Section 5. That the City Manager is authorized to engage one or more agents or contractors to assist with the City's installation and maintenance of the street mural on such terms and conditions that the City Manager determines are in the best interests of the City, and any work performed by the agents and contractors so engaged by the City Manager shall be performed under the management of the City Manager or her designee, who shall have the sole authority to approve the design, location, size, materials, and means of installation and

maintenance of the mural and to establish rules and regulations for the same as necessary to ensure public safety.

Section 6. That the extent of maintenance and repair of the Artwork shall remain within the City's discretion, and the Artwork shall remain subject to removal by the City, in part or in whole, at any time.

Section 7. That the City will own the Artwork created under this project, will maintain complete control over the right-of-way as necessary for public safety, and will require the artists who install and maintain the Artwork to waive their rights to the installation, including waiving all applicable rights to the Artwork under the federal Visual Artists Rights Act of 1990, 17 U.S.C. §§ 106A and 113(d), so as to ensure that expression made through the Artwork constitutes government speech.

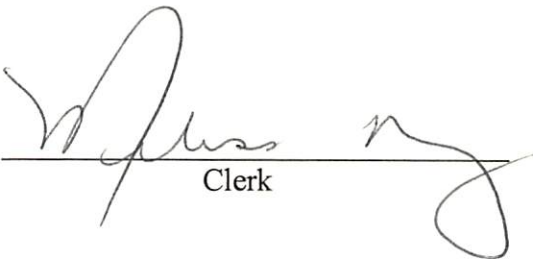
Section 8. That the City Manager is authorized to accept donations, including materials, labor, money, and in-kind services, on such terms and conditions that the City Manager determines are in the best interests of the City, in order to offset the cost and expense associated with the installation and maintenance of the Artwork, so that the installation and maintenance of the Artwork shall have little or no impact on the General Fund of the City of Cincinnati.

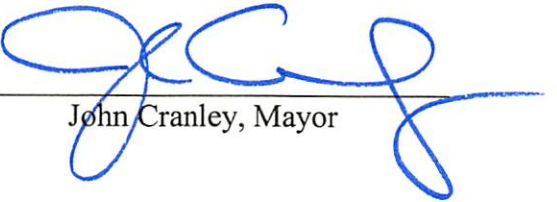
Section 9. That the proper City officials are hereby authorized to do all things necessary and proper to comply with the terms of Sections 1 through Section 8 hereof.

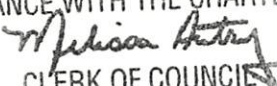
Section 10. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to allow the public art project described in this ordinance to

proceed as scheduled and to allow the corresponding benefits to the City and the neighborhoods of Lower Price Hill and East Price Hill to begin at the earliest possible time.

Passed: January 4, 2020

Attest: 
Clerk

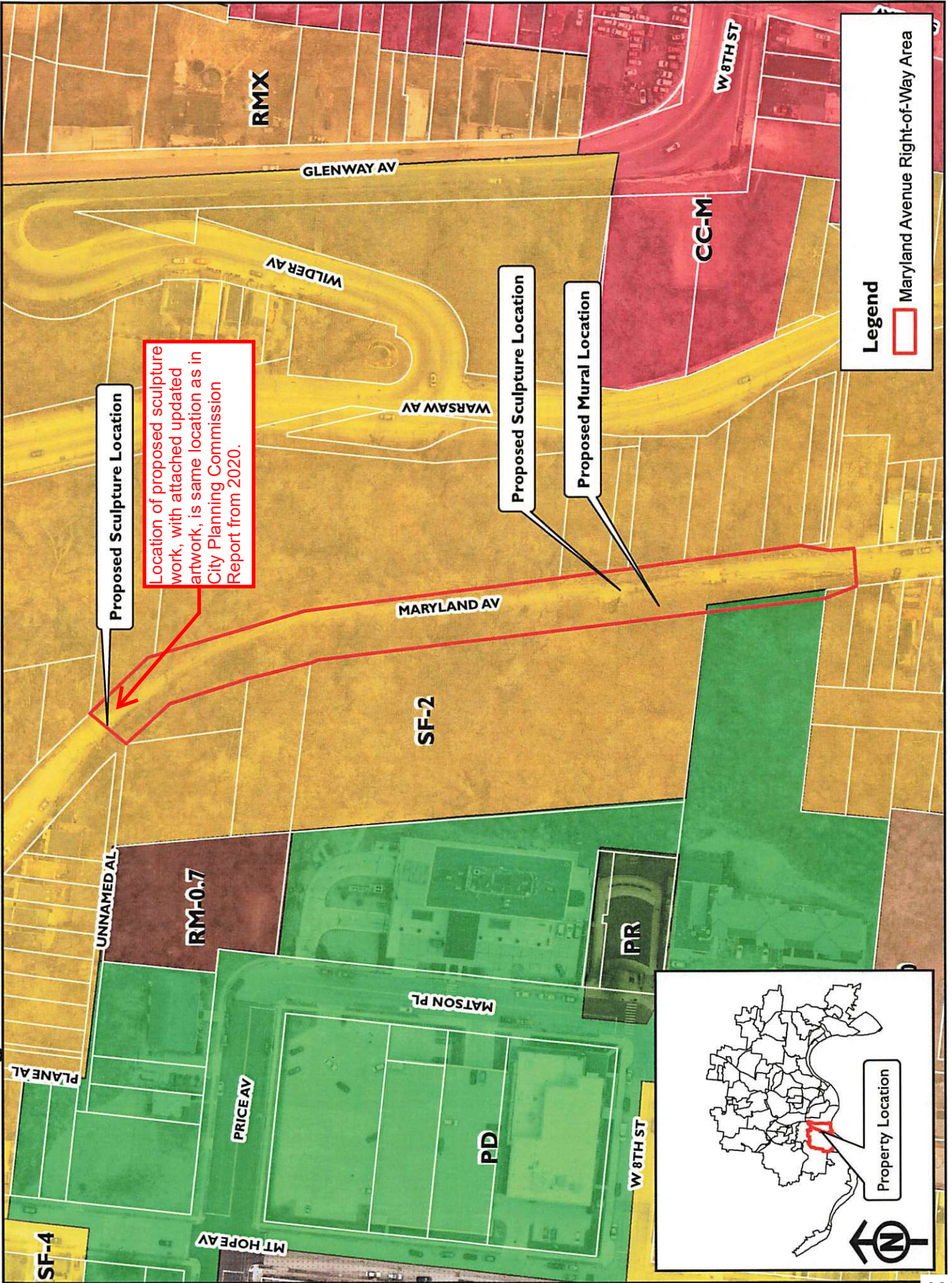

John Cranley, Mayor

I HEREBY CERTIFY THAT ORDINANCE NO. 7-2021
WAS PUBLISHED IN THE CITY BULLETIN
IN ACCORDANCE WITH THE CHARTER ON 1-19-2021

CLERK OF COUNCIL

ATTACHMENT A

April 7, 2023

Notwithstanding Ordinance for Artwork Installation in East Price Hill and Lower Price Hill





Depicted artwork and location remains same

April 7, 2023



WELDS



5X5 TUBE WELDED TO BACK OF 3 I-BEAMS

BACK VIEW

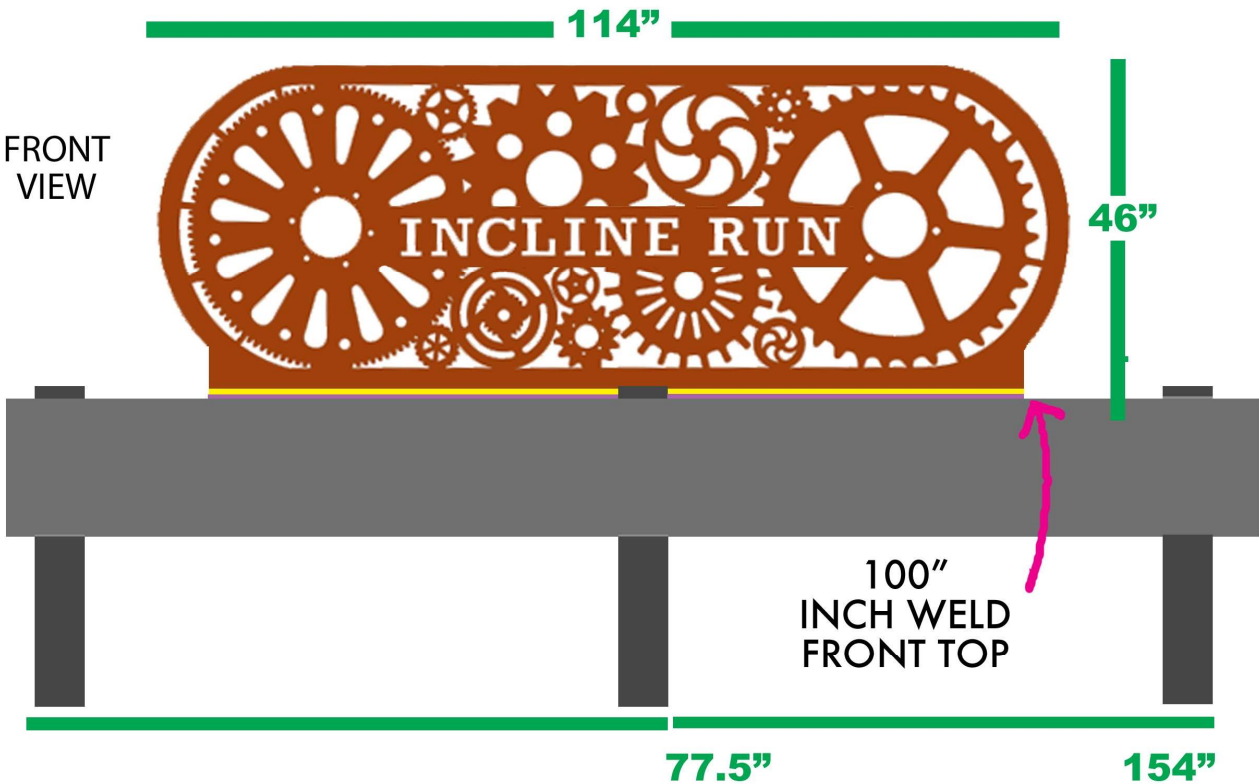


5X5 SQUARE TUBE 154" WELDED TO ALL THREE VERTICAL EXISTING VERTICAL POSTS

Updated artwork for proposed sculpture work

April 7, 2023

FRONT VIEW



April 26, 2023

To: Mayor and Members of City Council

202301244

From: Sheryl M. M. Long, City Manager

Subject: Emergency Ordinance – OES: Diversified Supply, Inc. Moral Obligation

Attached is an Emergency Ordinance captioned:

ESTABLISHING new capital improvement program project account no. 980x104x231042, “Recreation LED Lighting Improvements,” for the purpose of providing resources for LED lighting installations in City of Cincinnati recreation centers; **AUTHORIZING** the transfer and appropriation of \$27,649.73 from the unappropriated surplus of Revolving Energy Loan Fund 883 to newly established capital improvement program project account no. 980x104x231042, “Recreation LED Lighting Improvements,” and **AUTHORIZING** a payment of \$27,649.73 from capital improvement program project account no. 980x104x0000x7685x231042, “Recreation LED Lighting Improvements,” to Diversified Supply, Inc. as a moral obligation of the City of Cincinnati for professional services completed for the Recreation LED Lighting Improvements project.

Approval of this Emergency Ordinance establishes new capital improvement program project account no. 980x104x231042, “Recreation LED Lighting Improvements,” for the purpose of providing resources for LED lighting installations in City of Cincinnati recreation centers. Approval of this Emergency Ordinance also authorizes the transfer and appropriation of \$27,649.73 from the unappropriated surplus of Revolving Energy Loan Fund 883 to newly established capital improvement program project account no. 980x104x231042, “Recreation LED Lighting Improvements.” Finally, this Emergency Ordinance authorizes a payment of \$27,649.73 from capital improvement program project account no. 980x104x0000x7685x231042, “Recreation LED Lighting Improvements,” to Diversified Supply, Inc. as a moral obligation of the City of Cincinnati for professional services completed for the Recreation LED Lighting Improvements project.

The City issued delivery order no. DO 104 2018001994 for Diversified Supply, Inc. on January 17, 2018 in the amount of \$232,167.50 to complete lighting audits on Cincinnati Recreation Commission (CRC) facilities, procure light-emitting diode (LED) bulbs, and install lighting upgrades at CRC facilities. The lighting audit identified needs for the CRC that resulted in costs exceeding the delivery order amount, and additional resources were not encumbered before additional lighting upgrades were completed.

Ordinance No. 0341-2018 established capital improvement program project account no. 980x104x191017, "Recreation LED Lighting Improvements," for the purpose of providing resources for LED lighting installations in City of Cincinnati recreation centers and authorized the transfer and appropriation from the unappropriated surplus of Revolving Energy Loan Fund 883 to capital improvement program project account no. 980x104x191017, "Recreation LED Lighting Improvements." This project is fully expended and closed, and resources must be appropriated to a new capital improvement program project account for the same purpose to provide payment to Diversified Supply, Inc.

Sufficient resources are available in Revolving Energy Loan Fund 883 to transfer and appropriate to the newly established capital improvement program project account and provide payment to Diversified Supply, Inc.

The reason for the emergency is the immediate need to pay Diversified Supply, Inc. in a timely manner for professional services provided to the City of Cincinnati for the Recreation LED Lighting Improvements project.

The Administration recommends passage of this Emergency Ordinance.

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

Attachment

EMERGENCY

KKF

- 2023

ESTABLISHING new capital improvement program project account no. 980x104x231042, “Recreation LED Lighting Improvements,” for the purpose of providing resources for LED lighting installations in City of Cincinnati recreation centers; **AUTHORIZING** the transfer and appropriation of \$27,649.73 from the unappropriated surplus of Revolving Energy Loan Fund 883 to newly established capital improvement program project account no. 980x104x231042, “Recreation LED Lighting Improvements,” and **AUTHORIZING** a payment of \$27,649.73 from capital improvement program project account no. 980x104x0000x7685x231042, “Recreation LED Lighting Improvements,” to Diversified Supply, Inc. as a moral obligation of the City of Cincinnati for professional services completed for the Recreation LED Lighting Improvements project.

WHEREAS, the City issued delivery order no. DO 104 2018001994 for Diversified Supply, Inc. on January 17, 2018 in the amount of \$232,167.50 to complete lighting audits on Cincinnati Recreation Commission (“CRC”) facilities, procure light-emitting diode (“LED”) bulbs, and install lighting upgrades at CRC facilities; and

WHEREAS, the lighting audit completed by Diversified Supply, Inc. identified additional needs for CRC that resulted in costs exceeding the delivery order amount, and additional resources were not encumbered before additional lighting upgrades were completed on CRC facilities; and

WHEREAS, Ordinance No. 341-2018 established capital improvement program project account no. 980x104x191017, “Recreation LED Lighting Improvements,” for the purpose of providing resources for LED lighting installations in City of Cincinnati recreation centers and authorized the transfer and appropriation from the unappropriated surplus of Revolving Energy Loan Fund 883 to capital improvement program project account no. 980x104x191017, “Recreation LED Lighting Improvements”; and

WHEREAS, capital improvement program project account no. 980x104x191017, “Recreation LED Lighting Improvements,” is fully expended and closed, and resources must be appropriated to a new capital improvement program project for the same purpose in order to provide payment to Diversified Supply, Inc.; and

WHEREAS, sufficient resources are available in Revolving Energy Loan Fund 883 to transfer and appropriate to the newly established capital improvement program project account and to provide payment to Diversified Supply, Inc.; and

WHEREAS, Council desires to provide payment to Diversified Supply, Inc. for professional services completed for the Recreation LED Lighting Improvements project; 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. 980x104x231042, “Recreation LED Lighting Improvements,” is hereby established for the purpose of providing resources for LED lighting installations at City of Cincinnati recreation centers.

Section 2. That the transfer and appropriation of \$27,649.73 from the unappropriated surplus of Revolving Energy Loan Fund 883 to newly established capital improvement program project account no. 980x104x231042, “Recreation LED Lighting Improvements,” is hereby authorized.

Section 3. That the Finance Director is authorized to make a payment of \$27,649.73 from capital improvement program project account no. 980x104x0000x7685x231042, “Recreation LED Lighting Improvements,” to Diversified Supply, Inc. as a moral obligation of the City of Cincinnati for professional services completed for the Recreation LED Lighting Improvements project.

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

Section 5. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to pay Diversified Supply, Inc. in a timely manner for professional services provided to the City of Cincinnati for the Recreation LED Lighting Improvements project.

Passed: _____, 2023

Aftab Pureval, Mayor

Attest: _____
Clerk

April 26, 2023

To: Mayor and Members of City Council

202301246

From: Sheryl M.M. Long, City Manager

Subject: Emergency Ordinance – Approving and Authorizing a Community Reinvestment Area Tax Exemption Agreement with Findlay Parkside, LLC

Attached is an Emergency Ordinance captioned:

APPROVING AND AUTHORIZING the City Manager to execute a *Community Reinvestment Area Tax Exemption Agreement (LEED or Living Building Challenge)* with Findlay Parkside, LLC, an affiliate of The Model Group, Inc., thereby authorizing a fifteen-year tax exemption for 100 percent of the value of improvements made to real property located at 1804 Vine Street, 31 E. McMicken Avenue, 1812-1816 Vine Street, 1822 Vine Street, 29 E. McMicken Avenue, 118 Findlay Street, 1720 Elm Street, and 116 W. Elder Street in the Over-the-Rhine neighborhood of Cincinnati, in connection with the remodeling of existing buildings into a mixed-use development consisting of, in aggregate, approximately 16,456 square feet of commercial space and approximately 31,403 square feet of residential space, comprised of approximately 51 residential rental units, which remodeling shall be completed in compliance with Leadership in Energy and Environmental Design Silver, Gold or Platinum standards or Living Building Challenge standards, at a total remodeling cost of approximately \$15,710,420.

BACKGROUND/CURRENT CONDITIONS

In March 2023, The Model Group (TMG) (the “Developer”) completed their applications for financial assistance for the project called Findlay Parkside. This application included properties that had already received a Commercial CRA tax abatement from the City under the name “Findlay Exchange” approved by Council Ordinance 374-2022. Findlay Parkside, LLC, an affiliate of TMG, plans to rehabilitate ten (10) historic, mixed-use buildings at 1804 Vine, 31 E McMicken, 1812 Vine, 1814 Vine, 1816 Vine, 1822 Vine, 29 E McMicken, 118 Findlay, 1720 Elm, and 116 W Elder in the Over-the-Rhine neighborhood.

The Developer holds title to all parcels for the Findlay Parkside project. The City sold 116 W Elder Street to Nassau Avenue Investments, LLC (another affiliate of the Developer) in 2021 for \$1. The buildings are 97% vacant and contain apartment units and commercial storefronts.

DEVELOPER INFORMATION

This project is being developed by Findlay Parkside, LLC, an affiliate of the Developer. The Developer has developed more than \$750 million in real estate, including over 400 historic properties in Ohio. This includes a mix of market rate and affordable residential, as well as commercial real estate. Previous mixed-use projects include Willkommen (OTR), Broadway Square (Pendleton), Paramount Square (Walnut Hills), and Market Square Phases I-III (OTR).

RECOMMENDATION

The Administration recommends approval of this Emergency Ordinance. This Ordinance is an emergency in nature because the Developer has an April financial closing deadline, particularly for the New Market Tax Credits.

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	Findlay Parkside
Street Address	1804 Vine, 31 E McMicken, 1812 Vine, 1814 Vine, 1816 Vine, 1822 Vine, 29 E McMicken, 118 Findlay, 1720 Elm, and 116 W Elder
Property Condition	Ten (10) historic buildings are 97% vacant and contain apartments units and commercial storefronts. Eckerlin Meats currently occupies part of the first floor of 116 W Elder and will remain post-construction. The City sold 116 W Elder Street to Nassau Avenue Investments, LLC (another affiliate of TMG) in 2021 for \$1. Developer holds title to all properties.
Neighborhood	Over-the-Rhine
Incentive Application Process	Commercial CRA – Downtown Streetcar Area (LEED)
Recent or other projects by Developer	Wilkommen, Broadway Square, Paramount Launch, Griffon Apartments, Peebles Apartments
Approval at planning commission/Neighborhood support	Planning Commission N/A Developer has received more than 15 letters of support to-date from area businesses and organizations.
Plan Cincinnati Goals	Achieves the Compete Initiative Area Goal 2 (pages 114-120), Live Initiative Area Goals 2 and 3 (pages 156-177) and Sustain Initiative Area Goal 2 (pages 193-198) of <i>Plan Cincinnati</i> (2012)

Project Images



1804 Vine Street and 31 E McMicken Avenue from Vine Street



1812-1816 Vine Street from Vine Street



1822 Vine Street from Vine Street



1804-1816 Vine Street, 29-31 E McMicken Avenue from E McMicken Avenue



118 Findlay Street, 1720 Elm Street, 116 W Elder Street

<u>Incentive Summary Category</u>	<u>Explanation</u>
Abatement Term and amount	15-year, net 52%
Construction Cost & Private investment committed	\$15,710,420 in hard construction costs, \$2,715,200 in acquisition costs, \$7,331,736 in soft costs, and \$2,680,880 in developer fee; Developer will utilize New Market Tax Credits, State and Federal Historic Tax Credits as well as senior debt. Developer is also committing up to \$4,467,681 in sponsor and investor equity, including the entire \$2,680,880 developer fee.
Sq. Footage by Use	16,456 sf – commercial, 31,403 sf – residential (net sf)
Number of units and rental ranges	51 (25 studios, 20 1-BR, 6 2-BR), \$800-\$1,500, the Developer is proposing to keep 51% of the units affordable to households at 80% AMI
Jobs created/retained and payroll (living wage)	Projected to retain 5 FTE at \$150,000 in annual payroll and create 48 FTE positions at \$1,080,000 in annual payroll (avg. of \$23,207.55 annually per job)
“But For”	This project would not proceed without an abatement; the developer would lose money on the project for at least 15 years post-construction with their projected ROI
Cash on Cash Return for developer (Market return between 8-12%, depends on investment risk)	Without Abatement: Year 5: -2% (stabilized vacancy) With Abatement: Year 5: 1% (stabilized vacancy)
LEED or other environmental build	LEED Silver
Neighborhood VTICA	Streetcar VTICA – 15%
Total Public Benefit (Benefits Realized vs Taxes Forgone)	\$1.17 of new CPS/VTICA/Income taxes for each \$1 forgone
Projected Income Tax Revenue	\$431,892
MBE/WBE Goals	SBE Goal of 30%
Transit Access/Walkability	All or part of the Project sits along or within walking distance of the 6, 16, 17, 19, 20, 21, 24, 46, 49, 64, 67, 78 and Metro Plus bus routes and Streetcar route; also located in or within walking distance of Findlay Market, Washington Park, the OTR Vine Street Business District, and the OTR Main Street Business District

Geography	Located in Opportunity Zones and the OTR-West End Neighborhood Revitalization Strategy Area
Historic Preservation/Existing Building Renovation	This project will renovate ten (10) 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)
\$800.00	\$32,000.00	Health Caseworker, Video Production Specialist, Lifeguard, Pool Monitor, Community Center Director 2
\$1,500.00	\$60,000.00	Permit Technician 3, Industrial Waste Inspector, Law Enforcement Instructor, Building Inspector 1, Optician

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

SSB

- 2023

APPROVING AND AUTHORIZING the City Manager to execute a *Community Reinvestment Area Tax Exemption Agreement (LEED or Living Building Challenge)* with Findlay Parkside, LLC, an affiliate of The Model Group, Inc., thereby authorizing a fifteen-year tax exemption for 100 percent of the value of improvements made to real property located at 1804 Vine Street, 31 E. McMicken Avenue, 1812-1816 Vine Street, 1822 Vine Street, 29 E. McMicken Avenue, 118 Findlay Street, 1720 Elm Street, and 116 W. Elder Street in the Over-the-Rhine neighborhood of Cincinnati, in connection with the remodeling of existing buildings into a mixed-use development consisting of, in aggregate, approximately 16,456 square feet of commercial space and approximately 31,403 square feet of residential space, comprised of approximately 51 residential rental units, which remodeling shall be completed in compliance with Leadership in Energy and Environmental Design Silver, Gold or Platinum standards or Living Building Challenge standards, at a total remodeling cost of approximately \$15,710,420.

WHEREAS, to encourage the development of real property and the acquisition of personal property, Council, 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 (“R.C.”) Sections 3735.65 through 3735.70 (the “Statute”); and

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

WHEREAS, to encourage the development of real property in a more environmentally-friendly manner, the Commercial Policy Ordinance incentivizes: (i) construction and remodeling to Leadership in Energy and Environmental Design (“LEED”) standards (as defined by the U.S. Green Building Council); and (ii) construction and remodeling that obtains (a) Living Building Challenge Net Zero certification, (b) Living Building Challenge Full certification, or (c) solely in circumstances where the construction or remodeling complies with the requirements of the “Energy Petal” of the Living Building Challenge, Living Building Challenge Petal certification, in each case as defined by the International Living Future Institute and the Cascadia Green Building Council (collectively, “LBC” standards), all pursuant to the Statute; and

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

WHEREAS, Findlay Parkside, LLC (the “Company”) desires to remodel existing buildings on real property at 1804 Vine Street, 31 E. McMicken Avenue, 1812-1816 Vine Street, 1822 Vine Street, 29 E. McMicken Avenue, 118 Findlay Street, 1720 Elm Street, and 116 W. Elder Street located within the corporate boundaries of the City of Cincinnati into a mixed-use development consisting of, in aggregate, approximately 16,456 square feet of commercial space and approximately 31,403 square feet of residential space, comprised of approximately 51 residential rental units, to LEED or LBC standards (the “Improvements”), provided that the appropriate development incentives are available to support the economic viability of the Improvements; and

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

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

WHEREAS, the Board of Education of the Cincinnati City School District (the “Board of Education”), pursuant to that certain *Tax Incentive Agreement* effective as of April 28, 2020 (as may be amended, the “Board of Education Agreement”), has approved exemptions of up to 100 percent 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 percent 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 \$114,764; 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 fifteen percent of the exempt real property taxes, which funds shall be committed by the third-party organization to support the streetcar that specially benefits the property; and

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

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

Section 1. That Council approves a *Community Reinvestment Area Tax Exemption Agreement (LEED or Living Building Challenge)* with Findlay Parkside, LLC (the “Agreement”), thereby authorizing a fifteen-year tax exemption for 100 percent of the assessed value of improvements to be made to real property located at 1804 Vine Street, 31 E. McMicken Avenue, 1812-1816 Vine Street, 1822 Vine Street, 29 E. McMicken Avenue, 118 Findlay Street, 1720 Elm Street, and 116 W. Elder Street in Cincinnati, as calculated by the Hamilton County Auditor, in connection with the remodeling of existing buildings into a mixed-use development consisting of, in aggregate, approximately 16,456 square feet of commercial space and approximately 31,403 square feet of residential space, comprised of approximately 51 residential rental units, to be constructed in compliance with Leadership in Energy and Environmental Design Silver, Gold or Platinum standards (as defined by the U.S. Green Building Council) or Living Building Challenge standards (as described in the Agreement and as determined by the International Living Future Institute and the Cascadia Green Building Council, as applicable) at a total remodeling cost of approximately \$15,710,420.

Section 2. That Council authorizes the City Manager:

- (i) to execute the Agreement on behalf of the City of Cincinnati (the “City”) in substantially the form of Attachment A to this ordinance; and
- (ii) to submit on behalf of Council annual reports on the Agreement to the Director of the Ohio Department of Development, in accordance with Ohio Revised Code Section 3735.672, and to the Board of Education of the Cincinnati City School District, as necessary; and
- (iii) to take all necessary and proper actions to fulfill the City’s obligations under the Agreement.

Section 3. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the

emergency is the immediate need to allow the remodeling described in this ordinance and the corresponding revitalization of the City of Cincinnati and the benefits to the City's economic welfare to begin at the earliest possible time.

Passed: _____, 2023

Aftab Pureval, Mayor

Attest: _____
Clerk

Contract No. _____

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

This Community Reinvestment Area Tax Exemption Agreement (this "Agreement") is made and entered into as of the Effective Date (as defined on the signature page hereof) by and between the CITY OF CINCINNATI, an Ohio municipal corporation (the "City"), and FINDLAY PARKSIDE, 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. Pursuant to the Commercial Policy Ordinance, a project that is constructed or remodeled to (1) Leadership in Energy and Environmental Design ("LEED") Silver, Gold or Platinum standards (as defined by the U.S. Green Building Council), or (2) receives a (a) Living Building Challenge Net Zero certification, (b) Living Building Challenge Full certification, or (c) solely in circumstances where the construction or remodeling complies with the requirements of the "Energy Petal" of the Living Building Challenge, Living Building Challenge Petal certification, in each case as defined by the International Living Future Institute and the Cascadia Green Building Council (such qualifying remodeling or construction is referred to, collectively, as "LBC" remodeling or construction), may qualify for a longer term and/or greater abatement.
- E. The Company is the sole owner of certain real property within the City, located at 1804 Vine Street, 31 E. McMicken Avenue, 1812-1816 Vine Street, 1822 Vine Street, 29 E. McMicken Avenue, 118 Findlay Street, 1720 Elm Street, and 116 W. Elder Street, Cincinnati, Ohio 45202 (the "Property"), as further described in Exhibit A (Legal Description of Property) hereto. Notwithstanding the foregoing, the Property shall not include any residential condominiums being developed in connection with the Project (as defined below) (the "Excluded Property"), and the Company acknowledges and agrees that the City's Community Reinvestment Area program entails separate applications by the owner of any residential condominium units included within the Project. For the avoidance of doubt, the Excluded Property shall not be exempt under this Agreement; however, this provision shall not be deemed to prohibit any owners from time to time of any Excluded Property from separately applying for a tax abatement in accordance with applicable law.
- F. The Company has proposed the remodeling of several buildings located on the Property to LBC standards or LEED Silver, Gold or Platinum standards, as defined by the U.S. Green Building Council, within the boundaries of the City of Cincinnati, as more fully described in Section 1

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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.
- 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 the City application fee of One Thousand Two Hundred Fifty Dollars (\$1,250) made payable to the City.
- 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 three (3) years neither the Company, any related member of the Company, nor any entity to which the Company is a successor has discontinued operations at a project site in the State during the term of a property tax exemption agreement (under Ohio Revised Code Section 3735.671, 5709.62, 5709.63 or 5709.632) applicable to that site, and the Company acknowledges that misrepresentation hereunder will result in voiding of this Agreement.
- O. The Company represents and warrants to the City that the Company is not subject to an Enterprise Zone Agreement with the City of Cincinnati for the Property or the Project.
- P. City Council passed (i) Motion No. 201401368 on November 19, 2014, establishing a tax incentive policy that incentivizes each applicant for a real property tax abatement in the neighborhoods of Downtown and OTR to enter into a voluntary tax incentive contribution agreement with a third-party organization ("VTICA") for an amount equal to a percentage of the real property taxes that would have been payable on the abated property but for the City-authorized tax abatement (the "VTICA Contribution"), which funds shall be committed by a third-party organization to support the streetcar that specially benefits the abated property, and (ii) Motion No. 201501592 on December 16, 2015, which established that the VTICA Contribution to be recognized by the Director of the Department of Community and Economic Development is

15% of the real property taxes that would have been payable on the abated property but for the City-authorized tax abatement. The Commercial Policy Ordinance confirmed that such motions have not been superseded and remain the will of Council.

- Q. The Company acknowledges that the Streetcar will specially benefit the Project due to (a) the Streetcar's enhancement of public transit options in such neighborhoods and (b) the anticipated increase in property values attributable to public investment in Streetcar infrastructure.
- R. The Company represents and warrants to the City that the Company has entered or will enter into a VTICA and shall pay the VTICA Contribution each year for the full term of the abatement.
- S. This Agreement has been authorized by Ordinance No. _____-2023, passed by Cincinnati City Council on _____, 2023.
- T. In determining to recommend and authorize this Agreement, the Department of Community and Economic Development and City Council, respectively, have acted in material reliance on the Company's representations in the Application and herein regarding the Project including, but not limited to, representations relating to the number of jobs to be created and/or retained by the Company, the Board of Education Agreement, the VTICA Contribution, and the Project's effect in promoting the general welfare of the people of Cincinnati by, for example, encouraging the development of real property located in the Community Reinvestment Area and thereby promoting economic growth and vitality in Cincinnati.

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

Section 1. Project. Upon issuance of the necessary zoning and building approvals, the Company agrees to remodel the existing buildings on the Property into a mixed-use development consisting of approximately 16,456 square feet of commercial space and approximately 31,403 square feet of residential space, comprised of approximately 51 residential rental units (the "Improvements") at an estimated aggregate cost of \$15,710,420 to commence after the execution of this Agreement and to be completed no later than December 31, 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 and zoning regulations, as well as complying with LBC standards or LEED Silver, Gold or Platinum standards, as defined by the U.S. Green Building Council. The Company hereby represents that either or both of the following clauses (a) and (b) are true: (a) it has registered with the U.S. Green Building Council with intent to certify compliance with LEED Silver, Gold or Platinum standards, or (b) it has registered with the International Living Future Institute and/or the Cascadia Green Building Council with intent to certify compliance with LBC standards. In addition to the foregoing, (A) the Project shall comply with the Americans with Disabilities Act, together with any and all regulations or other binding directives promulgated pursuant thereto (collectively, the "**ADA**"), and (B) if (i) any building(s) within the Project is subject to the accessibility requirements of the ADA (e.g., by constituting a "place of public accommodation" or another category of structure to which the ADA is applicable) and (ii) such building(s) is not already required to meet the Contractual Minimum Accessibility Requirements (as defined below) pursuant to the ADA, applicable building code requirements, or by any other legal requirement, then the Company shall cause such building(s) to comply with the Contractual Minimum Accessibility Requirements in addition to any requirements pursuant to the ADA and the applicable building code or legal requirement. As used herein, "**Contractual Minimum Accessibility Requirements**" means that a building shall, at a minimum, include (1) at least one point of entry (as used in the ADA), accessible from a public right of way, with respect to which all architectural barriers (as used in the ADA) to entry have been eliminated, and (2) if such accessible point of entry is not a building's primary point of entry, conspicuous signage directing persons to such accessible point of entry.

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

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

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

Section 5. Duty of Company to Pay Taxes. As required by Ohio Revised Code Section 3735.671(B)(3), 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(B)(4), 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 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(B), 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(B), 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.

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.

(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, (a) there are 5 full-time equivalent employees at the Property with a total annual payroll of \$150,000 (the "Retained Jobs"), and (b) the Company has no existing employment at any other locations in the State.

Section 13. Job Creation and Retention.

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

B. Jobs to be Created by Company. The Company agrees to use its best efforts to create (i) 48 full-time permanent jobs and (ii) 168.5 full-time temporary construction jobs at the Property in connection with the Project. In the case of the construction jobs, the job creation and retention period shall be concurrent with remodeling, and in the case of the other jobs described herein, the job creation period shall begin upon completion of remodeling and shall end three (3) years thereafter.

C. Company's Estimated Payroll Increase. The Company's increase in the number of employees will result in approximately (i) \$1,080,000 of additional annual payroll with respect to the full-time permanent jobs and (ii) \$4,158,000 of additional annual payroll prior to the completion of the Project with respect to the full-time temporary construction jobs.

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

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

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

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

Section 16. Default. As provided in Ohio Revised Code Section 3735.671(B), 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(B)(5) 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(C) from entering into this Agreement. As required by Ohio Revised Code Section 3735.671(B)(7), 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 (C) of Ohio Revised Code Section 3735.671) has violated the prohibition against entering into this Agreement under division (C) of Ohio Revised Code Section 3735.671 or under Ohio Revised Code Sections 5709.62, 5709.63, 5709.632 prior to the time prescribed by that division or either of those sections.

Section 19. **False Statements; Penalties; Material Representations.**

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

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

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

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

Section 21. Annual Fee. 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(C), 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 three (3) 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(C).

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:

Findlay Parkside, LLC
c/o Model Group
Attention: Jason Chamlee
1826 Race Street
Cincinnati, Ohio 45202

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

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

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

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

obligations, duties and liabilities of the parties to this Agreement and shall govern the interpretation of this Agreement.

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

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

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

Section 30. Non-Assignment. As required by Ohio Revised Code Section 3735.671(B)(6), 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, 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.

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(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

FINDLAY PARKSIDE, LLC,
an Ohio limited liability company

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

By: _____

Date: _____, 2023

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: 1804 Vine Street, Cincinnati, Ohio 45202
Auditor's Parcel No.: 094-0005-0440-00

Situated in Section 13, Town 3, Fractional Range 2 Between the Miamis, Millcreek Township, The City of Cincinnati, Hamilton County, Ohio, and being all of Tract 1 of Nassau Avenue Investments, LLC, as recorded in Official Record 14016, Page 2074 of the Hamilton County Recorder's Office containing 0.1186 acres and being further described as follows:

Begin at the northeast intersection of the east right of way of Vine Street (66') and the south right of way of East Elder Street (30'), said intersection being the southeast corner of Cincinnati Central Credit Union, Inc, as recorded in Official Record 12725, Page 560; thence, departing said East Elder Street, and with the east right-of-way of said Vine Street, North 09°39'00" West, 36.00 feet to the northwest corner of said Cincinnati Central Credit Union, Inc., being referenced by a set cross north at North 80°06'00" East, 3.00 feet and the True Point of Beginning:

thence, from the true point of beginning and departing said Cincinnati Central Credit Union, Inc, and with the east right-of-way of said Vine Street, North 09° 39' 00" West, 44.00 feet to the southwest corner of Cincy Investment X, LLC as recorded in Official Record 13109, Page 1213, said corner being referenced by a set cross notch at South 80°16'20" West, 3.00 feet;

thence, departing the east right-of-way of said Vine Street, and with the south line of said Cincy Investment X, LLC and also with the south line of said SLG Properties, LLC as recorded in Official Record 13918, Page 1587, North 80° 16' 20" East, 126.13 feet to the west right-of-way of East McMicken Avenue (66'), said point being referenced by a set cross notch at North 80°16'20" East, 3.00 feet;

thence, departing said SLG Properties, LLC, and with the west right-of-way of said East McMicken Avenue, South 41° 02' 00" East, 35.28 feet to the northeast corner of Lighthouse Worship Center as recorded in Official Record 7962, Page 1722, said corner being referenced by a set cross notch at North 80°21'00" East, 3.00 feet,

thence, departing the west right-of-way of said East McMicken Avenue, and with the north and west lines of said Lighthouse Worship Center, the following two courses: South 80° 21' 00" West, 65.13 feet,

thence, South 09° 39' 00" East, 13.70 feet to the northeast corner of said Cincinnati Central Credit Union, Inc;

thence, departing said Lighthouse Worship Center, and with the north line of said Cincinnati Central Credit Union, Inc, South 80° 06' 00" West, 79.37 feet to the True Point of Beginning containing 0.1186 acres of land, more or less.

Property Address: 31 E. McMicken Avenue, Cincinnati, Ohio 45202
Auditor's Parcel No.: 094-0005-0441-00

Commented [BS1]: The application listed this property as 1810 Vine Street, but per Auditor/CAGIS, it is currently identified as 31 E. McMicken Avenue.

Date: January 23, 2023, Rev. March 30, 2023
Description: 1810 Vine Street and 31 E. McMicken Avenue Consolidation - Parcel 2
Location: City of Cincinnati
Hamilton County, Ohio



Situated in Section 13, Town 3, Fractional Range 2 Between the Miamis, Millcreek Township, The City of Cincinnati, Hamilton County, Ohio, and being all of Parcels 1 and 2 of Nassau Avenue Investments, LLC, as recorded in Official Record 14169, Page 2991 of the Hamilton County Recorder's Office containing 0.0499 acres and being further described as follows:

Begin at the northeast intersection of the east right of way of Vine Street (66') and the south right of way of East Elder Street (30'), said intersection being the southeast corner of Cincinnati Central Credit Union, Inc, as recorded in Official Record 12725, Page 560; thence, departing said East Elder Street, and with the east right-of-way of said Vine Street, North 09°39'00" West, 100.00 feet to the northwest corner of Cincy Investment X, LLC as recorded in Official Record 13109, Page 1213, said corner being referenced by a set cross notch at South 80°16'20" West, 3.00 feet and the True Point of Beginning;

thence, from the true point of beginning and departing said Cincy Investment X, LLC, and with the east right-of-way of said Vine Street North 09° 39' 00" West, 20.02 feet to the southwest corner of Nassau Avenue Investments, LLC as recorded in Official Record 14016, Page 2070, said corner being referenced by a set cross notch at South 77°47'30" West, 3.00 feet;

thence, departing the east right-of-way of said Vine Street, and with the south lines of said Nassau Avenue Investments, LLC as recorded in Official Record 14016, Page 2070, North 77° 47' 30" East, 99.22 feet to the west right-of-way of East McMicken Avenue, said point being referenced by a set cross notch at North 77°47'30" East, 3.00 feet;

thence, departing said Nassau Avenue Investments, LLC as recorded in Official Record 14016, Page 2070 and with the west right-of-way of said East McMicken Avenue, South 41° 02' 00" East, 24.42 feet to the northeast corner of SLG Properties LLC as recorded in Official Record 13918, Page 1587, said corner being referenced by a set cross notch at North 78° 36' 20" East, 3.00 feet;

thence, departing the west right-of-way of said East McMicken Avenue, and with the north line of said SLG Properties LLC, South 78° 36' 20" West, 55.83 feet to the northeast corner of said Cincy Investment X, LLC;

thence, departing said SLG Properties LLC and with the north line of said Cincy Investment X, LLC, South 78° 24' 27" West, 56.06 feet to the True Point of Beginning containing 0.0499 acres of land, more or less.

The above description was prepared from a consolidation plat made on November 14, 2022 under the direction of Jeffrey O. Lambert, Professional Surveyor #7568 in the State of Ohio.

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

94-5-441

Property Address: Vine Street, Cincinnati, Ohio 45202 (formerly identified as 1812-14 Vine Street)
Auditor's Parcel No.: 094-0005-0439-00

Situated in Section 13, Town 3, Fractional Range 2 Between the Miamis, Millicreek Township, The City of Cincinnati, Hamilton County, Ohio, and being all of Parcels 1 and 2 of Nassau Avenue Investments, LLC, as recorded in Official Record 14016, Page 2070 and also being all of Tract 2 of Nassau Avenue Investments, LLC, as recorded in Official Record 14016, Page 2074 of the Hamilton County Recorder's Office containing 0.0649 acres and being further described as follows.

Begin at the northeast intersection of the east right of way of Vine Street (66') and the south right of way of East Elder Street (30'), said intersection being the southeast corner of Cincinnati Central Credit Union, Inc, as recorded in Official Record 12725, Page 580; thence, departing said East Elder Street, and with the east right-of-way of said Vine Street, North 09°39'00" West, 120.02 feet to the northwest corner of Nassau Avenue Investments, LLC, as recorded in Official Record 14016, Page 2074, said corner being referenced by a set cross notch at South 77° 47' 30" West, 3.00 feet and the True Point of Beginning:

thence, from the true point of beginning, departing said Nassau Avenue Investments, LLC, as recorded in Official Record 14016, Page 2074, and with the east right-of-way of said Vine Street, North 09° 39' 00" West, 45.19 feet to the southwest corner of Parcel 3 of Nassau Avenue Investments, LLC, as recorded in Official Record 14016, Page 2070, said corner being referenced by a set cross notch at South 77° 18' 25" West, 3.00 feet;

thence, departing the east right-of-way of said Vine Street, and with the South line of said Parcel 3 of Nassau Avenue Investments, LLC, as recorded in Official Record 14016, Page 2070, North 77° 18' 25" East, 72.03 feet to the west right-of-way of East McMillan Avenue, said point being referenced by a set cross notch at North 77° 18' 25" East, 3.00 feet;

thence, departing said Parcel 3 of Nassau Avenue Investments, LLC, as recorded in Official Record 14016, Page 2070, and with the west right-of-way of said East McMillan Avenue, South 41° 02' 00" East, 29.33 feet to the northeast corner of Tract 2 of Nassau Avenue Investments, LLC, as recorded in Official Record 14016, Page 2074;

thence, departing the west right-of-way of said East McMillan Avenue, and with the north and west lines of said Tract 2 of Nassau Avenue Investments, LLC, as recorded in Official Record 14016, Page 2074, the following two courses: South 77° 47' 30" West, 47.28 feet;

thence, South 09° 39' 00" East, 20.08 feet a point on the north line of Parcel 1 of Nassau Avenue Investments, LLC, as recorded in Official Record 14169, Page 2991;

thence, departing said Tract 2 of Nassau Avenue Investments, LLC, as recorded in Official Record 14016, Page 2074 and with the north line of said Parcel 1 of Nassau Avenue Investments, LLC, as recorded in Official Record 14169, Page 2991, South 77° 47' 30" West, 40.00 feet to the True Point of Beginning containing 0.0649 acres of land, more or less.

Property Address: 1816 Vine Street, Cincinnati, Ohio 45202
Auditor's Parcel No.: 094-0005-0310-00

Situate in the City of Cincinnati, Hamilton County, State of Ohio, being part of Lot No. 26 of James Findlay Subdivision as per plat recorded in Deed Book R. No. 2, Page 334 of the Hamilton County Recorder's Office and more fully described as follows:

BEGINNING at a point in the East side of Vine Street, at the Northwest corner of the lot now owned by Anna Shuster, which point is also 121.32 feet South of McMicken Avenue, thence at an angle 87 deg. 01' Seventy-Two and 36/100 (72.36) feet to McMicken Avenue; thence Northwestwardly with McMicken Avenue, Forty (40) feet; thence Westwardly Fifty-One (51) feet to the East side of Vine Street, thence Southwardly along the East side of Vine Street, Thirty-Five (35) feet to the place of beginning; said beginning point being shown on the Auditor's Plat as One Hundred and Twenty-One (121) feet South of McMicken Avenue.

Property Address: 1822 Vine Street, Cincinnati, Ohio 45202
Auditor's Parcel No.: 094-0005-0309-00

Situated in Cincinnati City, Hamilton County, Ohio.

All that certain lot or parcel of ground lying and situated at the intersection of Hamilton Road (now McMicken Avenue) and Vine Street in the City of Cincinnati, Ohio described as follows:

Commencing at the intersection of said streets, thence running southwardly along the eastwardly line of Vine Street, 86.62 feet to the northwardly line of John Becker's brick wall, which wall is the northwardly line of John Becker's lot, thence eastwardly along the brick wall of John Becker's house 51.30 feet, more or less, to McMicken Avenue (formerly Hamilton Road); thence along Hamilton Road (now McMicken Avenue), 98.40 feet to Vine Street and the place of beginning, being a triangular lot.

Property Address: 29 E. McMicken Avenue, Cincinnati, Ohio 45202
Auditor's Parcel No.: 094-0005-0312-00

Situated in the City of Cincinnati, County of Hamilton and State of Ohio, to-wit: Lying near the junction of Vine Street and Hamilton Road (now McMicken Avenue) and fronting twenty (20) feet more or less on the Southerly side of said Hamilton Road (now McMicken Avenue) and extending back between parallel lines to a lot conveyed by John Ridiman and wife to Michael Brauer, lying next Southeastwardly of a lot formerly owned by Mrs. Rice. Said premises being more particularly described as follows: Beginning at a point in the Southwesterly line of McMicken Avenue one hundred and forty-four and 87/100 (144.87) feet Northwesterly from the intersection of McMicken Avenue and Elder Street; thence Northwesterly along said Southerly line of McMicken Avenue twenty-three and one-half (23-1/2) feet to a point; thence Westerly from said two points between parallel lines to a line parallel to and forty (40) feet East of Vine Street, being forty-seven and 44/100 (47.44) feet in depth on the Northerly and fifty-nine and 64/100 (59.64) feet in depth on the Southerly line, as per survey made by B.W. Harrison, County Surveyor, recorded in Volume 21, Page 5, of the Records of the Office of the Surveyor of Hamilton County, Ohio.

Property Address: 118 Findlay Street, Cincinnati, Ohio 45202
Auditor's Parcel No.: 096-0006-0055-00

Situate in the City of Cincinnati, Hamilton County, State of Ohio and bounded and described as follows:

Beginning at the northwest corner of Findlay and Pleasant Streets in said city; running thence westwardly along the north line of Findlay Street Twenty-Five (25) feet to a point; thence northwardly on a line parallel with the west line of Pleasant Street One Hundred (100) feet to the south line of Forbus Alley; thence eastwardly along the south line of Forbus Alley Twenty-Five (25) feet to the west line of Pleasant Street; thence southwardly along the west line of Pleasant Street One Hundred (100) feet to the Place of Beginning. Being Lot No. Nine (9) of Square "H" of the Subdivision laid out by James Findlay and J.D. Garrard, a Plat of which Subdivision is recorded in Deed Book No. 47, Page 319 of the records of Hamilton County, Ohio.

{00381830-1}

17

Property Address: 1720 Elm Street, Cincinnati, Ohio 45202
Auditor's Parcel No.: 094-0008-0128-00

Situate in the City of Cincinnati, Hamilton County, Ohio, and being all of Lot 39 of Block "F" as subdivided by the Commissioners in Partition of the Estates of James and Jane Findlay, deceased, said Lot 39 fronting twenty-five (25) feet on the east side of Elm Street and running back eastwardly between parallel lines a distance of ninety-three (93) feet to a twelve foot alley.

Property Address: 116 W. Elder Street, Cincinnati, Ohio 45202
Auditor's Parcel No.: 094-0008-0276-00

Situate in Section 13, Fractional Range 2, Town 3, Millcreek Township, City of Cincinnati, Hamilton County, Ohio and being all of Lots 7, 8 and 9 of Findlay and Garrard's Subdivision as recorded in Deed Book 45, Page 319 of the Hamilton County Recorder's Office and being more particularly described as follows:

Beginning at the intersection of the East line of Pleasant Street, 30' R/W and the North line of Elder Street, 45' R/W measure in said East line North 16° 32' 28" West, 80.31 feet to a point in the South line of Sellew Alley 12' R/W, thence with said South line North 73° 49' 45" East, 60.00 feet to a point in the West line of a tract of land belonging to Michael Luken as recorded in Deed Book 4312 Page 1353; thence with said West line South 16° 32' 28" East, 80.28 feet to a point in the North line of said Elder Street; thence, with said North line South 73° 47' 50" West, 60.00 feet to the Place of Beginning. Containing 4,818 square feet of land, more or less. Subject to all legal highways easements and restriction of record. Based on drawing G-44-10-80 of the City Engineer's Office. Bearings based on line survey #29-22 of the City Engineer's office.

Exhibit B to CRA Agreement
APPLICATION FOR TAX EXEMPTION
TO BE ATTACHED TO EXECUTION VERSION

April 26, 2023

To: Mayor and Members of City Council 202301247
From: Sheryl M. M. Long, City Manager
Subject: Emergency Legislative Resolution: 2024 Property Tax Millage

Submitted herewith is an Emergency Legislative Resolution captioned as follows:

AUTHORIZING tax levies for the calendar year beginning January 1, 2024, certifying them to the Hamilton County Auditor pursuant to O.R.C. § 5705.34, and requesting the County Auditor and County Treasurer to pay monies that may be in the County Treasury and are lawfully applicable to the purpose of this calendar year to the City Treasurer pursuant to O.R.C. § 321.34.

The Hamilton County Budget Commission approved the FY 2024 Tax Budget proposed and approved by City Council on December 14, 2022. The attached resolution is necessary to certify the property tax millage for calendar year 2024. The resolution certifies the General Fund operating millage at 6.10 mills and the debt service millage at 7.50 mills. The operating millage of 6.10 is estimated to generate property tax revenue of \$35,446,946.

State Law requires that the approved resolution be submitted to the County by May 26, 2023, therefore the resolution must be passed by Council prior to this date.

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

Attachment

EMERGENCY

Legislative Resolution

CMZ

RESOLUTION NO. _____ - 2023

AUTHORIZING tax levies for the calendar year beginning January 1, 2024, certifying them to the Hamilton County Auditor pursuant to O.R.C. § 5705.34, and requesting the County Auditor and County Treasurer to pay monies that may be in the County Treasury and are lawfully applicable to the purpose of this calendar year to the City Treasurer pursuant to R.C. Section 321.34.

WHEREAS, Council adopted a tax budget for the calendar year beginning January 1, 2024; and

WHEREAS, the County Budget Commission has approved the budget and estimate by the County Auditor of the rate of each tax necessary to be levied by this Council and the parts within and outside of the ten mill limitation; and

WHEREAS, Council must request payment of funds derived from taxes and other sources payable to the County Treasury to be made to the account of the City of Cincinnati, which funds are lawfully applicable to the purpose of the calendar year; now, therefore,

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

Section 1. That there is hereby levied on the tax duplicate of the City of Cincinnati for the calendar year beginning January 1, 2024, the rate of each tax necessary to be levied as follows:

<u>Fund</u>	Amount to be derived from levies inside	Amount to be derived from levies outside	Estimate of Rate to be levied		
	<u>Millage</u>	<u>Millage</u>	<u>Inside Mills</u>	<u>Outside Mills</u>	<u>Total Mills</u>
General	\$ - - -	\$35,446,946	- - -	6.10	6.10
Bond Retirement	\$22,813,120	\$25,794,380	3.52	3.98	7.50
Total	\$22,813,120	\$61,241,326	3.52	10.08	13.60

Section 2. That the Hamilton County Auditor and Hamilton County Treasurer are hereby requested to pay to the Treasurer of the City of Cincinnati monies from taxes and other sources

in the County Treasury to the account of the City that are lawfully applicable to the purpose of this calendar year.

Section 3. That the Clerk of Council is hereby directed to file a certified copy of this legislative resolution with the County Auditor.

Section 4. That this legislative 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 the immediate need to ensure that the City can meet the May 26, 2023 filing deadline with the County Auditor pursuant to the extension granted by the Ohio Department of Taxation attached hereto.

Passed: _____, 2023

Aftab Pureval, Mayor

Attest: _____
Clerk



Department of Taxation

Office of the Tax Commissioner
4485 Northland Ridge Blvd. • Columbus, OH 43229

JOURNAL ENTRY

Date: APR 17 2023

The Honorable Brigid Kelly
Hamilton County Auditor
Administration Bldg
138 E Court St Rm 304A
Cincinnati OH, 45202-1221

Entry Number: 23-04-0095

Re: Approval of Extension for the Hamilton County Budget Commission to Certify Tax Rates to the City of Cincinnati

The Tax Commissioner, upon consideration of the application filed by the County Auditor, as secretary of the county budget commission, on February 2, 2023, for an extension of time beyond the statutory date of March first to certify tax rates to the City of Cincinnati, as provided by Ohio Revised Code section 5705.35(A), finds that the extension of time is necessary and approves April 26, 2023, as the date within which the certification shall be made, pursuant to Ohio Revised Code section 5705.341 (last para.).

The Tax Commissioner also extends the April first deadline contained in Ohio Revised Code section 5705.34 for the City of Cincinnati to authorize the necessary tax levies to the auditor by the same number of days that the extension to certify rates is granted by this entry. Accordingly, the City of Cincinnati must authorize the necessary tax levies to the auditor by May 26, 2023. The County Auditor must notify the City of Cincinnati of this entry.

It is ordered that a copy of this entry be certified to the County Auditor, as secretary of the County Budget Commission.

I CERTIFY THAT THIS IS A TRUE AND ACCURATE COPY OF THE
ENTRY RECORDED IN THE TAX COMMISSIONER'S JOURNAL

PATRICIA HARRIS
TAX COMMISSIONER

/s/ Patricia Harris

Patricia Harris
Tax Commissioner

202301255

Clerk of Council

\$25.00 FILING FEE

801 Plum Street, Room 308
Cincinnati, Ohio 45202
(513) 352-3246

LEGISLATIVE AGENT/EMPLOYER INITIAL REGISTRATION STATEMENT

This statement must be filed with the Clerk of Council within ten (10) days of engagement. Please read instructions and review Section 112-5 prior to filing. There is a \$25.00 fee for this filing. Check or money order only made payable to "Clerk of Council". Upon termination of this engagement, there is an affirmative duty to notify the Clerk of Council within thirty (30) days) the form may be obtained from Clerk. **ANY PERSON WHO KNOWINGLY FILES A FALSE STATEMENT IS GUILTY OF FALSIFICATION UNDER SECTION 2921.13 OF THE OHIO REVISED CODE, WHICH IS A MISDEMEANOR OF THE FIRST DEGREE.**

A. LEGISLATIVE AGENT INFORMATION

- 1. Full Name John Cranley
- 2. Occupation Lawyer
- 3. Title/Position Lawyer
- 4. Business Address 1 E 4th St. 1400
Cinti OH 45202
City State Zip(+4)
- 5. Telephone Number (513) 579-6502
- 6. Date of Engagement as Legislative Agent 4/11/23

B. EMPLOYER INFORMATION

- 1. Full name of company or organization Keating Muehling Klotzberg
- 2. Type of Industry Law firm
- 3. Business Address 1 E 4th St. 1400
Cinti OH 45202
City State Zip(+4)

Fischer Homes is client

C. BRIEF DESCRIPTION OF THE TYPE OF LEGISLATION TO WHICH LEGISLATIVE AGENT'S ENGAGEMENT RELATES.

Encouragement of a better Brent Spence
Bridge design on behalf of law
firm clients, specifically Greg
Fischer of Fischer Homes.

CATEGORICAL LISTING OF PRINCIPAL BUSINESS OR ACTIVITY OF
PLEASE CHECK ALL THAT ARE APPLICABLE.

Fischer Group
HEALTH-LAW

- | | | |
|---|--|---|
| <input type="checkbox"/> Agriculture | <input type="checkbox"/> Environment | <input checked="" type="checkbox"/> Real Estate/Housing |
| <input type="checkbox"/> Alcohol/Tobacco | <input type="checkbox"/> Financial Institutions/Consumer Finance | <input type="checkbox"/> Retail and Commercial |
| <input type="checkbox"/> Arts/Entertainment | <input type="checkbox"/> Medical/Hospitals/Health Care | <input type="checkbox"/> Service Business |
| <input type="checkbox"/> Communications/Media | <input type="checkbox"/> Insurance | <input type="checkbox"/> Social Svs./Human Svs. |
| <input type="checkbox"/> Contractors/Construction | <input type="checkbox"/> Labor/Labor Organizations | <input type="checkbox"/> Science and Technology |
| <input type="checkbox"/> County/Local Government | <input type="checkbox"/> Legal | <input type="checkbox"/> State Employees |
| <input type="checkbox"/> Education | <input type="checkbox"/> Manufacturer | <input type="checkbox"/> State Government |
| <input type="checkbox"/> Energy/Utilities | <input type="checkbox"/> Public Interest | <input type="checkbox"/> Transportation |

CERTIFICATION: THE UNDERSIGNED HEREBY CERTIFY THAT ALL REASONABLE EFFORTS AND DUE DILIGENCE HAVE BEEN UNDERTAKEN IN THE PREPARATION AND COMPLETION OF THIS STATEMENT AND THAT THE CONTENTS ARE TRUE AND ACCURATE TO THE BEST OF HIS OR HER KNOWLEDGE.

ALL SIGNATURES MUST BE ORIGINAL AND SIGNED PERSONALLY BY THE NAMED INDIVIDUAL.

John Cranley
 Type or Print Name of Legislative Agent

Greg Fischer
 Signature of Legislative Agent

4/19/21
 Date

Greg Fischer
 Type or Print Name of Persons Signing for Employer

BY: *[Signature]*
 Signature for Employer

Chairman, Fischer Group LLC
 Title

4/20/21
 Date

April 19, 2023

To: Mayor and Members of City Council

202301180

From: Sheryl M. M. Long, City Manager

Subject: Ordinance – Parks: Park Board Commissioners’ Fund Monetary Donation

Attached is an Ordinance captioned:

AUTHORIZING the City Manager to accept and appropriate a donation totaling \$600,000 from the Cincinnati Park Board Commissioners’ Fund for the purpose of providing resources for horticultural supplies, maintenance contracts, salary reimbursements, Krohn Conservatory’s gift shop inventory, and other vital costs associated with running the City’s parks; and **AUTHORIZING** the Finance Director to deposit the funds into Parks Private Endowment and Donations Fund 430.

Approval of this Ordinance will authorize the City Manager to accept and appropriate a donation totaling \$600,000 from the Cincinnati Park Board Commissioners’ Fund for the purpose of providing resources for horticultural supplies, maintenance contracts, salary reimbursements, Krohn Conservatory’s gift shop inventory, and other vital costs associated with running the City’s parks. This Ordinance would also authorize the Finance Director to deposit the funds into Parks Private Endowment and Donations Fund 430.

The Cincinnati Park Board Commissioners’ Fund consists of funds received from endowments and donations from various entities to support the Cincinnati Park Board.

The donation requires no matching funds. There are no new FTEs associated with the donation.

Acceptance of this donation is in accordance with the “Sustain” goal to “[p]reserve our natural and built environment,” and strategy to “[p]rotect our natural resources,” as well as the “Collaborate” goal to [w]ork in synergy with the Cincinnati community” and strategy to “[u]nite our communities,” as described on pages 193-196 and 207-212 of Plan Cincinnati (2012).

The Administration recommends passage of this Ordinance.

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

Attachment



AUTHORIZING the City Manager to accept and appropriate a donation totaling \$600,000 from the Cincinnati Park Board Commissioners' Fund for the purpose of providing resources for horticultural supplies, maintenance contracts, salary reimbursements, Krohn Conservatory's gift shop inventory, and other vital costs associated with running the City's parks; and **AUTHORIZING** the Finance Director to deposit the funds into Parks Private Endowment and Donations Fund 430.

WHEREAS, the Park Board Commissioners' Fund consists of funds received from endowments and donations from various entities to support the Cincinnati Park Board; and

WHEREAS, acceptance of a donation totaling \$600,000 from the Park Board Commissioners' Fund will enable the Cincinnati Parks Department to purchase horticultural supplies, execute maintenance contracts, provide salary reimbursements, acquire Krohn Conservatory's gift shop inventory, and provide resources for other vital costs associated with running the City's parks; and

WHEREAS, the Cincinnati Board of Park Commissioners approved the use of \$600,000 and requested the distribution of the resources from the Park Board Commissioners' Fund; and

WHEREAS, there are no matching fund requirements or additional FTEs associated with the acceptance of this donation; and

WHEREAS, the acceptance of the donation is in accordance with the "Sustain" goal to "[p]reserve our natural and built environment" and strategy to "[p]rotect our natural resources," as well as the "Collaborate" goal to "[w]ork in synergy with the Cincinnati community" and strategy to "[u]nite our communities" as described on pages 193-196 and 207-212 of Plan Cincinnati (2012); now, therefore,

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

Section 1. That the City Manager is hereby authorized to accept and appropriate a donation totaling \$600,000 from the Cincinnati Park Board Commissioners' Fund for the purpose of providing resources for horticultural supplies, maintenance contracts, salary reimbursements, Krohn Conservatory's gift shop inventory, and other vital costs associated with running the City's parks.

Section 2. That the Finance Director is authorized to deposit the donated funds into Parks Private Endowment and Donations Fund 430.

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

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

Passed: _____, 2023

Aftab Pureval, Mayor

Attest: _____
Clerk

April 19, 2023

To: Mayor and Members of City Council

202301181

From: Sheryl M. M. Long, City Manager

Subject: Emergency Ordinance – OES: WarmUp Cincy Program Appropriation

Attached is an Emergency Ordinance captioned:

AUTHORIZING the City Manager to accept additional franchise fee resources of \$175,000 from Duke Energy, Inc. (“Duke”) to provide resources for the WarmUp Cincy program; **AUTHORIZING** the Director of Finance to deposit the additional Duke franchise fee resources into General Fund revenue account no. 050x8221; and **AUTHORIZING** the transfer and appropriation of \$175,000 from the unappropriated surplus of the General Fund to the Office of Environment and Sustainability non-personnel operating budget account no. 050x104x7400 to provide resources for the WarmUp Cincy program.

Approval of this Emergency Ordinance authorizes the City Manager to accept additional franchise fee resources of \$175,000 from Duke Energy, Inc. (Duke), to provide resources for the WarmUp Cincy program. This Emergency Ordinance also authorizes the Director of Finance to deposit the additional Duke franchise fee resources into General Fund revenue account no. 050x8221. Finally, this Emergency Ordinance authorizes the transfer and appropriation of \$175,000 from the unappropriated surplus of the General Fund to the Office of Environment and Sustainability (OES) non-personnel operating budget account no. 050x104x7400 to provide resources for the WarmUp Cincy program.

OES established the WarmUp Cincy program pursuant to Ordinance No. 0319-2019, using resources from a settlement between Duke and the Public Utilities Commission of Ohio (PUCO) regarding rate-setting proceedings. On December 14, 2022, PUCO approved a tariff increase for Duke and Duke agreed to pay the City an annual franchise fee of \$1,326,743. The City committed to use at least \$350,000 of the Duke franchise fee annually to provide weatherization, energy efficiency improvements, and utility bill assistance to qualifying Duke customers through the City’s WarmUp Cincy program. The first \$175,000 of the Duke franchise fee will be received in FY 2023 and must be appropriated to the OES budget and expended in FY 2023 to satisfy the commitment.

The WarmUp Cincy program is in accordance with the “Sustain” goal to “[b]ecome a healthier Cincinnati” and strategy to “[c]reate a healthy environment and reduce energy consumption,” as described on pages 181-186 and page 209 of Plan Cincinnati (2012).

The reason for the emergency is the immediate need to transfer and appropriate resources for the WarmUp Cincy program 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



EMERGENCY

MSS

-2023

AUTHORIZING the City Manager to accept additional franchise fee resources of \$175,000 from Duke Energy, Inc. (“Duke”) to provide resources for the WarmUp Cincy program; **AUTHORIZING** the Director of Finance to deposit the additional Duke franchise fee resources into General Fund revenue account no. 050x8221; and **AUTHORIZING** the transfer and appropriation of \$175,000 from the unappropriated surplus of the General Fund to the Office of Environment and Sustainability non-personnel operating budget account no. 050x104x7400 to provide resources for the WarmUp Cincy program.

WHEREAS, the Office of Environment and Sustainability (“OES”) established the WarmUp Cincy program pursuant to Ordinance No. 319-2019, using resources from a settlement between Duke Energy, Inc. (“Duke”), and the Public Utilities Commission of Ohio (“PUCO”) regarding rate-setting proceedings, in which the City had intervened; and

WHEREAS, on December 14, 2022, PUCO approved a tariff increase for Duke and, pursuant to a stipulation with the City and other parties, Duke agreed to pay the City an annual franchise fee of \$1,326,743 in quarterly installments starting in 2023; and

WHEREAS, the City committed to use at least \$350,000 of the Duke franchise fee annually to provide weatherization, energy efficiency improvements, and utility bill assistance to qualifying Duke customers through the City’s WarmUp Cincy program; and

WHEREAS, the first \$175,000 of the Duke franchise fee will be received in FY 2023 and must be appropriated to the OES operating budget and expended in FY 2023 to satisfy this commitment; and

WHEREAS, the WarmUp Cincy program is in accordance with the “Sustain” goal to “[b]ecome a healthier Cincinnati” and strategy to “[c]reate a healthy environment and reduce energy consumption” as described on pages 181-186 of Plan Cincinnati (2012); now, therefore,

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

Section 1. That the City Manager is authorized to accept additional Duke franchise fee resources of \$175,000 from Duke Energy, Inc. (“Duke”) to provide resources for the WarmUp Cincy program.

Section 2. That the Director of Finance is authorized to deposit the additional Duke franchise fee resources into General Fund revenue account no. 050x8221.

Section 3. That the transfer and appropriation of \$175,000 from the unappropriated surplus of the General Fund to the Office of Environment and Sustainability non-personnel operating budget account no. 050x104x7400 is authorized to provide resources for the WarmUp Cincy program.

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

Section 5. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to transfer and appropriate resources for the WarmUp Cincy program to avoid a delay in service delivery.

Passed: _____, 2023

Aftab Pureval, Mayor

Attest: _____
Clerk

April 19, 2023

TO: Mayor and Members of City Council

202301183

FROM: Sheryl M.M. Long, City Manager

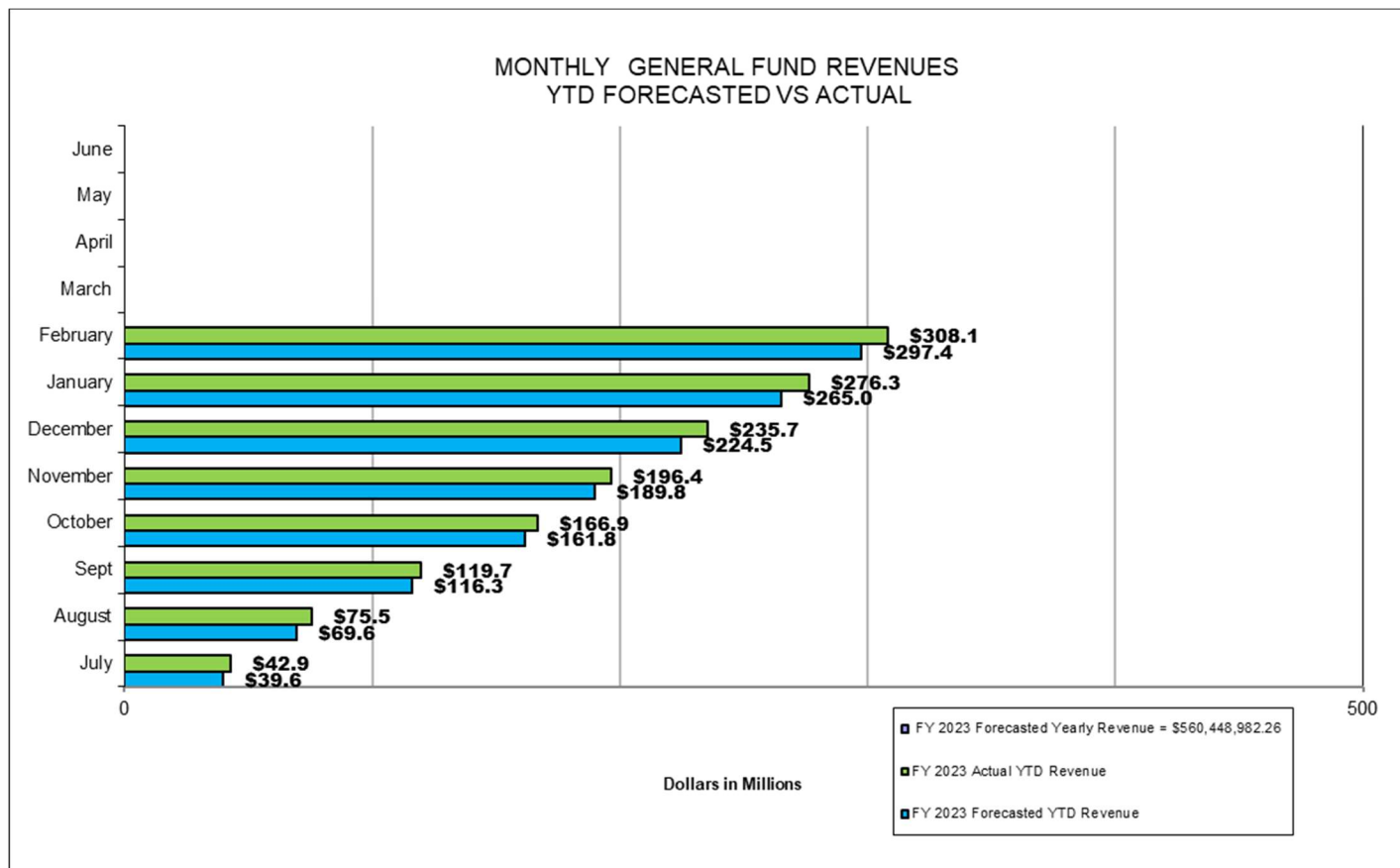
SUBJECT: Department of Finance Reports for the Month Ended February 28, 2023

FEBRUARY 2023
MONTHLY FINANCIAL REPORTS

The following report provides an update on the City of Cincinnati's financial condition as of the month ending February 28, 2023. Variances are based on current year estimates and prior year activity in attached schedules.

A more detailed explanation of revenues is attached for review, including reports comparing current year actual revenue vs. forecasted revenue and prior year actual revenue vs. current year actual revenue. Both of those reports are presented on a monthly and year-to-date basis.

The chart below portrays the performance of actual revenue collected against the forecasted revenue collected through February 28, 2023 and shows that actual revenue of \$308.1 million was above forecasted revenue of \$297.4 million by \$10.7 million.



The major revenue components of the General Fund are listed in the table below. This table highlights the year-to-date variance (favorable and unfavorable) in General Fund revenue collections as compared to forecasted revenue collections. Each major category that differs significantly from forecasted collections will be discussed in further detail.

GENERAL FUND REVENUE SOURCES		
	FAVORABLE VARIANCE	(UNFAVORABLE) VARIANCE
General Property Tax		(\$1,726,248)
City Income Tax	9,398,108	
Admissions Tax	1,769,514	
Short Term Rental Excise Tax	542,950	
Licenses & Permits		(\$20,744)
Fines, Forfeitures, & Penalties		(\$202,088)
Investment Income	1,261,634	
Local Government	657,246	
Casino	428,345	
Police	496,137	
Buildings and Inspections		(\$171,336)
Fire	606,226	
Parking Meter	400	
Other		(\$2,332,819)
	15,160,560	(\$4,453,235)
Difference	10,707,325	

General Fund (favorable variance) is \$10.7 million above the amount forecasted thru February in the FY 2023 Budget. This is the eighth month's report for the fiscal year. What follows is an explanation of significant variances of individual General Fund revenue components.

Property Tax (unfavorable variance) is \$1.7 million below estimate due to the decrease in the millage for this half. The millage for the second half is set at a higher rate which will offset this unfavorable variance. The Administration anticipates Property Tax revenue will be on target at year end. This is a semi-annual payment. The second payment will be received in late Spring.

Income Tax (favorable variance) is \$9.4 million above the forecasted amount. This amount can fluctuate throughout the year as quarterly net profits are due. The Finance Department will continue to watch the trends, including those related to remote work, very closely.

Admission Tax (favorable variance) is \$1.8 million above estimate. Many estimates were set at pre-pandemic levels; however, businesses have rebounded stronger than expected.

Short Term Rental Excise Tax (favorable variance) is \$543k above the forecasted amount. The variance is contributed to large one-time events, like Blink and a month-long running of Hamilton, as well as increased attendance at the Bengals games. These events have brought more people to our area to visit in turn needing a place to stay.

Investment Income (favorable variance) is \$1.3 million above estimate. This is a result of better interest rates and a new contract with an investment manager yielding results above our projections. The market is volatile right now with the banking crisis so Finance will keep an eye on the rates going forward this Fiscal Year.

Fire (favorable variance) is \$606k above the forecasted amount. There has been an increase in Basic Life Support runs contributing to the increased revenue.

Other (unfavorable variance) is \$2.3 million below forecast. This category is made up of many small sources of revenue that fluctuate from time to time. The Finance Department will continue to monitor these various revenue sources.

Restricted Funds:

Parking Meter (unfavorable variance) is \$924k below estimate. Even with a reduction in the current year estimate from last year, there is still less demand leading to a negative variance.

Sawyer Point (unfavorable variance) is down \$254k. This variance is partly due to a large concert cancellation at the beginning of the fiscal year and less demand for parking at the riverfront.

Streetcar Operations (favorable variance) is \$1.7 million above estimate. The OTP and Formula grant payments were delayed from FY 2022. As were the VTICA payments. These receipts were not estimated in FY 2023. This category will remain above estimate this fiscal year.

Submitted herewith are the following Department of Finance reports:

1. Comparative Statement of Revenue (Actual, Forecast and Prior Year) as of February 28, 2023.
2. Audit of the City Treasurer's Report for the month ended January 31, 2023.
3. Statement of Balances in the various funds as of February 28, 2023.

By approval of this report, City Council appropriates the revenues received in the various restricted funds on the attached Statement of Balances and as stated in greater detail on the records maintained by the Department of Finance, Division of Accounts & Audits. Such revenues are to be expended in accordance with the purposes for which the funds were established.

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

April 17, 2023

To: Members of the Budget and Finance Committee

202301192

From: Sheryl M. M. Long, City Manager

Subject: Emergency Ordinance – DCED: Findlay Parkside– TIF

Attached is an Emergency Ordinance captioned:

AUTHORIZING the transfer and appropriation of the sum of \$2,295,000 from the unappropriated surplus of Downtown/OTR West Equivalent Fund 482 to the Department of Community and Economic Development non-personnel operating budget account 482x162x7200 for the purpose of providing resources to assist with the redevelopment of ten historic buildings located at 1804, 1810, 1812, 1814, 1816, and 1822 Vine Street, 29 E McMicken Avenue, 118 Findlay Street, 1720 Elm Street, and 114-116 W Elder Street in the Over-the-Rhine (“OTR”) neighborhood into a mixed use development; and **DECLARING** that expenditures to assist with redevelopment of ten historic buildings in the OTR neighborhood into a mixed use development serves a public purpose because the project will provide affordable housing in the community.

Approval of this Emergency Ordinance authorizes the transfer and appropriation of the sum of \$2,295,000 from the Downtown/ OTR West Equivalent Fund 482 to the Department of Community and Economic Development non-personnel operating budget account no. 482x162x7200 for the purpose of providing resources to assist with the redevelopment of ten historic buildings in the Over-the-Rhine (“OTR”) neighborhood into a mixed-use development.

Findlay Parkside, LLC, an affiliate of The Model Group (“TMG”), is seeking to redevelop 10 historic buildings at 1804, 1810, 1812, 1814, 1816, and 1822 Vine Street, 29 E McMicken Avenue, 118 Findlay Street, 1720 Elm Street, and 114-116 W Elder Street in Over-the-Rhine into a mixed-use development comprised of approximately 16,456 square feet of commercial space and approximately 51 residential rental units, an estimated 26 of which will serve households earning no more than eighty percent of the area median income. TMG is committing its own equity along with State and Federal Historic Tax Credit equity and New Market Tax Credit equity and is also utilizing senior debt for the Project.

Investing in the Findlay Parkside, LLC Project is in accordance with the “Compete” goal to “Cultivate our position as the most vibrant and economically healthiest part of our region,” the “Live” goals to “Create a more livable community,” and “Provide a full spectrum of housing options, and improve housing quality and affordability,” as well as the “Sustain” goal to “Preserve our natural and built environment,” as described on pages 114-120, 156-177, and 193-198 of Plan Cincinnati (2012)

The reason for the emergency is the developer's immediate need to close its financial gap and the need for the City to increase its stock of affordable housing units.

The Administration recommends passage of this Emergency Ordinance.

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

Attachments





EMERGENCY

City of Cincinnati

An Ordinance No. _____

KKF

EESW

-2023

AUTHORIZING the transfer and appropriation of the sum of \$2,295,000 from the unappropriated surplus of Downtown/OTR West Equivalent Fund 482 to the Department of Community and Economic Development non-personnel operating budget account 482x162x7200 for the purpose of providing resources to assist with the redevelopment of ten historic buildings located at 1804, 1810, 1812, 1814, 1816, and 1822 Vine Street, 29 E McMicken Avenue, 118 Findlay Street, 1720 Elm Street, and 114-116 W Elder Street in the Over-the-Rhine (“OTR”) neighborhood into a mixed-use development; and DECLARING that expenditures to assist with redevelopment of ten historic buildings in the OTR neighborhood into a mixed-use development serves a public purpose because the project will provide affordable housing in the community.

WHEREAS, Findlay Parkside, LLC, an affiliate of The Model Group (“TMG”), is seeking to redevelop 10 historic buildings at 1804, 1810, 1812, 1814, 1816, and 1822 Vine Street, 29 E McMicken Avenue, 118 Findlay Street, 1720 Elm Street, and 114-116 W Elder Street in Over-the-Rhine (“OTR”) into a mixed-use development comprised of approximately 16,456 square feet of commercial space and approximately 51 residential rental units, an estimated 26 of which will serve households earning no more than eighty percent of the area median income, as established by the U.S. Department of Housing and Urban Development (the “Project”); and

WHEREAS, community engagement on the redevelopment of the ten historic buildings is anticipated to occur on April 17, 2023, with community council hearings expected to occur through April 24, 2023 with the OTR, West End, and Downtown communities; and

WHEREAS, TMG is committing its own equity along with state and federal Historic Tax Credit equity and New Market Tax Credit equity, and is also utilizing senior debt for the Project; and

WHEREAS, despite these commitments of funding, TMG projects a financing gap of \$2,295,000 for the Project, and to close that gap \$2,295,000 in funding is requested from the City’s Downtown/OTR West Equivalent Fund 482; and

WHEREAS, investing in the Findlay Parkside, LLC Project is in accordance with the “Compete” goal to “[c]ultivate our position as the most vibrant and economically healthiest part of our region,” the “Live” goals to “[c]reate a more livable community,” and “[p]rovide a full spectrum of housing options, and improve housing quality and affordability,” as well as the “Sustain” goal to “[p]reserve our natural and built environment,” as described on pages 114-120, 156-177, and 193-198 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 and appropriation of the sum of \$2,295,000 from the unappropriated surplus of Downtown/OTR West Equivalent Fund 482 to the Department of Community and Economic Development non-personnel operating budget account 482x162x7200 is hereby authorized for the purpose of providing resources to assist with the redevelopment of ten historic buildings located at 1804, 1810, 1812, 1814, 1816, and 1822 Vine Street, 29 E McMicken Avenue, 118 Findlay Street, 1720 Elm Street, and 114-116 W Elder Street in the Over-the-Rhine (“OTR”) neighborhood into a mixed-use development.

Section 2. That Council hereby declares that assisting with redevelopment of ten historic buildings in the OTR neighborhood of Cincinnati into a mixed-use development (a) constitutes a “Housing Renovation” (as defined in R.C. Section 5709.40(A)(3)), subject to compliance with R.C. Sections 5709.40 through 5709.43, and (b) serves a public purpose because the project will provide affordable housing to the OTR neighborhood.

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

Section 4. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the developer’s immediate need to close its financial gap and the need for the City to increase its stock of affordable housing units.

Passed: _____, 2023

Aftab Pureval, Mayor

Attest: _____
Clerk



202301204

Meeka D. Owens
Cincinnati City Council


MOTION

Identifying 2023 Green Cincinnati Plan Goals in City Ordinances

WE MOVE that the City Administration identify in all submitted ordinances whether the change made or the action achieved by the ordinance will achieve a goal or priority action of the 2023 Green Cincinnati Plan. The identification should be written out in the whereas clauses of the ordinance, similar to the whereas clauses that identify which goals and strategies of Plan Cincinnati (2012) are achieved by the ordinance.



Councilmember Meeka D. Owens



Councilmember Jeff Cramerding

Date: April 25, 2023

To: Members of the Climate, Environment & Infrastructure Committee
From: Sheryl M.M. Long, City Manager 202301236
Subject: **Ordinance – Modifying CMC Chapter 321 Procurement and Disposal of Supplies, Services and Construction**

Transmitted herewith is an ordinance captioned as follows:

MODIFYING the provisions of Chapter 321, “Procurement and Disposal of Supplies, Services and Construction,” of the Cincinnati Municipal Code by **ORDAINING** new Section 321-163, “Invalid Terms and Conditions.”

This ordinance declares certain contract provisions invalid if included in contracts with the City for the purpose of protecting the City’s legal interests. This B version pares back the list of contract provisions to which the ordinance applies and creates an exception for sole-source, single available source, emergency, and cooperative contracts.

Attachment
377807

cc: Emily Smart Woerner, City Solicitor



MODIFYING the provisions of Chapter 321, “Procurement and Disposal of Supplies, Services and Construction,” of the Cincinnati Municipal Code by **ORDAINING** new Section 321-163, “Invalid Terms and Conditions.”

WHEREAS, many vendors do not offer the opportunity to negotiate the terms and conditions accompanying the use of their products and services, particularly in the context of click-wrap-type agreements where the purchaser must click on a form contract online agreeing to all of its provisions; and

WHEREAS, more vendors are using this type of contract as the only method available for a customer to purchase the services offered, which impacts the City’s ability to contract for necessary goods and services; and

WHEREAS, the City has certain legal obligations under Ohio and City law that prevent it from agreeing to various types of contract provisions that may be included in these non-negotiated contracts; and

WHEREAS, declaring such provisions invalid protects the City’s legal interests and promotes significant efficiencies in the City’s contracting processes; now, therefore,

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

Section 1. That Section 321-163, “Invalid Terms and Conditions,” is hereby ordained as follows:

Sec. 321-163. – Invalid Terms and Conditions.

(a) Except as otherwise required or permitted by state or federal law, a contract entered into by the city for the procurement of supplies, services, professional services, or construction as defined in Section 321-1 shall not include any of the following:

- (1) A provision that requires the city to indemnify or hold harmless another person;
- (2) A provision that requires the city to agree to limit the liability for any direct loss to the city for bodily injury, death, or damage to property of the city caused by the negligence, intentional or willful misconduct, fraudulent act, recklessness, or other tortious conduct of a person or a person’s employees or agents, or a provision that would otherwise impose an indemnification obligation on the city;

- (3) A provision that requires the city to be bound by a term or condition that is unknown to the city at the time of signing a contract or that may be unilaterally changed by the other party;
 - (4) A provision that is not specifically negotiated with the city or that is electronically accepted by a city employee without authority to accept the contract on behalf of the city;
 - (5) A provision that provides for a person other than the city solicitor to serve as legal counsel for the city without the approval of the solicitor;
 - (6) A provision that is inconsistent with the city's public records obligations under sections 149.351 or 149.43 of the Ohio Revised Code;
 - (7) A provision for automatic renewal such that city funds are or would be obligated in subsequent fiscal years without a subsequent appropriation by city council and certification by the director of finance;
 - (8) A provision that would require the payment of interest or a penalty inconsistent with Chapter 319 of the Cincinnati Municipal Code; or
 - (9) A provision whereby the seller agrees to provide financing to the city for the transaction without authorization by city council.
- (b) If a contract contains a term or condition described in division (a) of this section, the term or condition is void ab initio, and the contract containing that term or condition otherwise shall be enforceable as if it did not contain such term or condition.
- (c) A contract that contains a term or condition described in division (a) of this section shall be governed by and construed in accordance with Ohio law notwithstanding any term or condition to the contrary in the contract.
- (d) This section does not apply to a contract awarded
- (1) as a sole source pursuant to Chapter 321-85;
 - (2) as a single available source pursuant to Chapter 321-86;
 - (3) as an emergency purchase pursuant to Chapter 321-89; and
 - (4) as a joint or cooperative purchase pursuant to Chapter 321-97.
- (e) This section does not apply to a contract in effect before the effective date of this section or to the renewal or extension of a contract in effect before the effective date of this section.

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

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