



# City of Cincinnati

801 Plum Street  
Cincinnati, OH 45202

## Agenda - Final

### Budget and Finance Committee

*Chairperson David Mann*  
*Vice Chair Chris Seelbach*  
*Councilmember Steve Goodin*  
*Councilmember Jan-Michele Kearney*  
*Councilmember Liz Keating*  
*Councilmember Greg Landsman*  
*Councilmember Betsy Sundermann*  
*Councilmember Wendell Young*

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Monday, April 5, 2021

1:00 PM

Council Chambers, Room 300

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ROLL CALL

#### AGENDA

- [202101272](#) FYI MEMO, dated 03/24/2021, submitted by Councilmember Mann, from Paula Boggs Muething, City Manager, regarding Funding Priorities for Coronavirus Local Fiscal Recovery Fund.

**Sponsors:** Mann

**Attachments:** [FYI MEMO - Priorities](#)  
[Exhibit A - Stimulus Funding](#)
- [202101249](#) ORDINANCE (B VERSION), submitted by Mayor John Cranley, from Andrew W. Garth, City Solicitor, MODIFYING Title VII, "General Regulations," of the Cincinnati Municipal Code by amending Section 723-42, "Mobile Food Vending; Definitions," and Section 723-44, "Mobile Food Vending; Operating Restrictions," of Chapter 723, "Streets and Sidewalk, Use Regulations," to establish a new designated zone for mobile food vending on Harrison Avenue in the Westwood neighborhood.

**Sponsors:** Mayor

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

3. [202101227](#) ORDINANCE submitted by Paula Boggs Muething, City Manager, on 3/31/2021, AUTHORIZING the City Manager to apply for a grant in an amount up to \$150,000,000 from the Transportation Review Advisory Council (CFDA 20.205), awarded by and through the Ohio Department of Transportation, to provide resources for the construction associated with replacement of the Western Hills Viaduct; and AUTHORIZING the City Manager to enter into the necessary agreements with Hamilton County to jointly apply for these grant resources.
- Sponsors:** City Manager
- Attachments:** [Transmittal](#)  
[Ordinance](#)
4. [202101228](#) ORDINANCE (EMERGENCY) submitted by Paula Boggs Muething, City Manager, on 3/31/2021, AUTHORIZING the City Manager to accept with gratitude a donation of artwork by artists Ellen Kochansky and Jamie Davis from the commercial real estate firm CBRE.
- Sponsors:** City Manager
- Attachments:** [Transmittal](#)  
[Ordinance](#)
5. [202101229](#) ORDINANCE (EMERGENCY) submitted by Paula Boggs Muething, City Manager, on 3/31/2021, AUTHORIZING the City Manager to apply for, accept, and appropriate a grant in an amount of \$10,000 from Cincinnati Children's Hospital Medical Center for the purpose of supporting COVID-19 vaccinations and health equity in vulnerable Cincinnati communities; and AUTHORIZING the Finance Director to deposit the grant funds into Public Health Research Fund 350.
- Sponsors:** City Manager
- Attachments:** [Transmittal](#)  
[Ordinance](#)
6. [202101230](#) ORDINANCE submitted by Paula Boggs Muething, City Manager, on 3/31/2021, AUTHORIZING the City Manager to execute a Grant of Encroachment Easements in favor of 2445 Gilbert, LLC, pursuant to which the City of Cincinnati will grant encroachment easements for existing projections encroaching upon the Gilbert Avenue public right-of-way in the Walnut Hills neighborhood of Cincinnati.
- Sponsors:** City Manager
- Attachments:** [Transmittal](#)  
[Ordinance](#)  
[Attachment](#)


7. [202101231](#) ORDINANCE submitted by Paula Boggs Muething, City Manager, on 3/31/2021, AUTHORIZING the City Manager to vacate and sell to Uptown Transportation Authority, LLC approximately 0.1749 acres of the public right-of-way known as Bartle Avenue in the Avondale neighborhood of Cincinnati.
- Sponsors:** City Manager
- Attachments:** [Transmittal](#)  
[Ordinance](#)  
[Attachment](#)
8. [202101232](#) ORDINANCE (EMERGENCY) submitted by Paula Boggs Muething, City Manager, on 3/31/2021, APPROVING AND AUTHORIZING the City Manager to execute a Community Reinvestment Area Tax Exemption Agreement with 17E-Fifteen LLC, thereby authorizing an 8-year tax exemption for 100% of the value of improvements made to real property located at 17 E. 15th Street in the Over-the-Rhine neighborhood of Cincinnati, in connection with the remodeling of an existing building into approximately 3,576 square feet of residential space, consisting of 6 residential rental units, at a total construction cost of approximately \$300,000.
- Sponsors:** City Manager
- Attachments:** [Transmittal](#)  
[Ordinance](#)  
[Exhibit A](#)
9. [202101233](#) RESOLUTION (LEGISLATIVE) submitted by Paula Boggs Muething, City Manager, on 3/31/2021, DECLARING the necessity of assessing properties in Lighting Group 1 that benefit from special street lighting within the City of Cincinnati for the cost of such lighting for the three-year period beginning August 1, 2020.
- Sponsors:** City Manager
- Attachments:** [Transmittal](#)  
[Resolution](#)  
[Attachment I](#)
10. [202101268](#) MOTION, submitted by Councilmember Mann, I MOVE for a report from the city administration evaluating the compliance with basic COVID precautions by this past weekend's attendees at the Banks DORA and what additional enforcement or education may be appropriate to minimize the risk that the DORA will become a major source of new COVID cases. (STATEMENT ATTACHED).
- Sponsors:** Mann
- Attachments:** [MOTION- MANN](#)

ADJOURNMENT

March 24, 2021

**FOR YOUR INFORMATION**

202101272

To: Mayor and Members of City Council  
From: Paula Boggs Muething, City Manager   
Subject: Funding Priorities for Coronavirus Local Fiscal Recovery Fund

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This memorandum sets forth the City Administration's recommendations and funding priorities for the expected federal relief funds related to the COVID-19 pandemic.

**Background and Information**

The American Rescue Plan Act of 2021<sup>1</sup> ("ARP") was signed by President Joe Biden on March 11, 2021. Section 9901 of the ARP establishes a new program to be administered by the United States Department of the Treasury ("Treasury") known as the Coronavirus Local Fiscal Recovery Fund ("LFRF" or "recovery funds"). This program will provide significant stimulus and recovery funding to local governments throughout the United States. Though the City may receive additional funding under other provisions of the ARP, the LFRF is the most substantial funding source.

The purpose of the recovery funds is to mitigate the fiscal effects stemming from the COVID-19 public health emergency. Broadly, recovery funds can be utilized for costs incurred by the City to respond to COVID-19, including negative economic impacts; to provide premium pay to eligible workers performing essential work during the COVID-19 public health emergency; to pay for government services to the extent of revenue reductions due to COVID-19; and to make necessary investments in water, sewer, or broadband infrastructure. The LFRF explicitly prohibits deposit of the monies into pension funds. Additional guidance from Treasury is forthcoming and will provide final parameters and clarity on eligible uses.

All recovery funds must be utilized prior to December 31, 2024 and is allocated to local governments based on a modified Community Development Block Grant allocation methodology. Though final allocation amounts have not yet been released by Treasury, the City estimates that it will receive approximately \$290 million in LFRF funds. Under the ARP, the first half of this amount is expected to be paid to the City no later than May 11, 2021. The second half is expected to be paid to the City no later than May 11, 2022.

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<sup>1</sup> <https://www.congress.gov/bill/117th-congress/house-bill/1319/text#toc-HA2014788068F45DFB8DF03D5E72AFEE7>

## Funding Priorities

The recovery funds present an extraordinary opportunity to catalyze economic recovery and growth in sectors that have been devastated by the impacts of COVID-19. The funding priorities set forth below are targeted to provide both immediate impact and long-term public benefits, in order to ensure that this dramatic public investment continues to provide returns far beyond the actual expenditures. A detailed list of proposed expenditures is included as **Exhibit A** to this memorandum. These expenditures are subject to Council approval and appropriation. They are also subject to Treasury guidance for the LFRF, which has not yet been released but is forthcoming and may indicate that certain categories of expenditures are ineligible.

## Fiscal Stability

The Administration's top priority is to stabilize the City's fiscal position. This includes covering operating budget deficits from Fiscal Year ("FY") 2021 and projected deficits for FY 2022 and FY 2023, and creating an income tax contingency fund to protect City operations from the risk of reduced income tax revenue presented by ongoing litigation that challenges the City's ability to tax income accrued through remote work. Further, this includes restoring all lost revenue to various restricted funds to account for revenue reductions caused by the pandemic and reserving sufficient funding to address operational needs of the Cincinnati Public Health Department for continued pandemic response work, including efforts to achieve equity in vaccine distribution and continued contact tracing and testing.

## Job Creation, Economic Growth, and Housing Stability

The COVID-19 pandemic has caused substantial unemployment or underemployment and reduced earnings for many citizens, disproportionately impacting lower income households. The City Administration recommends funding support programs that address the economic impacts of COVID-19 by creating job opportunities and encouraging economic growth. This includes public investments to stabilize existing job-creating enterprises and support for enterprises that grow new businesses and job opportunities. Finally, the economic impacts of COVID-19 have led to greater housing instability for many moderate- and lower-income City residents; therefore, the Administration recommends investments to increase affordable housing options and economic stability for these impacted City residents.

## Critical Financial Support for Cultural Institutions, Small Business, and Community Partners

Our cultural institutions and small businesses are the engines for the City's vitality and energy, and mission-driven community partner organizations provide a sense of community and hope. These organizations have faced tremendous financial difficulties in the past year and have taken on debt, cut staff and expenses, or reduced operations. In order to retain the character that is uniquely Cincinnati, energize our local

economy, and restore the public benefits they provide to our region the Administration recommends a meaningful investment to stabilize these organizations.

### Safe Activation of Civic Spaces and Community Building in Neighborhoods

Once safe, a critical element of restoring the vibrancy of our City will be to bring life back to our civic spaces throughout the City and to conduct community building activities in our neighborhoods. The goal of these recommended public investments is to repair the community fabric and relationships that have been dormant due to COVID-19 restrictions and encourage our City's residents to safely engage with their neighbors and friends.

### Capital Investment to Improve City Services and Quality of Life

Finally, the Administration recommends investment in capital projects that will improve City services and improve the quality of life of City residents. These investments will initially create construction jobs and economic activity to directly address the negative impacts of COVID-19 and will provide long-term public benefits for generations of City residents.

### Conclusion

The LFRF is an opportunity for our City to recover and reignite economic growth by investing in priorities that will counteract the negative financial and social impacts of the pandemic. With the proposed funding priorities and projects described above and in the attachment, the Administration seeks to stabilize the City's finances, create a wide range of pandemic response and support programs, and to make substantial capital investments in our City's infrastructure.

**Exhibit A**



**202101272**  
**Exhibit A**

**Stimulus Funding Reconciliation**

	\$	<b>Total</b>	\$	<b>Year 1</b>	\$	<b>Year 2</b>
<b>Approved Stimulus Funds</b>		<b>291,590,000</b>		<b>145,795,000</b>		<b>145,795,000</b>
<b>Operating Budget Needs for FY21 and FY22:</b>						
FY 2021 Need referenced in Monitoring Report	\$	18,700,000	\$	18,700,000		
Negotiated Hazard Pay	\$	2,800,000	\$	2,800,000		
Public Health COVID Response: Equity Outreach, Vaccine Distribution, PPE, Testing, and Tracing	\$	7,426,692	\$	5,000,000	\$	2,426,692
FY 2022 Projected Operating Budget Deficit	\$	31,000,000	\$	31,000,000		
FY 2022 Income Tax Contingency	\$	18,500,000			\$	18,500,000
FY 2023 Projected Operating Budget Deficit	\$	35,000,000			\$	35,000,000
<b>Total Operating Budget Need FY21/FY22</b>	<b>\$</b>	<b>113,426,692</b>	<b>\$</b>	<b>57,500,000</b>	<b>\$</b>	<b>55,926,692</b>
<b>Lost Revenue Restricted Fund: For Period March 1, 2020 through February 28, 2021</b>						
102 - Parking System	\$	(2,083,489)	\$	2,083,489		
103 - Convention	\$	(4,704,032)	\$	4,704,032		
Transient Occupancy Tax	\$	(5,300,000)	\$	5,300,000		
303 - Park Meter	\$	(2,050,124)	\$	2,050,124		
318 - Sawyer Pnt	\$	(650,824)	\$	650,824		
323 - Rec Spl Act	\$	(2,066,665)	\$	2,066,665		
326 - Park Misc Rev	\$	(528,157)	\$	528,157		
329 - Riverfront Park	\$	(703,909)	\$	703,909		
332 - Krohn	\$	(488,469)	\$	488,469		
347 - Hazard Abatemnt	\$	(308,974)	\$	308,974		
363 - Solid Waste	\$	(31,937)	\$	31,937		
395 - Health Centers	\$	(1,100,000)	\$	1,100,000		
412 - Food Serv	\$	(944,487)	\$	944,487		
446 - Hlth Netwrk	\$	(882,244)	\$	882,244		
<b>Total Lost Revenue</b>	<b>\$</b>	<b>21,843,308</b>	<b>\$</b>	<b>21,843,308</b>	<b>\$</b>	<b>-</b>
<b>Total Operating Fund Need</b>	<b>\$</b>	<b>135,270,000</b>	<b>\$</b>	<b>79,343,308</b>	<b>\$</b>	<b>55,926,692</b>
<b>Balance</b>	<b>\$</b>	<b>156,320,000</b>	<b>\$</b>	<b>66,451,692</b>	<b>\$</b>	<b>89,868,308</b>
<b>Support Programs:</b>						
Pool Extended Season for CRC	\$	400,000	\$	200,000	\$	200,000
Rec Center Extended Summer Hours	\$	650,000	\$	300,000	\$	350,000
CVB Support	\$	1,000,000	\$	500,000	\$	500,000
Social Services Operational Grants	\$	3,100,000	\$	3,100,000		
Public Museum Support	\$	1,000,000	\$	1,000,000		
ArtWorks Youth Employment Initiative	\$	1,000,000	\$	500,000	\$	500,000
PIVOT	\$	1,000,000	\$	500,000	\$	500,000
Keep Cincinnati Beautiful (KCB) Blight Abatement	\$	500,000	\$	250,000	\$	250,000
CCAC	\$	500,000	\$	250,000	\$	250,000
CEAI	\$	980,000	\$	490,000	\$	490,000
Citilink Expansion	\$	250,000	\$	250,000	\$	-
Blink 2022	\$	1,000,000	\$	-	\$	1,000,000
Restaurant Grant Phase 2	\$	4,000,000	\$	4,000,000		

Neighborhood Activation Fund	\$	3,000,000	\$	3,000,000		
Neighborhood Business Districts Support Grants	\$	4,000,000	\$	2,000,000	\$	2,000,000
Minority Business Partnerships	\$	3,000,000	\$	3,000,000		
Minority Business Accelerator-Ascend	\$	5,000,000	\$	2,500,000	\$	2,500,000
Women Business Program	\$	3,000,000	\$	1,500,000	\$	1,500,000
Performing Arts Support Grants	\$	7,000,000	\$	7,000,000		
BLM Mural	\$	250,000	\$	125,000	\$	125,000
Tree Canopy Expansion	\$	1,000,000	\$	500,000	\$	500,000
Outdoor Dining Grant Program (Neighborhoods)	\$	2,000,000	\$	1,000,000	\$	1,000,000
Bethany House Additional Project Costs	\$	1,300,000	\$	1,300,000		
Affordable Housing Trust Fund	\$	5,000,000	\$	2,500,000	\$	2,500,000
Harbor Program Expansion	\$	500,000	\$	350,000	\$	150,000
Port Authority Affordable Housing Projects	\$	5,000,000	\$	2,500,000	\$	2,500,000
Build Cincinnati Development Fund	\$	2,000,000	\$	1,000,000	\$	1,000,000
Additional Demolition Blight	\$	5,000,000	\$	2,500,000	\$	2,500,000
<b>Total Support Programs</b>	<b>\$</b>	<b>62,430,000</b>	<b>\$</b>	<b>42,115,000</b>	<b>\$</b>	<b>20,315,000</b>
Balance	\$	93,890,000	\$	24,336,692	\$	69,553,308

<b>Capital Projects:</b>							
<b>Dept</b>	<b>Description</b>	<b>Estimated Cost</b>					
CRC	Mercy West Hospital Boudinot Site Improvements	\$	3,000,000		\$	3,000,000	
CMO	Citicable Truck and Equipment	\$	300,000	\$	300,000		
CPD	Winton Hills Shot Spotter	\$	250,000	\$	250,000		
CRC	Winton Hills Pool	\$	4,200,000	\$	1,900,000	\$	2,300,000
CRC	Outdoor Facilities Renovations (41 locations)	\$	6,100,000	\$	2,000,000	\$	4,100,000
DCEd	King Records Building Improvements	\$	2,000,000			\$	2,000,000
DPS	Police & Fire Fleet Equipment Purchases	\$	4,250,000	\$	1,000,000	\$	3,250,000
DPS	Facility Improvements Shovel Ready	\$	3,725,000	\$	1,286,692	\$	2,438,308
DPS	A/C Upgrades	\$	500,000	\$	500,000		
DPS	Incinerator Demo	\$	2,500,000			\$	2,500,000
ECC	ECC Upgrades	\$	800,000	\$	500,000	\$	300,000
ETS	Network Upgrades	\$	1,500,000			\$	1,500,000
ETS	Phone System Upgrade	\$	1,500,000	\$	750,000	\$	750,000
Fire	Fire Training Center Tower	\$	3,500,000			\$	3,500,000
Fire	Firehouse Improvements	\$	2,000,000			\$	2,000,000
Health	Facility Improvements	\$	1,500,000	\$	750,000	\$	750,000
Parks	Facility Improvements Shovel Ready	\$	1,100,000	\$	550,000	\$	550,000
Parks	Trail Expansion Projects	\$	2,723,000	\$	1,000,000	\$	1,723,000
Parks	Freedom Center Park	\$	3,000,000			\$	3,000,000
Parks	Smale Riverfront Park	\$	1,500,000	\$	750,000	\$	750,000
Parks	Mt. Airy Trails Expansion	\$	5,100,000	\$	1,800,000	\$	3,300,000
DOTe	Central Pkwy Streetscape Charles/Liberty Streetscape/Improvements	\$	2,000,000	\$	2,000,000		
DOTe	Glenway Avenue Improvements	\$	1,250,000			\$	1,250,000
DOTe	Rapid Run/Dunham Improvements	\$	1,250,000			\$	1,250,000
DOTe	Oasis Trail	\$	3,000,000	\$	3,000,000		
DOTe	W. 8th Safety Improvement (Lower Price Hill)	\$	600,000			\$	600,000
DOTe	Citywide Safety - HFST/Signage/Guardrail/Etc	\$	1,000,000	\$	500,000	\$	500,000
DOTe	State Avenue Streetscape/Pedestrian Safety	\$	2,000,000			\$	2,000,000
DOTe	Central Parkway Phase 1 Bike Facility Upgrade	\$	1,700,000			\$	1,700,000
DOTe	CBD Vine Street, 8th Street and 9th Street 2 Way Conversion Phase 1	\$	3,127,000			\$	3,127,000
DOTe	CBD-OTR ROW Improvements	\$	550,000			\$	550,000

DOTE	Hi-light Downtown LED conversion	\$	800,000		\$	800,000	
DOTE	Walnut Hills - E. McMillan Streetscape	\$	675,000		\$	675,000	
DOTE	Lighting Improvements	\$	6,590,000		\$	6,590,000	
DOTE	Berkshire Lane Pier Wall	\$	400,000		\$	400,000	
DOTE	Grandin Road Pier Wall Extension	\$	400,000		\$	400,000	
DOTE	Beekman Street Landslide Stabilization	\$	300,000		\$	300,000	
DOTE	Columbia Parkway Landslide 600' South of Tusculum	\$	700,000		\$	700,000	
DOTE	Monastery St Bridge Rehabilitation	\$	300,000		\$	300,000	
DOTE	Clifton Shared Path	\$	2,000,000	\$	1,000,000	\$	1,000,000
DOTE	ROW & Pedestrian Safety Improvements Outdoor Dining Urban Core	\$	2,000,000	\$	2,000,000		
DOTE	Street Rehab: Ridge Rd Improvements - Marburg to Beredith	\$	3,000,000	\$	1,500,000	\$	1,500,000
DOTE	Street Rehab: Gilbert Av Improvements - Elsinore to Woodburn	\$	2,000,000		\$	2,000,000	
DOTE	Street Rehab: Paxton Ave Rehab - Including realignment of Isabella intersection	\$	2,200,000		\$	2,200,000	
DOTE	Street Rehab: River Rd Improvements - Fairbanks to Anderson Ferry	\$	5,000,000	\$	1,000,000	\$	4,000,000
	Total Capital Projects	\$	93,890,000	\$	24,336,692	\$	69,553,308
	Unallocated	\$	0	\$	0	\$	-

**Date:** March 26, 2021

**To:** Mayor John Cranley  
**From:** Andrew W. Garth, City Solicitor *AWG | ESN*  
**Subject:** **Ordinance – Modifying Title VII, Section 723-43 – Westwood Mobile Vending Zone (B VERSION)**

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Transmitted herewith is an ordinance captioned as follows:

**MODIFYING** Title VII, “General Regulations,” of the Cincinnati Municipal Code by amending Section 723-42, “Mobile Food Vending; Definitions,” and Section 723-44, “Mobile Food Vending; Operating Restrictions,” of Chapter 723, “Streets and Sidewalk, Use Regulations,” to establish a new designated zone for mobile food vending on Harrison Avenue in the Westwood neighborhood.

AWG/JRS/(lnk)  
Attachment  
333290

# City of Cincinnati

JRS/B

## An Ordinance No. \_\_\_\_\_

AWG/ESW

- 2021

**MODIFYING** Title VII, “General Regulations,” of the Cincinnati Municipal Code by amending Section 723-42, “Mobile Food Vending; Definitions,” and Section 723-44, “Mobile Food Vending; Operating Restrictions,” of Chapter 723, “Streets and Sidewalk, Use Regulations,” to establish a new designated zone for mobile food vending on Harrison Avenue in the Westwood neighborhood.

WHEREAS, revocable street privileges are the primary tool used by the City to provide permission for mobile food vendors to access the public right-of-way to provide for public safety, and to regulate and manage mobile food vendors in the public right-of-way; and

WHEREAS, Section 723-42, “Mobile Food Vending; Definitions,” and Section 723-44, “Mobile Food Vending; Operating Restrictions,” of Cincinnati Municipal Code Chapter 723, “Streets and Sidewalk, Use Regulations,” require that mobile food vendors operating in the public right-of-way do so within designated zones established by City Council; and

WHEREAS, in order to support the City’s mobile food vendors and to expand access to mobile food vending across the City, the Council wishes to establish a new designated zone for mobile food vendors on Harrison Avenue in the Westwood neighborhood; now, therefore,

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

Section 1. That Section 723-42, “Mobile Food Vending; Definitions,” of Chapter 723, “Streets and Sidewalk, Use Regulations,” of the Cincinnati Municipal Code is hereby amended as follows:

**Sec. 723-42. - Mobile Food Vending; Definitions.**

For purposes of this chapter, the following words shall have the meanings respectively ascribed to them, unless a different meaning is clearly indicated by the context.

- (a) “Mobile Food Vending Unit” shall be defined as a commercially manufactured, motorized or otherwise mobile unit, truck or cart that is readily movable, and from which non-alcoholic beverages and/or ready-to-eat food is cooked, wrapped, packaged, processed or portioned for service, sale or distribution.

- (b) “Mobile Food Vendor” shall be defined as any person who sells or offers for sale food or beverages from a Mobile Food Vending Unit in any public, private or restricted space.
- (c) “Designated Zones” shall include all individually identified zones defined in this section.
- (d) The “Court Street Market Zone” shall be defined as the designated parking spaces on East Court Street, southern most side, from the east line of Vine Street extending eastward approximately 130 feet.
- (e) The “Purple People Bridge Zone” shall be defined as the East and South portions of the concrete pad, measuring 18 feet by 23 feet in size on the East side of the L and N Bridge, South of Pete Rose Way, on the corner of Pete Rose Way, the bridge approach adjacent to the Sawyer Point Parking area, and the grassy area west of the bridge on Pete Rose Way.
- (f) The “Fountain Square/South Vine Street Zone” shall be defined as the area from the east curb lane of Vine Street between the Fifth Street crosswalk and the mid-block crosswalk, except where prohibited by marked loading zones.
- (g) The “Fountain Square/North Fifth Street Zone” shall be defined as the area from the north curb lane of Fifth Street east of the mid-block crosswalk to the Walnut Street crosswalk.
- (h) The “Fountain Square/South Fifth Street Zone” shall be defined as the area from the south right turn lane (the “Drop Lane”) on Fifth Street from the start of the Drop Lane to the Walnut Street crosswalk, except where prohibited by marked taxi stand zone.
- (i) The “Fountain Square/North Vine Street Zone shall be defined as the designated parking spaces on Vine Street, eastern most side, beginning approximately 180 feet

south of the southern curb line of Sixth Street and extending southward approximately 60 feet.

- (j) The “University Hospital Zone” shall be defined as the designated parking spaces on Bellevue Avenue, eastern most side, beginning 40 feet south of the south line of Piedmont Avenue and extending southward approximately 40 feet.
- (k) The “Washington Park Zone” shall be defined as the designated parking spaces on the east side of Elm Street, beginning approximately 50 feet south of the southern curb line of West 14th Street and extending southward approximately 90 feet.
- (l) The “Over-the-Rhine 12th Street Zone” shall be defined as the designated spaces on the south side of East 12th Street beginning 50 feet west of the west curb line on Clay Street and extending 45 feet westward.
- (m) The “Westwood/Harrison Avenue Zone” shall be defined as the designated spaces on the east side of Harrison Avenue beginning approximately 30 feet north of the north curb line on Ruehlman Place and extending 50 feet northward.

Section 2. That Section 723-44, “Mobile Food Vending; Operating Restrictions,” of Chapter 723, “Streets and Sidewalk, Use Regulations,” of the Cincinnati Municipal Code is hereby amended as follows:

**Sec. 723-44. - Mobile Food Vending; Operating Restrictions.**

The city manager or his or her designee is authorized to grant revocable street privileges for the placement of mobile food vendors subject to the following restrictions:

- (a) Mobile food vending shall be allowed only:
  - i. Within the designated zones;
  - ii. On private property with the permission of the owner;
  - iii. In accordance with a permit or concessionaire agreement entered into pursuant to Chapter 739 of the Municipal Code; or

iv. As otherwise permitted by a revocable street privilege issued pursuant to Section 723-16 of the Municipal Code.

(b) Mobile food vendors who operate under a revocable street privilege issued pursuant to Section 723-16 of the Municipal Code or who operate under a permit or concessionaire agreement issued pursuant to Chapter 739 of the Municipal Code shall continue to be regulated by the provisions of those sections.

(c) Mobile food vendors must be actively engaged in vending operations at all times while occupying any space in the designated zones.

(d) Mobile food vendors may operate in the designated zones only during the hours listed below:

Designated Zone	Hours of Operation
Court Street Market Zone	6:00 a.m. - 3:00 p.m.
Purple People Bridge Zone	6:00 a.m. - 3:30 a.m.
Fountain Square/South Vine Street Zone	6:00 a.m. - 3:30 a.m.
Fountain Square/North Fifth Street Zone	6:00 a.m. - 3:30 a.m.
Fountain Square/South Fifth Street Zone	6:00 a.m. - 3:30 a.m.
Fountain Square/North Vine Street Zone	6:00 p.m. - 3:30 a.m.
University Hospital Zone	6:00 a.m. - 3:30 a.m.
Washington Park Zone	6:00 a.m. - 3:00 p.m.
Over-the-Rhine 12th Street Zone	6:00 p.m. - 3:30 a.m.
<u>Westwood Harrison Avenue Zone</u>	<u>6:00 a.m. - 12:00 a.m.</u>

(e) Mobile food vendors shall not occupy any space in the designated zones outside the hours of operation listed above.

(f) Spaces within the designated zones will be available on a first-come, first-served basis each day. Issuance of a revocable street privilege under this section does not guarantee access to a particular designated zone, nor does it guarantee that space will



be available. The designated zones are available only to mobile food vendors who have a valid revocable street privilege issued pursuant to this section.

- (g) Mobile food vendors shall keep the area within a 5 foot radius of their unit clear of all litter and debris arising from their operations.
- (h) Mobile food vendors shall be responsible for removing all waste generated by the internal operations of their unit. Such waste shall not be placed in city trash receptacles.
- (i) Mobile food vendors may not operate in any manner that blocks, obstructs, or restricts the free passage of vehicles or pedestrians in the lawful use of the sidewalks or highways or ingress or egress to the abutting property.
- (j) Mobile food vending units shall not exceed thirty-one feet (31') in length or eight feet, five inches (8'5") in width.
- (k) Revocable street privileges and food service licenses must be kept on the mobile food vending unit at all times and must be available for immediate inspection.
- (l) Mobile food vendors shall not park in a way that prevents other trucks from parking in otherwise available spaces.
- (m) Mobile food vendors shall place a tarp or other impermeable material under their unit when parked in order to protect the sidewalk or pavement from damage or staining.
- (n) Mobile food vendors may set up tables and chairs in the space immediately in front of their units, provided that the tables and chairs do not impede other trucks from parking in otherwise available spaces, and further provided that the tables and chairs are placed:

- i. Only on paved surfaces;
  - ii. In a location that does not block the entrance or exit of any building;
  - iii. In a location that does not block access to buses at bus stops, fire escapes, sidewalk access doors, traffic or street lighting equipment, utility valve boxes or other utility equipment;
  - iv. In a location that is not less than 5 feet from any alley, pedestrian crosswalk, driveway, curb cut, curb ramp or fire hydrant, and not less than 4 feet from any bicycle rack; and
  - v. So that an open area of not less than 4 feet is available for pedestrian traffic around the tables and chairs.
- (o) Mobile food vendors may display advertising consisting only of the mobile food vendor name and logo and any items sold or available from the mobile food vendor. All other advertising is prohibited.
- (p) Mobile food vendors shall not have access to locations within the designated zones during special events designated by the city pursuant to a special event permit issued under Chapter 765 of the Municipal Code or pursuant to a special notwithstanding ordinance.
- (q) In the case of mobile food vending units that are pulled or hauled by separate vehicles, the mobile food vending unit shall be detached from the vehicle by which it was hauled (the “hauling vehicle”). The hauling vehicle shall be parked in a regular, lawful parking space and shall not occupy space in any designated zone.
- (r) Mobile food vendors shall not utilize the city's electrical outlets, unless specifically authorized by the city, within the court street zone due to electrical current overload issues requiring frequent, subsequent repairs by the city.

Section 3. That existing Section 723-42, "Mobile Food Vending; Definitions," and Section 723-44, "Mobile Food Vending; Operating Restrictions," of Chapter 723, "Streets and Sidewalk, Use Regulations," of the Cincinnati Municipal Code are hereby repealed.

Section 4. That the City Manager and the proper City officials are hereby authorized to do all things necessary and proper to comply with the terms of Section 1 through 3 hereof.

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

Passed: \_\_\_\_\_, 2021

\_\_\_\_\_

John Cranley, Mayor

Attest: \_\_\_\_\_

Clerk

\_\_\_\_\_  
Additions indicated by underline; Deletions indicated by strikethrough.

March 31, 2021

**To:** Mayor and Members of City Council 202101227  
**From:** Paula Boggs Muething, City Manager  
**Subject:** **Ordinance – Western Hills Viaduct TRAC Grant Application**

---

Attached is an Ordinance captioned:

**AUTHORIZING** the City Manager to apply for a grant in an amount up to \$150,000,000 from the Transportation Review Advisory Council (CFDA 20.205), awarded by and through the Ohio Department of Transportation, to provide resources for the construction associated with replacement of the Western Hills Viaduct; and **AUTHORIZING** the City Manager to enter into the necessary agreements with Hamilton County to jointly apply for these grant resources.

Approval of this Ordinance would authorize the City Manager to apply for grant resources in an amount up to \$150,000,000 from the Transportation Review Advisory Council ("TRAC") program awarded by and through the Ohio Department of Transportation ("ODOT") for the construction associated with the replacement of the Western Hills Viaduct. The total current estimated cost of replacing the Western Hills Viaduct is \$335,000,000, including costs for design, right of way acquisition, construction, removals, and interim maintenance on the existing viaduct until a new viaduct is complete and operational.

If grant resources are awarded, a local match in an amount up to \$15,000,000 will be identified in future capital improvement program resources. A contribution of up to \$15,000,000 will also be needed from Hamilton County to meet the 20% match requirement. No new FTEs are associated with the acceptance of this grant.

The Department of Transportation and Engineering (DOTE) intends to submit this grant application by March 26, 2021. Due to the application deadline, this application will be submitted prior to the effective date of this Ordinance. DOTE will only accept grant resources for which the City Council has provided authorization.

The replacement of the Western Hills Viaduct is in accordance with the "Connect" goal to "Develop a regional transportation system that promotes economic vitality," and the strategy to "Plan, design, and implement a safe and sustainable transportation system," as described on pages 127-138 of Plan Cincinnati (2012).

The Administration recommends passage of this Ordinance.

cc: Christopher A. Bigham, Assistant City Manager  
Karen Alder, Finance Director

Attachment





City of Cincinnati

MSS

AWG/EE

An Ordinance No. \_\_\_\_\_ - 2021

AUTHORIZING the City Manager to apply for a grant in an amount up to \$150,000,000 from the Transportation Review Advisory Council (CFDA 20.205), awarded by and through the Ohio Department of Transportation, to provide resources for construction associated with replacement of the Western Hills Viaduct; and AUTHORIZING the City Manager to enter into the necessary agreements with Hamilton County to jointly apply for these grant resources.

WHEREAS, the total current estimated cost of replacing the Western Hills Viaduct is \$335,000,000, including costs for design, right of way acquisition, construction, removals, and interim maintenance on the existing viaduct until a new viaduct is complete and operational; and

WHEREAS, a grant is available from the Transportation Review Advisory Council ("TRAC") (CFDA 20.205), awarded by and through the Ohio Department of Transportation, for the purpose of providing resources for construction associated with replacement of the Western Hills Viaduct; and

WHEREAS, the City previously applied for and was awarded grants in the amount of \$15,000,000 for design, right-of-way acquisition, and utility relocations associated with replacement of the Western Hills Viaduct; and

WHEREAS, if any grant resources are awarded, an amount up to \$15,000,000 will need to be identified in future capital improvement program resources, in addition to a local match contribution of up to \$15,000,000 from Hamilton County, to meet an anticipated 20% local match requirement; and

WHEREAS, applications for these grant resources will be submitted prior to the effective date of this ordinance to meet the application deadline of March 26, 2021; and

WHEREAS, if awarded grant funding, the Department of Transportation and Engineering will require authorization from the City Council in order to accept the grant and will only accept funding in an amount for which matching funds are available; and

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

WHEREAS, the Western Hills Viaduct is owned by Hamilton County but maintained by the City through contractual agreement, and the City Manager will therefore need to enter into an agreement with Hamilton County to jointly apply for the grant; and

WHEREAS, the replacement of the Western Hills Viaduct is in accordance with the "Connect" goal to "[d]evelop a regional transportation system that promotes economic vitality,"

and the strategy to “[p]lan, design and implement a safe sustainable transportation system,” as described on pages 127-138 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 a Transportation Review Advisory Council grant in an amount up to \$150,000,000, awarded by and through the Ohio Department of Transportation, for the purpose of providing resources for construction associated with replacement of the Western Hills Viaduct.

Section 2. That the City Manager is authorized to enter into any necessary agreements with Hamilton County in order to jointly apply for this grant.

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

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

Passed: \_\_\_\_\_, 2021

\_\_\_\_\_  
John Cranley, Mayor

Attest: \_\_\_\_\_  
Clerk

**March 31, 2021**

**To:** Mayor and Members of City Council 202101228  
**From:** Paula Boggs Muething, City Manager  
**Subject:** Emergency Ordinance – CBRE Artwork Donation to DECC

Attached is an Emergency Ordinance captioned:

**AUTHORIZING** the City Manager to accept with gratitude a donation of artwork by artists Ellen Kochansky and Jamie Davis from the commercial real estate firm CBRE.

This Emergency Ordinance will authorize the City Manager to accept a donation of artwork titled “Sky Windows” by artists Ellen Kochansky and Jamie Davis from the commercial real estate firm CBRE. CBRE, the current owner of the artwork, has generously offered the artwork as a donation to the City, valued in 1993 at approximately \$17,000. The artwork will be installed and displayed at the Duke Energy Convention Center (DECC).

The reason for the emergency is the immediate need to accept the donation of artwork which would otherwise be disposed of due to renovations in the donor's office building where the artwork is currently on display.

cc: Christopher A. Bigham, Assistant City Manager  
Karen Alder, Finance Director

Attachment

EMERGENCY

LES

City of Cincinnati

AWG/EESV

An Ordinance No. \_\_\_\_\_

- 2021

**AUTHORIZING** the City Manager to accept with gratitude a donation of artwork by artists Ellen Kochansky and Jamie Davis from the commercial real estate firm CBRE.

WHEREAS, the artwork titled “Sky Windows” was created by artists Ellen Kochansky and Jamie Davis; and

WHEREAS, the current owner of the artwork, CBRE, has generously offered the artwork, valued in 1993 at approximately \$17,000, as a donation to the City; and

WHEREAS, the artwork will be installed and displayed at the Duke Energy Convention Center; and

WHEREAS, Council considers acceptance of the donation of the artwork to be in the best interest of the City; now, therefore,

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

Section 1. That the City of Cincinnati hereby accepts the generous donation from CBRE of the artwork titled “Sky Windows” by artists Ellen Kochansky and Jamie Davis.

Section 2. That the City Manager is hereby authorized to accept said gift on behalf of the City of Cincinnati on the condition that the City gain full ownership rights over the artwork.

Section 3. That the City, in accepting the donation of the artwork, expressly disclaims any duty to display the artwork or to replace or repair the artwork if it is for any reason damaged or destroyed and that the City Manager shall have authority to maintain, remove, or repair the artwork at the City’s sole discretion.

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



Section 5. That the City expresses its sincere gratitude to CBRE for this generous donation.

Section 6. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to accept the donation of artwork which would otherwise be disposed of due to renovations in the donor's office building where the artwork is currently on display.

Passed: \_\_\_\_\_, 2021

\_\_\_\_\_  
John Cranley, Mayor

Attest: \_\_\_\_\_  
Clerk

March 31, 2021

**To:** Mayor and Members of City Council 202101229  
**From:** Paula Boggs Muething, City Manager  
**Subject:** **Emergency Ordinance – Cincinnati Children’s Hospital Medical Center COVID-19 Vaccination and Health Equity Grant**

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Attached is an Emergency Ordinance captioned:

**AUTHORIZING** the City Manager to apply for, accept, and appropriate a grant in an amount of \$10,000 from Cincinnati Children’s Hospital Medical Center for the purpose of supporting COVID-19 vaccinations and health equity in vulnerable Cincinnati communities; and **AUTHORIZING** the Finance Director to deposit the grant funds into Public Health Research Fund 350.

This Emergency Ordinance would authorize the City Manager to apply for, accept and appropriate a grant in the amount of \$10,000 from the from Cincinnati Children’s Hospital Medical Center for the purpose of supporting COVID-19 vaccinations and health equity in vulnerable Cincinnati communities. This Emergency Ordinance would also authorize the Finance Director to deposit the grant funds into Public Health Research Fund 350.

No new FTEs are associated with the grant, and the grant resources do not require matching local funds.

The Cincinnati Health Department has already applied for this grant but will not accept any resources without approval from the City Council.

This Emergency Ordinance is in accordance with the Sustain goal to “Become a healthier Cincinnati” as described on page 181 of Plan Cincinnati (2012).

The reason for the emergency is the immediate need to accept grant resources in a timely manner so the Cincinnati Health Department can expend the funds by the June 30, 2021 deadline.

The Administration recommends passage of this Emergency Ordinance.

cc: Christopher A. Bigham, Assistant City Manager  
Karen Alder, Finance Director

Attachment





EMERGENCY

City of Cincinnati

KMB  
*AWB*

An Ordinance No. \_\_\_\_\_

- 2021

**AUTHORIZING** the City Manager to apply for, accept, and appropriate a grant in an amount of \$10,000 from Cincinnati Children’s Hospital Medical Center for the purpose of supporting COVID-19 vaccinations and health equity in vulnerable Cincinnati communities; and **AUTHORIZING** the Finance Director to deposit the grant funds into Public Health Research Fund 350.

WHEREAS, there is a grant available from Cincinnati Children’s Hospital Medical Center that will support the City, through the City of Cincinnati Health Department (“CHD”), to deploy COVID-19 vaccines and ensure health equity in vulnerable Cincinnati communities; and

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

WHEREAS, the CHD applied for this grant on March 12, 2021 and received an award notice on March 17, 2021, but will not accept any funds without approval of Council; and

WHEREAS, this ordinance is in accordance with the “Sustain” goal to “Become a healthier Cincinnati,” as described on page 181 of Plan Cincinnati (2012); now, therefore,

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

Section 1. That the City Manager is hereby authorized to apply for, accept, and appropriate a grant in an amount of \$10,000 from Cincinnati Children’s Hospital Medical Center for the purpose of supporting COVID-19 vaccinations and health equity in vulnerable Cincinnati communities.

Section 2. That the Finance Director is hereby authorized to receive and deposit the grant funds into Public Health Research Fund 350.

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

Section 4. That this ordinance shall be an emergency measure necessary for the preservation of 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 grant resources in a timely manner so the Cincinnati Health Department can expend the funds by the June 30, 2021 deadline.

Passed: \_\_\_\_\_, 2021

\_\_\_\_\_  
John Cranley, Mayor

Attest: \_\_\_\_\_  
Clerk

Date: March 31, 2021

To: Mayor and Members of City Council 202101230  
From: Paula Boggs Muething, City Manager  
Subject: ORDINANCE – GRANT OF ENCROACHMENT EASEMENTS – 2445 GILBERT, LLC  
(2445-2449 GILBERT AVENUE)

---

Attached is an ordinance captioned as follows:

AUTHORIZING the City Manager to execute a *Grant of Encroachment Easements* in favor of 2445 Gilbert, LLC, pursuant to which the City of Cincinnati will grant encroachment easements for existing projections encroaching upon the Gilbert Avenue public right-of-way in the Walnut Hills neighborhood of Cincinnati.

2445 Gilbert, LLC (“Grantee”) owns the properties located at 2445-2449 Gilbert Avenue in the Walnut Hills neighborhood and has requested encroachment easements for existing balconies, bracketed hoods, and cornice to encroach upon portions of the Gilbert Avenue public right-of-way.

The City has determined that granting the easements to Grantee is not adverse to the City’s retained interest in the public right-of-way.

The fair market value of the easements is approximately \$300 which Grantee has deposited with the City Treasurer.

The City Planning Commission approved the easements at its meeting on February 19, 2021.

The Administration recommends passage of the attached ordinance.

Attachment I – Grant of Encroachment Easements

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

# City of Cincinnati

## An Ordinance No. \_\_\_\_\_

- 2021

**AUTHORIZING** the City Manager to execute a *Grant of Encroachment Easements* in favor of 2445 Gilbert, LLC, pursuant to which the City of Cincinnati will grant encroachment easements for existing projections encroaching upon the Gilbert Avenue public right-of-way in the Walnut Hills neighborhood of Cincinnati.

WHEREAS, 2445 Gilbert, LLC, an Ohio limited liability company (“Grantee”), owns the building located at 2445-2449 Gilbert Avenue in the Walnut Hills neighborhood of Cincinnati; and

WHEREAS, the City of Cincinnati owns the adjoining Gilbert Avenue public right-of-way, which is under the management of the City’s Department of Transportation and Engineering (“DOTE”); and

WHEREAS, Grantee has requested encroachment easements from the City, as more particularly depicted and described in the *Grant of Encroachment Easements* attached to this ordinance as Attachment A and incorporated herein by reference, to permit existing balconies, existing bracketed hoods, and an existing cornice to encroach upon portions of the Gilbert Avenue public right-of-way; and

WHEREAS, the City Manager, in consultation with DOTE, has determined (i) that granting the easements to Grantee is not adverse to the City’s retained interest in the public right-of-way and (ii) that granting the easements will not have an adverse effect on the usability or accessibility of any existing public right-of-way facilities; and

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

WHEREAS, the City’s Real Estate Services Division has determined by appraisal that the fair market value of the easements is approximately \$300, which Grantee has agreed to pay; and

WHEREAS, the City Planning Commission, having the authority to approve the change in the use of City-owned property, approved the easements at its meeting on February 19, 2021; now, therefore,

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

Section 1. That the City Manager is hereby authorized to execute a *Grant of Encroachment Easements* in favor of 2445 Gilbert, LLC, an Ohio limited liability company (“Grantee”), owner of the building located at 2445-2449 Gilbert Avenue in the Walnut Hills neighborhood of Cincinnati, in substantially the form attached to this ordinance as Attachment A and incorporated herein by reference, pursuant to which the City of Cincinnati will grant to Grantee encroachment easements to permit existing balconies, existing bracketed hoods, and an existing cornice to encroach upon portions of the Gilbert Avenue public right-of-way.

Section 2. That granting the easements to Grantee (i) is not adverse to the City’s retained interest in the Gilbert Avenue public right-of-way and (ii) will not have an adverse effect on the usability or accessibility of any existing Gilbert Avenue public right-of-way facilities.

Section 3. That it is in the best interest of the City to grant the easements without competitive bidding because, as a practical matter, no one other than Grantee would have any use for the easements.

Section 4. That the fair market value of the easements, as determined by appraisal by the City’s Real Estate Services Division, is approximately \$300, which Grantee has agreed to pay.

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

Section 6. That the City’s Finance Director is authorized to transfer and appropriate such excess funds from Miscellaneous Permanent Improvement Fund 757 into Capital Improvement Program Project Account No. 980x233xYY2306, “Street Improvements,” in which “YY”

represents the last two digits of the fiscal year in which the closing occurs and the proceeds are received, referencing the latter fiscal year if the events occur in different fiscal years.

Section 7. That the City Manager and other City officials are authorized to take all necessary and proper actions to carry out the provisions of this ordinance and to fulfill the terms of the *Grant of Encroachment Easements*, including, without limitation, executing any and all ancillary agreements, plats, and other real estate documents.

Section 8. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed: \_\_\_\_\_, 2021

\_\_\_\_\_  
John Cranley, Mayor

Attest: \_\_\_\_\_  
Clerk



ATTACHMENT A

-----  
[SPACE ABOVE FOR RECORDER'S USE]

## GRANT OF ENCROACHMENT EASEMENTS

(aerial encroachments over a portion of Gilbert Avenue)

This Grant of Encroachment Easements is granted as of the Effective Date (as defined on the signature page hereof) by the **CITY OF CINCINNATI**, an Ohio municipal corporation, 801 Plum Street, Cincinnati, OH 45202 (the "**City**"), in favor of **2445 GILBERT, LLC**, an Ohio limited liability company, the address of which is 4400 Liberty Hill, Cincinnati, Ohio 45202 ("**Grantee**").

### Recitals:

A. By virtue of a *Quitclaim Deed* dated February 5, 2018, Grantee holds title to certain real property located at 2445-2449 Gilbert Avenue, as more particularly described on Exhibit A (*Legal Description – Benefitted Property*) and depicted on Exhibit B (*Survey Plat*) hereto (the "**Benefitted Property**").

B. The City owns the adjoining Gilbert Avenue public right-of-way, which is under the management of the City's Department of Transportation and Engineering ("**DOT**").

C. Grantee has requested the City to grant aerial encroachment easements for existing projections encroaching upon the Gilbert Avenue public right-of-way, i.e., existing balconies, existing bracketed hoods, and an existing cornice (collectively, the "**Improvements**").

D. The City Manager, in consultation with DOT, has determined that (i) the encroachment easements will not have an adverse effect on the City's retained interest in the Gilbert Avenue public right-of-way, and (ii) granting the encroachment easements will not have an adverse effect on the usability or accessibility of any existing Gilbert Avenue public right-of-way facilities.

E. The City's Real Estate Services Division has determined that the fair market value of the encroachment easements, as determined by appraisal, is \$300, which has been deposited with the Real Estate Services Division.

F. City Planning Commission, having the authority to approve the change in the use of City-owned property, approved the encroachment easements at its meeting on February 19, 2021.

G. Cincinnati City Council approved the encroachment easements by Ordinance No. \_\_\_\_-2021, passed on \_\_\_\_\_, 2021.

NOW THEREFORE, the parties do hereby agree as follows:

1. Grant of Encroachment Easements. The City does hereby grant to Grantee, on the terms and conditions set forth herein, as an appurtenance to and for the benefit of the Benefitted Property, non-exclusive aerial encroachment easements to maintain, repair, reconstruct, replace, and remove the Improvements over the Gilbert Avenue public right-of-way, as more particularly depicted on Exhibit B, and more particularly described on Exhibit C (Legal Description-Aerial Easements) hereto (the “**Aerial Easements**” or “**Aerial Easement Area**”, as applicable). Grantee shall not make any modifications to the Improvements without the City’s prior written consent. Notwithstanding anything herein to the contrary, the Aerial Easements shall automatically terminate upon (i) the complete demolition of the Improvements within the Aerial Easement Area, such that the Aerial Easements would be rendered unnecessary; (ii) upon written notice from the City, if the City determines that it needs the Aerial Easement Area, or any portion thereof for a municipal purpose, including, without limitation to the implementation of Americans with Disabilities Act (“**ADA**”) regulations compliance or accessibility standards; (iii) or upon written notice from the City if the City determines that the Improvements are creating a public safety issue, such as noncompliance with ADA accessibility regulations, contributing to adverse impacts on the usability or accessibility of any public right-of-way facilities.

2. Construction, Maintenance, and Repairs.

(A) The Improvements shall be constructed and maintained in accordance with the plans and specifications approved by DOTE, and in accordance with applicable code standards. Once installed, Grantee shall not make any enlargements or other modifications to the Improvements without DOTE’s prior written consent.

(B) Following installation, at no cost to the City, Grantee shall maintain the Improvements in a continuous state of good and safe condition and repair. Grantee acknowledges that there may be existing easements, utility lines, and related facilities in the vicinity of the Aerial Easement Area (“**Third-Party Utility Lines**”). In connection with Grantee’s construction, maintenance, repair, and use of the Improvements, Grantee shall not interfere with the access of utility companies to maintain and repair the Third-Party Utility Lines and shall, at Grantee’s expense, promptly repair any and all damage to Third-Party Utility Lines caused by Grantee, their agents, employees, contractors, subcontractors, tenants, licensees, or invitees. Any relocation of Third-Party Utility Lines necessitated by the maintenance, repair, reconstruction, or removal of the Improvements under this instrument shall be handled entirely at Grantee’s expense. All activities undertaken by Grantee under this instrument shall be in compliance with all applicable codes, laws, and other governmental standards, policies, guidelines and requirements

3. Insurance; Indemnification. At all times, and in addition to whatever other insurance and bond requirements as the City may from time to time require, Grantee shall maintain or cause to be maintained a policy of Commercial General Liability insurance, with an insurance company reasonably acceptable to the City and naming the City as an additional insured, in an amount not less than \$1,000,000 per occurrence, combined single limit/\$1,000,000 aggregate, or in such greater amount as the City may from time to time require. Grantee shall furnish to the City a certificate of insurance evidencing such insurance upon the City’s request and, in any event, prior to undertaking any construction activities within the Aerial Easement Area. Grantee hereby waives all claims and rights of recovery against the City, and on behalf of Grantee’s insurers, rights of subrogation, in connection with any damage to the Improvements, no matter how caused. Grantee shall defend (with counsel reasonably acceptable to the City), indemnify, and hold the City harmless from and against any and all claims, actions, losses, costs (including without limitation reasonable attorneys fees), liability and damages suffered or incurred by, or asserted against, the City in connection with the construction, maintenance, repair or other matters associated with the Improvements.

4. Covenants Running with the Land. The provisions hereof shall run with the land and shall be binding upon and inure to the benefit of the City and Grantee and Grantee's successors-in-interest with respect to the Benefitted Property.

5. Coordinated Report Conditions (CR #50-2020). The following additional conditions shall apply:

(A) Cincinnati Bell Telephone: All existing underground telephone facilities must remain in place, in service, and able to be accessed. Any damage to such facilities or any work done to relocate such facilities as a result of the construction of the Improvements shall be done at Grantee's sole cost and expense.

(B) Department of Transportation and Engineering:

(i) A DOTE street opening permit, obtained by a DOTE licensed street contractor, is required for all private improvements in the public right-of-way. All improvements in the public right-of-way must be built to City standards, policies and guidelines. Application for permits may be made at Room 425, City Hall, 801 Plum Street.

6. Exhibits. The following exhibits are attached hereto and made a part hereof:  
Exhibit A – *Legal Description - Benefitted Property*  
Exhibit B – *Survey Plat*  
Exhibit C – *Legal Description-Aerial Easement Area*

Executed by the parties on the respective date of acknowledgement listed below, effective as the later of such dates (the "Effective Date").

**CITY OF CINCINNATI**

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF OHIO                    )  
  ) ss:  
COUNTY OF HAMILTON         )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2021 by \_\_\_\_\_, the \_\_\_\_\_ of the City of Cincinnati, an Ohio municipal corporation, on behalf of the municipal corporation. The notarial act certified hereby is an acknowledgement. No oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_

Approved by:

\_\_\_\_\_  
John S. Brazina, Director  
Department of Transportation and Engineering

Approved as to Form by:

\_\_\_\_\_  
Assistant City Solicitor

[ Grantee Signature Page Follows ]

ACCEPTED AND AGREED TO BY:

**2445 GILBERT, LLC,**  
an Ohio limited liability company

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_, 2021

STATE OF OHIO                    )  
  ) ss:  
COUNTY OF HAMILTON         )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2021 by \_\_\_\_\_, the \_\_\_\_\_ of **2445 Gilbert, LLC**, an Ohio limited liability company, on behalf of the company. The notarial act certified hereby is an acknowledgement. No oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_

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

**EXHIBIT A**

to Grant of Encroachment Easements

**LEGAL DESCRIPTION - BENEFITTED PROPERTY**

Situated in the City of Cincinnati, Hamilton County, Ohio being part of Lots 4 and 5 of Fred A. Kemper's Subdivision as recorded in Plat Book 2, page 59 of the Hamilton County, Ohio Records, and described as follows:

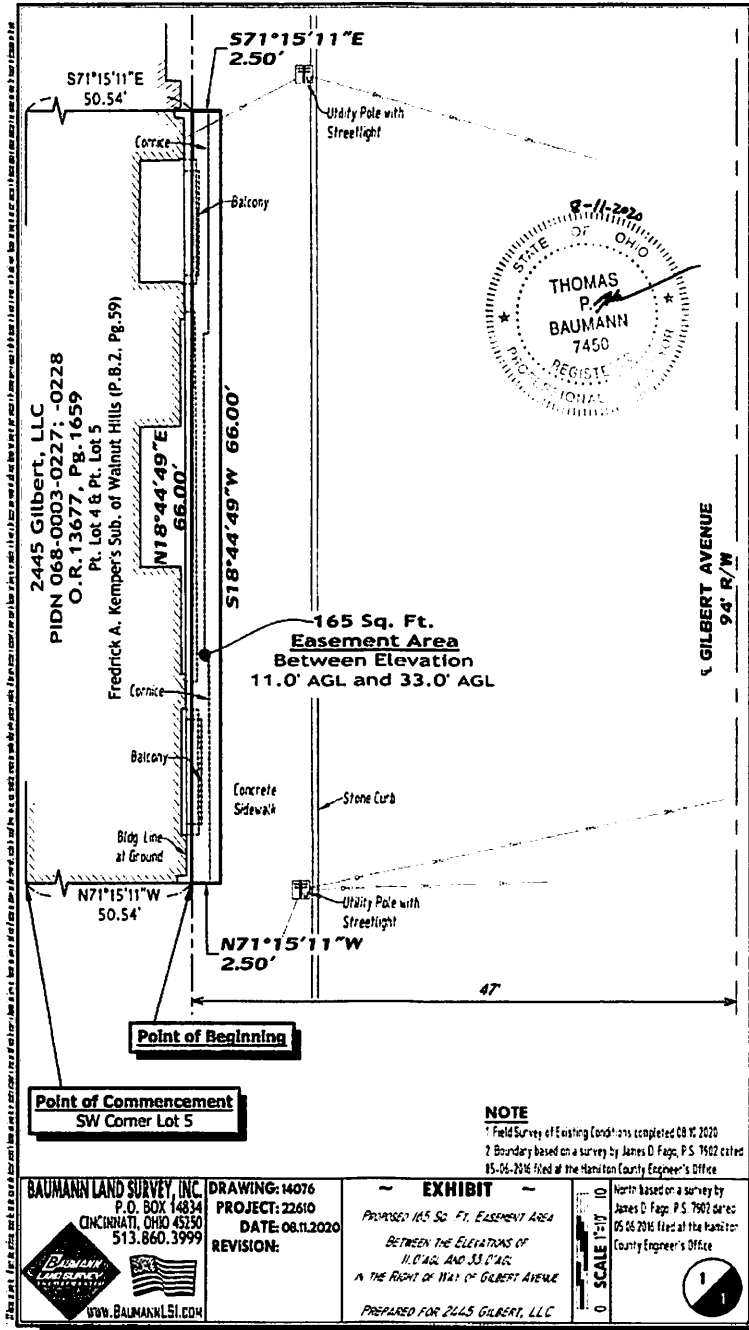
Beginning at the intersection of the west line of Gilbert Avenue as now improved and the north line of said Lot 4, said Place of Beginning is southwardly a distance of 97.47 feet from the intersection of the said west line of Gilbert Avenue and the south line of McMillan Street as now improved; thence southwardly along the said west line of Gilbert Avenue a distance of 66 feet to the south line of said Lot 5; thence westwardly along the south line of said Lot 5 a distance of 50.54 feet to the east line of Sedalia Alley; thence northwardly along the east line of Sedalia Alley a distance of 66 feet to the north line of said Lot 4; thence eastwardly along the north line of said Lot 4 a distance of 50.54 feet to the Place of Beginning.

Property Address: *So* 2445 and 2449 Gilbert Avenue, Cincinnati, Ohio  
Auditor's parcels: 068-0003-0227-00 and 068-0003-0228-0 *So*  
Prior Instrument reference: Official Record Book 13677, Page 1637

**EXHIBIT B**

to Grant of Encroachment Easements

Survey Plat





**EXHIBIT C**

**to Grant of Encroachment Easements**

***Legal Description – Aerial Easement Area***

Situate in Section 7, Town 3, Fractional Range 2, Millcreek Township, City of Cincinnati, Hamilton County, Ohio, and being part of Lot 4 and part of Lot 5 of Fredrick A. Kemper's Subdivision of Walnut Hills as recorded in P.B. 2, Pg. 59, and being in the right of way of Gilbert Avenue and being more particularly described as follows:

Commencing at the southwest corner of said Lot 5, thence, along the south line of said Lot 5, South 71° 15' 11" East a distance of 50.54' to a point in the south line of said Lot 5 in the westerly right of way line of Gilbert Avenue and the Point of Beginning;

Thence, leaving the south line of said Lot 5 and along the westerly right of way line of Gilbert Avenue, North 18° 44' 49" East a distance of 66.00 feet to a point in the north line of said Lot 4 in the westerly right of way line of Gilbert Avenue;

Thence, leaving the westerly right of way line of Gilbert Avenue and along the north line of said Lot 4, South 71° 15' 11" East a distance of 2.50 feet to a point in the north line of said Lot 4;

Thence, leaving the north line of said Lot 4, South 18° 44' 49" West a distance of 66.00 feet to a point in the south line of said Lot 5;

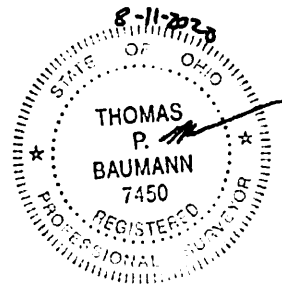
Thence, along the south line of said Lot 5, North 71° 15' 11" West a distance of 2.50 feet to the Point of Beginning;

Containing 165 square feet and being a portion of the right of way of Elm Street between the elevations of 11.0' AGL and 33.0' AGL.

Subject to all existing easements and right-of-ways.

Bearing are based on a survey performed by James D. Fago dated 05.06.2016 and filed with the Hamilton County Engineer's Office

Prepared by: Baumann Land Survey, Inc.  
Thomas P. Baumann, PS  
Ohio Surveyor #: S-7450



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[SPACE ABOVE FOR RECORDER'S USE]

## GRANT OF ENCROACHMENT EASEMENTS

(aerial encroachments over a portion of Gilbert Avenue)

This Grant of Encroachment Easements is granted as of the Effective Date (as defined on the signature page hereof) by the **CITY OF CINCINNATI**, an Ohio municipal corporation, 801 Plum Street, Cincinnati, OH 45202 (the "**City**"), in favor of **2445 GILBERT, LLC**, an Ohio limited liability company, the address of which is 4400 Liberty Hill, Cincinnati, Ohio 45202 ("**Grantee**").

### Recitals:

A. By virtue of a *Quitclaim Deed* dated February 5, 2018, Grantee holds title to certain real property located at 2445-2449 Gilbert Avenue, as more particularly described on Exhibit A (*Legal Description – Benefitted Property*) and depicted on Exhibit B (*Survey Plat*) hereto (the "**Benefitted Property**").

B. The City owns the adjoining Gilbert Avenue public right-of-way, which is under the management of the City's Department of Transportation and Engineering ("**DOT**").

C. Grantee has requested the City to grant aerial encroachment easements for existing projections encroaching upon the Gilbert Avenue public right-of-way, i.e., existing balconies, existing bracketed hoods, and an existing cornice (collectively, the "**Improvements**").

D. The City Manager, in consultation with DOTE, has determined that (i) the encroachment easements will not have an adverse effect on the City's retained interest in the Gilbert Avenue public right-of-way, and (ii) granting the encroachment easements will not have an adverse effect on the usability or accessibility of any existing Gilbert Avenue public right-of-way facilities.

E. The City's Real Estate Services Division has determined that the fair market value of the encroachment easements, as determined by appraisal, is \$300, which has been deposited with the Real Estate Services Division.

F. City Planning Commission, having the authority to approve the change in the use of City-owned property, approved the encroachment easements at its meeting on February 19, 2021.

G. Cincinnati City Council approved the encroachment easements by Ordinance No. \_\_\_\_-2021, passed on \_\_\_\_\_, 2021.

NOW THEREFORE, the parties do hereby agree as follows:

1. Grant of Encroachment Easements. The City does hereby grant to Grantee, on the terms and conditions set forth herein, as an appurtenance to and for the benefit of the Benefitted Property, non-exclusive aerial encroachment easements to maintain, repair, reconstruct, replace, and remove the Improvements over the Gilbert Avenue public right-of-way, as more particularly depicted on Exhibit B, and more particularly described on Exhibit C (*Legal Description-Aerial Easements*) hereto (the "**Aerial Easements**" or "**Aerial Easement Area**", as applicable). Grantee shall not make any modifications to the Improvements without the City's prior written consent. Notwithstanding anything herein to the contrary, the Aerial Easements shall automatically terminate upon (i) the complete demolition of the Improvements within the Aerial Easement Area, such that the Aerial Easements would be rendered unnecessary; (ii) upon written notice from the City, if the City determines that it needs the Aerial Easement Area, or any portion thereof for a municipal purpose, including, without limitation to the implementation of Americans with Disabilities Act ("**ADA**") regulations compliance or accessibility standards; (iii) or upon written notice from the City if the City determines that the Improvements are creating a public safety issue, such as noncompliance with ADA accessibility regulations, contributing to adverse impacts on the usability or accessibility of any public right-of-way facilities.

2. Construction, Maintenance, and Repairs.

(A) The Improvements shall be constructed and maintained in accordance with the plans and specifications approved by DOTE, and in accordance with applicable code standards. Once installed, Grantee shall not make any enlargements or other modifications to the Improvements without DOTE's prior written consent.

(B) Following installation, at no cost to the City, Grantee shall maintain the Improvements in a continuous state of good and safe condition and repair. Grantee acknowledges that there may be existing easements, utility lines, and related facilities in the vicinity of the Aerial Easement Area ("**Third-Party Utility Lines**"). In connection with Grantee's construction, maintenance, repair, and use of the Improvements, Grantee shall not interfere with the access of utility companies to maintain and repair the Third-Party Utility Lines and shall, at Grantee's expense, promptly repair any and all damage to Third-Party Utility Lines caused by Grantee, their agents, employees, contractors, subcontractors, tenants, licensees, or invitees. Any relocation of Third-Party Utility Lines necessitated by the maintenance, repair, reconstruction, or removal of the Improvements under this instrument shall be handled entirely at Grantee's expense. All activities undertaken by Grantee under this instrument shall be in compliance with all applicable codes, laws, and other governmental standards, policies, guidelines and requirements

3. Insurance; Indemnification. At all times, and in addition to whatever other insurance and bond requirements as the City may from time to time require, Grantee shall maintain or cause to be maintained a policy of Commercial General Liability insurance, with an insurance company reasonably acceptable to the City and naming the City as an additional insured, in an amount not less than \$1,000,000 per occurrence, combined single limit/\$1,000,000 aggregate, or in such greater amount as the City may from time to time require. Grantee shall furnish to the City a certificate of insurance evidencing such insurance upon the City's request and, in any event, prior to undertaking any construction activities within the Aerial Easement Area. Grantee hereby waives all claims and rights of recovery against the City, and on behalf of Grantee's insurers, rights of subrogation, in connection with any damage to the Improvements, no matter how caused. Grantee shall defend (with counsel reasonably acceptable to the City), indemnify, and hold the City harmless from and against any and all claims, actions, losses, costs (including without limitation reasonable attorneys fees), liability and damages suffered or incurred by, or asserted against, the City in connection with the construction, maintenance, repair or other matters associated with the Improvements.

4. Covenants Running with the Land. The provisions hereof shall run with the land and shall be binding upon and inure to the benefit of the City and Grantee and Grantee's successors-in-interest with respect to the Benefitted Property.

5. Coordinated Report Conditions (CR #50-2020). The following additional conditions shall apply:

(A) Cincinnati Bell Telephone: All existing underground telephone facilities must remain in place, in service, and able to be accessed. Any damage to such facilities or any work done to relocate such facilities as a result of the construction of the Improvements shall be done at Grantee's sole cost and expense.

(B) Department of Transportation and Engineering:

(i) A DOTE street opening permit, obtained by a DOTE licensed street contractor, is required for all private improvements in the public right-of-way. All improvements in the public right-of-way must be built to City standards, policies and guidelines. Application for permits may be made at Room 425, City Hall, 801 Plum Street.

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

Exhibit A – *Legal Description - Benefitted Property*

Exhibit B – *Survey Plat*

Exhibit C – *Legal Description-Aerial Easement Area*

Executed by the parties on the respective date of acknowledgement listed below, effective as the later of such dates (the "Effective Date").

**CITY OF CINCINNATI**

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF OHIO                    )  
  ) ss:  
COUNTY OF HAMILTON         )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2021 by \_\_\_\_\_, the \_\_\_\_\_ of the City of Cincinnati, an Ohio municipal corporation, on behalf of the municipal corporation. The notarial act certified hereby is an acknowledgement. No oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_

Approved by:

\_\_\_\_\_  
John S. Brazina, Director  
Department of Transportation and Engineering

Approved as to Form by:

\_\_\_\_\_  
Assistant City Solicitor

[ Grantee Signature Page Follows ]

ACCEPTED AND AGREED TO BY:

**2445 GILBERT, LLC,**  
an Ohio limited liability company

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_, 2021

STATE OF OHIO                    )  
  ) ss:  
COUNTY OF HAMILTON         )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2021 by \_\_\_\_\_, the \_\_\_\_\_ of **2445 Gilbert, LLC**, an Ohio limited liability company, on behalf of the company. The notarial act certified hereby is an acknowledgement. No oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_

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

**EXHIBIT A**

to Grant of Encroachment Easements

*LEGAL DESCRIPTION - BENEFITTED PROPERTY*

Situated in the City of Cincinnati, Hamilton County, Ohio being part of Lots 4 and 5 of Fred A. Kemper's Subdivision as recorded in Plat Book 2, page 59 of the Hamilton County, Ohio Records, and described as follows:

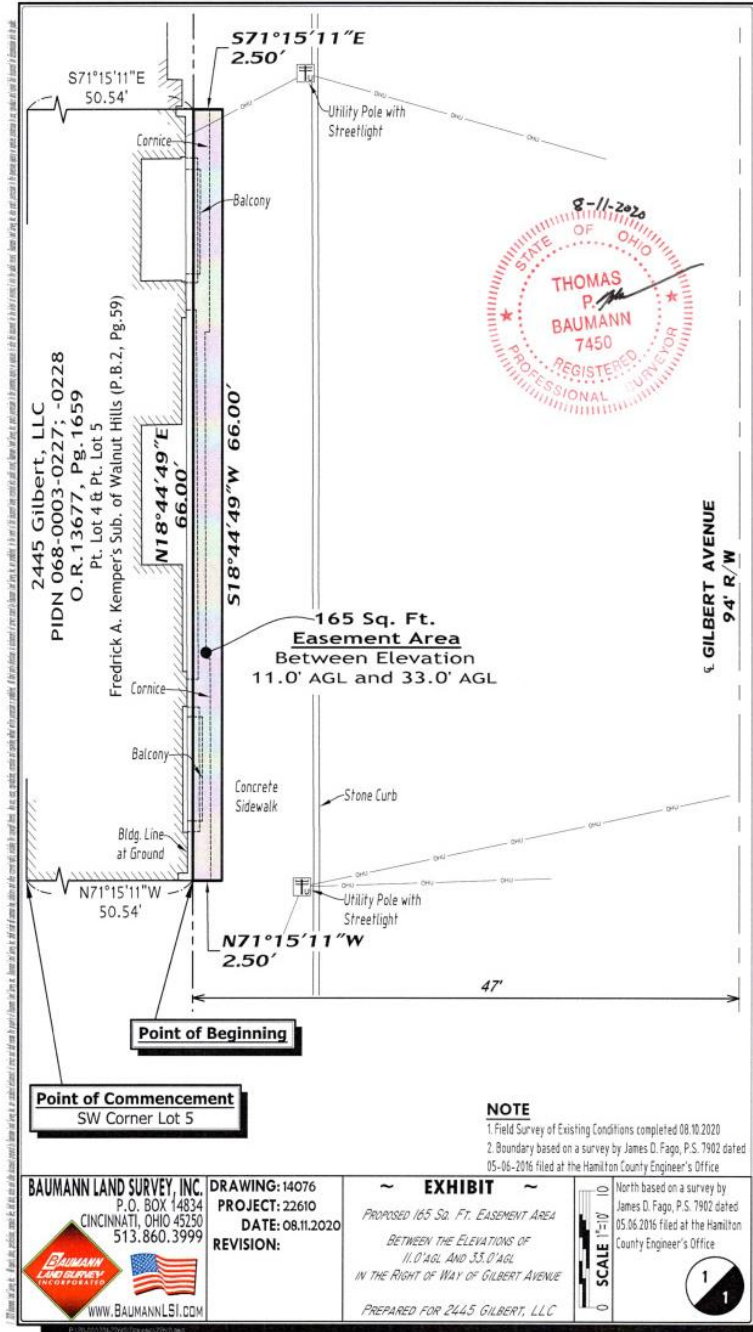
Beginning at the intersection of the west line of Gilbert Avenue as now improved and the north line of said Lot 4, said Place of Beginning is southwardly a distance of 97.47 feet from the intersection of the said west line of Gilbert Avenue and the south line of McMillan Street as now improved; thence southwardly along the said west line of Gilbert Avenue a distance of 66 feet to the south line of said Lot 5; thence westwardly along the south line of said Lot 5 a distance of 50.54 feet to the east line of Sedalia Alley; thence northwardly along the east line of Sedalia Alley a distance of 66 feet to the north line of said Lot 4; thence eastwardly along the north line of said Lot 4 a distance of 50.54 feet to the Place of Beginning.

Property Address: *So* 2445 and 2449 Gilbert Avenue, Cincinnati, Ohio  
Auditor's parcels: 068-0003-0227-00 and 068-0003-0228-0 *So*  
Prior Instrument reference: Official Record Book 13677, Page 1637

**EXHIBIT B**

to Grant of Encroachment Easements

Survey Plat





**EXHIBIT C**

to Grant of Encroachment Easements

*Legal Description – Aerial Easement Area*

Situate in Section 7, Town 3, Fractional Range 2, Millcreek Township, City of Cincinnati, Hamilton County, Ohio, and being part of Lot 4 and part of Lot 5 of Fredrick A. Kemper's Subdivision of Walnut Hills as recorded in P.B. 2, Pg. 59, and being in the right of way of Gilbert Avenue and being more particularly described as follows:

Commencing at the southwest corner of said Lot 5, thence, along the south line of said Lot 5, South 71°15'11" East a distance of 50.54' to a point in the south line of said Lot 5 in the westerly right of way line of Gilbert Avenue and the Point of Beginning;

Thence, leaving the south line of said Lot 5 and along the westerly right of way line of Gilbert Avenue, North 18°44'49" East a distance of 66.00 feet to a point in the north line of said Lot 4 in the westerly right of way line of Gilbert Avenue;

Thence, leaving the westerly right of way line of Gilbert Avenue and along the north line of said Lot 4, South 71°15'11" East a distance of 2.50 feet to a point in the north line of said Lot 4;

Thence, leaving the north line of said Lot 4, South 18°44'49" West a distance of 66.00 feet to a point in the south line of said Lot 5;

Thence, along the south line of said Lot 5, North 71°15'11" West a distance of 2.50 feet to the Point of Beginning;

Containing 165 square feet and being a portion of the right of way of Elm Street between the elevations of 11.0'AGL and 33.0'AGL.

Subject to all existing easements and right-of-ways.

Bearing are based on a survey performed by James D. Fago dated 05.06.2016 and filed with the Hamilton County Engineer's Office

Prepared by: Baumann Land Survey, Inc.  
Thomas P. Baumann, PS  
Ohio Surveyor #: S-7450



Date: March 31, 2021

To: Mayor and Members of City Council 202101231  
From: Paula Boggs Muething, City Manager  
Subject: ORDINANCE – VACATION AND SALE OF A PORTION OF BARTLE AVENUE

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Attached is an ordinance captioned as follows:

AUTHORIZING the City Manager to vacate and sell to Uptown Transportation Authority, LLC approximately 0.1749 acres of the public right-of-way known as Bartle Avenue in the Avondale neighborhood of Cincinnati.

Uptown Transportation Authority, LLC owns an adjoining property that abuts a 0.1749-acre portion of Bartle Avenue in Avondale. They would like to purchase this abutting portion of Bartle Avenue for incorporation into their adjoining property. Uptown Transportation Authority, LLC has obtained the written consent of all necessary abutters to the City's vacation and sale of the property.

The property is not needed for transportation or other municipal purposes.

The approximate fair market value of the property is \$114,300, which Uptown Transportation Authority, LLC has agreed to pay.

The City Planning Commission approved the vacation and sale of the property at its meeting on March 5, 2021.

The Administration recommends passage of the attached ordinance.

Attachment I – Property Sale Agreement

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

# City of Cincinnati

CHM

AWG/EE

## An Ordinance No. \_\_\_\_\_ - 2021

**AUTHORIZING** the City Manager to vacate and sell to Uptown Transportation Authority, LLC approximately 0.1749 acres of the public right-of-way known as Bartle Avenue in the Avondale neighborhood of Cincinnati.

WHEREAS, the City of Cincinnati owns approximately 0.1749 acres of real property designated as public right-of-way commonly known as Bartle Avenue, as more particularly depicted and described in the *Property Sale Agreement* attached to this ordinance as Attachment A and incorporated herein by reference (the “Property”), which Property is under the management and control of the City’s Department of Transportation and Engineering (“DOTE”); and

WHEREAS, Uptown Transportation Authority, LLC, an Ohio limited liability company (“Petitioner”), owns an adjoining property and desires to purchase the Property from the City for incorporation into Petitioner’s adjoining property; and

WHEREAS, Andrew D. Graf, Esq., a reputable attorney practicing in Hamilton County, Ohio, has provided the following: (i) an Attorney’s Certificate of Title dated October 19, 2020, certifying that Petitioner is the owner of all real property abutting the Property; and (ii) the written consent of all necessary abutters to the City’s vacation and sale of the Property to Petitioner; and

WHEREAS, pursuant to Ohio Revised Code Sec. 723.04, the City may, upon petition, vacate a street or alley if it has determined that there is good cause for the vacation and that the vacation will not be detrimental to the general interest; and

WHEREAS, pursuant to Cincinnati Municipal Code (“CMC”) Sec. 331-1, the City may sell real property that is not needed for municipal purposes; and

WHEREAS, the City’s Real Estate Services Division has determined, by professional appraisal, that the approximate fair market value of the Property is \$114,300, which Petitioner has agreed to pay; and

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

WHEREAS, the City Planning Commission, having the authority to approve the change in the use of City-owned property, approved the vacation and sale of the Property at its meeting on March 5, 2021; 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 vacate and sell to Uptown Transportation Authority, LLC, an Ohio limited liability company ("Petitioner"), an approximately 0.1749 acre portion of the public right-of-way known as Bartle Avenue in Cincinnati, as more particularly described as follows (the "Property"):

SITUATE IN SECTION 8, TOWN 3, FRACTIONAL RANGE 2, CITY OF CINCINNATI, HAMILTON COUNTY, OHIO AND BEING PART OF THE RIGHT OF WAY OF BARTLE AVENUE OF HENRY T. MILLER SUBDIVISION AS RECORDED IN PLAT BOOK 1, PAGE 120 OF THE HAMILTON COUNTY, OHIO RECORDS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A SET CROSS NOTCH AT THE INTERSECTION OF THE EASTERLY RIGHT OF WAY OF BARTLE AVENUE WITH THE SOUTHERLY RIGHT OF WAY OF MARTIN LUTHER KING DRIVE; THENCE ALONG THE EASTERLY RIGHT OF WAY OF BARTLE AVENUE, SOUTH 06°24'05" WEST, 253.96 FEET TO THE SOUTHEAST TERMINUS OF BARTLE AVENUE; BEING WITNESSED BY AN EXSITNG MAG NAIL WHICH IS 0.33 FEET WEST; THENCE ALONG THE SOUTHERLY TERMINUS OF BARTLE AVENUE, NORTH 84°01'55" WEST, 30.00 FEET TO THE SOUTHWEST TERMINUS OF BARTLE AVENUE, BEING WITNESSED BY AN EXISTING 5/8" IRON PIN WHICH IS 0.21FEET SOUTH AND 1.03 FEET WEST; THENCE ALONG THE WESTERLY RIGHT OF WAY OF BARTLE AVENUE, NORTH 06°24'05" EAST, 254.08 FEET TO A SET 5/8" IRON PIN AND CAP (#7862) AT THE INTERSECTION OF THE SOUTHERLY RIGHT OF WAY OF MARTING LUTHER KING DRIVE WITH THE WESTERLY RIGHT OF WAY OF BARTLE AVENUE; THENCE ALONG THE SOUTHERLY RIGHT OF WAY OF MARTIN LUTHER KING DRIVE, SOUTH 83°48'19" EAST, 30.00 FEET TO THE PLACE OF BEGINNING.

THUS CONTAINING 0.1749 ACRES OF LAND AND BEING SUBJECT TO ALL EASEMENTS AND RESTRICTIONS OF RECORD.

BEARINGS USED IN THIS LEGAL DESCRIPTION ARE  
RELATIVE TO OHIO DEPARTMENT OF TRANSPORTATION  
RIGHT OF WAY PLAN, HAM-17-3.81.

Section 2. That the Property is not needed for transportation or other municipal purposes, that there is good cause to vacate and sell the Property, and that such vacation and sale will not be detrimental to the general interest.

Section 3. That the fair market value of the Property, as determined by appraisal by the City's Real Estate Services Division, is approximately \$114,300, which Petitioner has agreed to pay.

Section 4. That eliminating competitive bidding in connection with the City's sale of the Property is in the best interest of the City because Petitioner owns all adjoining real property and has obtained the written consent of all abutters to the Property, and as a practical matter, only an abutting property owner would have any practical use for the Property.

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

Section 6. That the City's Finance Director is authorized to transfer and appropriate such excess funds from Miscellaneous Permanent Improvement Fund 757 into Capital Improvement Program Project Account No. 980x233xYY2306, "Street Improvements," in which "YY" represents the last two digits of the fiscal year in which the closing occurs and the proceeds are received, referencing the latter fiscal year if the events occur in different fiscal years.

Section 7. That, pursuant to Ohio Revised Code Sec. 723.041, any affected public utility shall be deemed to have a permanent easement in the Property for the purpose of maintaining, operating, renewing, reconstructing, and removing its utility facilities and for purposes of access to said facilities.

Section 8. That the City Manager and other City officials are hereby authorized to take all necessary and proper actions to carry out the provisions of this ordinance, including, without limitation, executing any and all ancillary agreements, deeds, plats, and other documents to facilitate the vacation and sale of the Property to Petitioner, including by executing a *Property Sale Agreement* in substantially the form attached to this ordinance as Attachment A.

Section 9. That the City Solicitor shall cause an authenticated copy of this ordinance to be duly recorded in the land records of Hamilton County, Ohio.

Section 10. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed: \_\_\_\_\_, 2021

\_\_\_\_\_  
John Cranley, Mayor

Attest: \_\_\_\_\_  
Clerk

ATTACHMENT A

Contract No. \_\_\_\_\_

Property: Bartle Avenue

## PROPERTY SALE AGREEMENT

This Property Sale Agreement (this "**Agreement**") is made and entered into on the Effective Date (as defined on the signature page hereof) by and between the **CITY OF CINCINNATI**, an Ohio municipal corporation, the address of which for purposes of this Agreement is 801 Plum Street, Cincinnati, OH 45202 (the "**City**") and **UPTOWN TRANSPORTATION AUTHORITY, LLC**, an Ohio limited liability company whose tax mailing address is 619 Oak Street, Suite 1100, Cincinnati, OH 45206 ("**Purchaser**").

### Recitals:

A. The City owns a 0.1749 acre tract of land dedicated as public right-of-way known as Bartle Avenue in the Avondale neighborhood of Cincinnati, Ohio, as depicted on Exhibit A (Survey Plat) and described on Exhibit B (Quitclaim Deed) hereto (the "**Sale Property**"). The Sale Property is under the management and control of the City's Department of Transportation and Engineering ("**DOT**").

B. Purchaser owns adjoining property that abuts the Sale Property, as depicted on Exhibit A hereto ("**Purchaser's Property**"). Purchaser has petitioned the City to vacate the Sale Property as public right-of-way and seeks to purchase it from the City.

C. Andrew D. Graf, Esq., a reputable attorney practicing in Hamilton County, Ohio, has provided the following: (i) an Attorney's Certificate of Title dated October 19, 2020, certifying that Purchaser is the owner of all real property abutting the Sale Property, and (ii) the written consent of all necessary abutters to the City's vacation and sale of the Sale Property to Purchaser, a copy of which is attached as Exhibit C (Attorney's Certificate of Title) hereto.

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

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

F. The City's Real Estate Services Division has determined, by a professional appraisal, that the fair market value of the Sale Property is \$114,300.00, which Purchaser is willing to pay.

G. The City has determined that eliminating competitive bidding in connection with the City's sale of the Sale Property is justified because Purchaser owns all real property that abuts the Sale Property, and as a practical matter no one other than an abutting property owner would have any use for it.

H. City Planning Commission, having the authority to approve the change in the use of City-owned property, approved the sale of the Sale Property to Purchaser at its meeting on March 5, 2021.

I. Execution of this Agreement was authorized by Cincinnati City Council by Ordinance No. [ ]-2021, passed on [ ], 2021.

NOW, THEREFORE, the parties agree as follows:

1. **Purchase Price.** Subject to the terms and conditions set forth herein, the City hereby agrees to sell the Sale Property to Purchaser, and Purchaser hereby agrees to purchase the Sale



Property from the City for \$114,300 (the “Purchase Price”). Purchaser acknowledges that it is familiar with the condition of the Sale Property and, at Closing (as defined below), the City shall convey the Sale Property to Purchaser in “as is” condition. The City makes no representations or warranties to Purchaser with respect to the condition of the Sale Property and, from and after the Closing, the City shall have no liability of any kind to Purchaser for any defects, adverse environmental condition, or any other matters affecting the Sale Property.

## 2. Closing.

(A) Conditions. The closing on the City’s sale of the Sale Property to Purchaser (the “Closing”) shall not occur unless and until the following conditions have been satisfied (the “Conditions”); *provided, however,* that if the City, in its sole discretion, determines that one or more of the Conditions would be more appropriately handled at Closing or post-Closing, the City may, if appropriate, include such Conditions in the City’s Quitclaim Deed to Purchaser or handle such Conditions post-Closing. Purchaser shall perform all work and investigations and shall obtain and prepare all necessary documents pertaining to the satisfaction of the Conditions, at no cost to the City.

- (i) Title & Survey: Purchaser’s approval of title to the Sale Property and, if obtained by Purchaser, an ALTA property survey of the Sale Property;
- (ii) Inspections, Utilities & Zoning/Building Code Requirements: Purchaser’s approval of inspections of the Sale Property, including without limitation environmental assessments and soil assessments, all matters pertaining to utility service for the Sale Property, and all zoning and building code requirements that are applicable to the Sale Property;
- (iii) Plats and Legal Descriptions: Purchaser shall have provided the City with all plats and legal descriptions as required by DOTE, the City Planning Department, and the Hamilton County Auditor and Recorder in connection with the City’s vacation and sale of the Sale Property;
- (iv) Abutter’s Interests: Purchaser shall have provided the City with an attorney’s certificate of title certifying the names of all abutters to the Sale Property.
- (v) Coordinated Report Conditions (CR #87-2019):
  - (a) DOTE:
    1. DOTE to review and approve proposed development prior to the sale to assess the impact on adjacent right-of-way.
    2. Abutting property owners must agree to the sale in writing.
    3. The existing utilities must be granted easements or relocated at petitioner’s expense.
    4. No Auditor’s parcels shall be landlocked by this vacation/sale. If possible, potential landlocked parcels should be consolidated with parcels having legal street frontage.
    5. The petitioner is required, at their expense, to provide the City with an acceptable legal description for the sale area that meets the recordable standards of the Hamilton County Recorder’s Office.
    6. Bartels Avenue must be closed off at Martin Luther King Drive with a curb, sidewalk, and/or drive approach.

7. A DOTE street opening permit, obtained by a DOTE licensed street contractor, is required for all private improvements in the public right-of-way. All improvements in the public right-of-way must be built to City standards, policies and guidelines. Application for permits may be made at Room 425, City Hall, 801 Plum Street. Please note that plan drawings (2 sets), to be reviewed by DOTE, must be attached to the permit application.

(b) Duke Energy:

1. Duke Energy overhead electric facilities currently located within the right of way of this portion of Bartle Avenue could potentially be impacted by the granting of the vacation and sale as requested. In order to minimize disruption to existing utilities within said rights of way, Duke Energy reserves the right of unrestricted ingress and egress. No structures may be constructed within said utility area in conflict with such electric facilities, nor may the utility area be physically altered so as to (i) reduce the clearances of the facilities; (ii) impair the ability to maintain the facilities or; (iii) create a hazard to the utility's facilities.
2. Any party damaging said facilities shall be responsible for all costs and expenses associated with the repair or replacement of the same.
3. If the said overhead electric facilities are to remain in the existing location, Duke Energy Ohio, Inc., Land Services would request that an easement be granted in our customarily used easement form at the time of the closing of the properties and prior to the objections being lifted.

(c) Cincinnati Bell:

1. There are existing underground telephone facilities at this location.
2. The existing facilities must remain in place, in service and able to be accessed. Any damage done to the facilities, or any work done to relocate the facilities as a result of this request will be handled entirely at the property owner's expense.

(d) B&I:

1. Petitioner shall consolidate the Sale Property with its abutting properties upon closing on the Sale Property.

(B) Right to Terminate. If either party determines, after exercising reasonable good faith efforts, that any of the Conditions are not or cannot be satisfied within a reasonable period of time, such party shall have the right to terminate this Agreement by giving written notice thereof to the other party, whereupon this Agreement and all rights and obligations of the parties hereunder shall terminate. If all of the Conditions have not been satisfied to the satisfaction of both parties or waived in writing and for that reason the Closing has not occurred within **90 days** after the Effective Date, this Agreement and all rights and obligations of the parties hereunder shall automatically terminate.

(C) Closing Date. Provided the Conditions have been satisfied, the Closing shall take place **30 days** after the Effective Date, or on such earlier or later date as the parties may agree upon.

(D) Closing Costs and Closing Documents. At the Closing, (i) Purchaser shall pay the Purchase Price in full, and (ii) the City shall convey all of its right, title and interest in and to the Sale Property to Purchaser by *Quitclaim Deed* in the form of Exhibit B. Purchaser shall pay all Hamilton County, Ohio recording fees, transfer tax, and any and all other customary closing costs associated with

the Closing. There shall be no proration of real estate taxes and assessments at Closing, and from and after the Closing, Purchaser shall pay all real estate taxes and assessments thereafter becoming due. At Closing, the parties shall execute a settlement statement and any and all other customary closing documents that are necessary for the Closing, in such forms as are approved by the City. The City shall not however be required to execute a title affidavit at Closing or other similar documents pertaining to title, it being acknowledged by Purchaser that the City is selling the Property "as is." Pursuant to Section 301-20, Cincinnati Municipal Code, at Closing, Purchaser shall pay to the City any and all unpaid related and unrelated fines, penalties, judgments, water or other utility charges, and any and all other outstanding amounts owed by Purchaser to the City. The provisions of this Agreement shall survive the City's execution and delivery of the *Quitclaim Deed* and shall not be deemed to have been merged therein.

**3. Notices.** All notices given by the parties hereunder shall be deemed given if personally delivered, delivered by Federal Express, UPS or other recognized overnight courier, or mailed by U.S. regular or certified mail, addressed to the parties at their respective addresses set forth in the introductory paragraph of this Agreement. If Purchaser send a notice to the City alleging that the City is in default under this Agreement, Purchaser shall simultaneously send a copy of such notice by U.S. certified mail to: City Solicitor, 801 Plum Street, Suite 214, Cincinnati, OH 45202. Notices shall be deemed given on the date of receipt.

**4. Representations, Warranties, and Covenants of Purchaser.** Purchaser makes the following representations, warranties and covenants to induce the City to enter into this Agreement:

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

(ii) Purchaser's execution, delivery and performance of this Agreement and the transaction contemplated hereby will not violate any applicable laws, or any writ or decree of any court or governmental instrumentality, or any mortgage, contract, agreement or other undertaking to which Purchaser is a party or which purports to be binding upon Purchaser or upon any of its assets, nor is Purchaser in violation or default of any of the foregoing.

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

(iv) Purchaser shall give prompt notice in writing to the City of the occurrence or existence of any litigation, labor dispute or governmental proceedings or investigation affecting Purchaser that could reasonably be expected to interfere substantially or materially and adversely affect its financial condition or its purchase of the Sale Property.

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

(vi) Purchaser does not owe any outstanding fines, penalties, judgments, water or other utility charges or other amounts to the City.

**5. General Provisions.**

(A) Entire Agreement. This Agreement (including the exhibits hereto) contains the entire agreement between the parties with respect to the subject matter hereof and supersedes any and all prior

discussions, negotiations, representations or agreements, written or oral, between them respecting the subject matter hereof.

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

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

(D) Binding Effect. This Agreement shall be binding upon and shall inure to the benefit of and be enforceable by and against the parties and their respective successors and assigns. Purchaser shall not assign its rights or obligations under this Agreement without the prior written consent of the City, which may be withheld in the City's sole discretion, and any attempt to do so without the City's consent shall, at the City's option, render this Agreement null and void.

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

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

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

(H) Brokers. Purchaser represents to the City that Purchaser has not dealt with any real estate brokers and agents in connection with its purchase of the Sale Property.

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

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

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

6. Exhibits. The following exhibits are attached hereto and made a part hereof:  
Exhibit A – *Survey Plat*  
Exhibit B – *Form of Quit Claim Deed*  
Exhibit C – *Attorney's Certificate of Title*

[signature pages follow]

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

**UPTOWN TRANSPORTATION AUTHORITY, LLC,**  
an Ohio limited liability company

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_, 2021

[City signatures on the following page]

**CITY OF CINCINNATI**

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_, 2021

Recommended by:

\_\_\_\_\_  
John S. Brazina, Director  
Department of Transportation and Engineering

Approved as to Form:

\_\_\_\_\_  
Assistant City Solicitor

Certified Date: \_\_\_\_\_

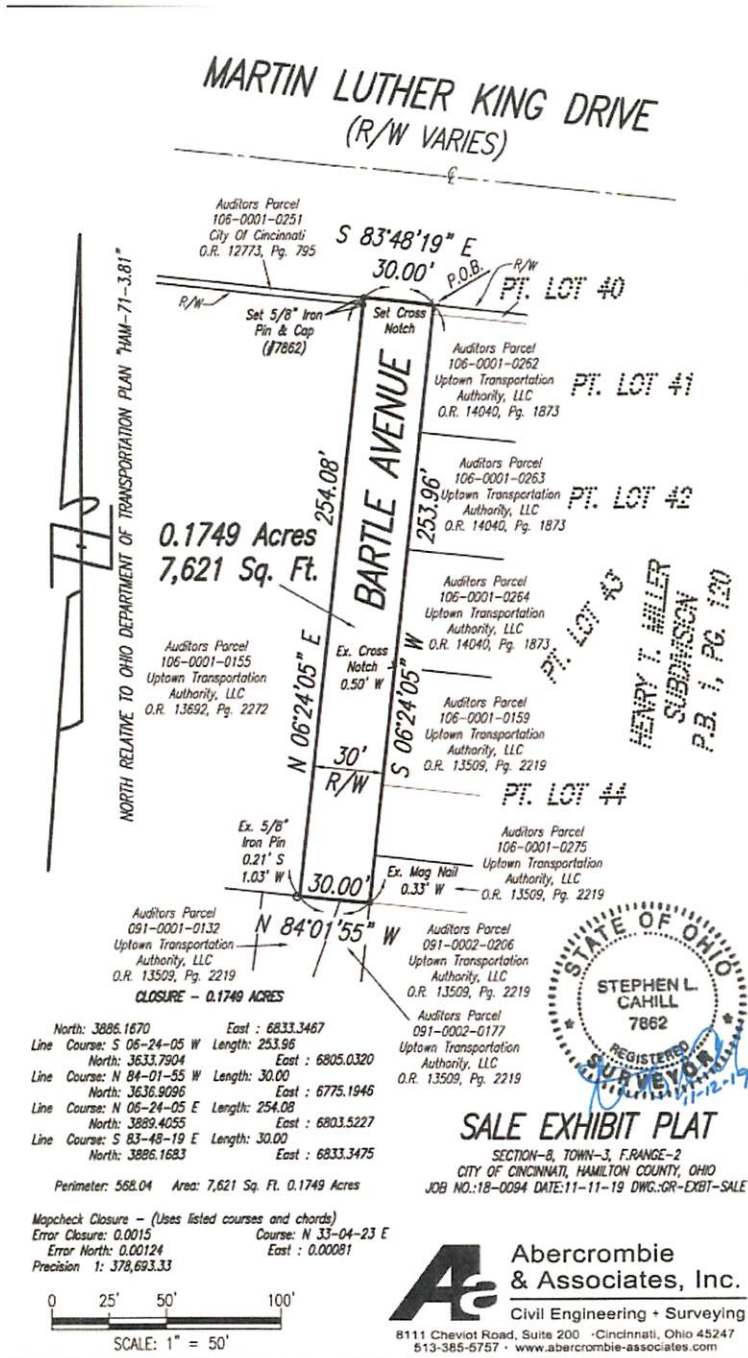
Fund/Code: \_\_\_\_\_

Amount: \_\_\_\_\_

By: \_\_\_\_\_  
Karen Alder, City Finance Director

**EXHIBIT A**  
to Property Sale Agreement

SURVEY PLAT



**EXHIBIT B**  
to Property Sale Agreement  
**FORM OF QUIT CLAIM DEED**

----- space above for recorder -----

**QUITCLAIM DEED**  
(Portion of Bartle Avenue)

The **CITY OF CINCINNATI**, an Ohio municipal corporation (the "**City**"), for valuable consideration paid, hereby grants and conveys to **UPTOWN TRANSPORTATION AUTHORITY, LLC**, an Ohio limited liability company, whose tax mailing address is 619 Oak Street, Suite 1100, Cincinnati, OH 45206, ("**Grantee**"), all of the City's right, title and interest in and to the real property depicted on Exhibit A (*Survey Plat*) and described on Exhibit B (*Legal Description*) hereto (the "**Property**").

Property Address:	None; certain portions of former public right-of-way known as Bartle Avenue.
Auditor's parcels:	None (former public right-of-way)
Prior instrument reference:	None (former public right-of-way)

Pursuant to Ohio Revised Code Chapter 723 and Ordinance No. \_\_-2021, passed by Cincinnati City Council on \_\_\_\_\_, 2021, the Property is hereby vacated as public right-of-way by the City.

(A) Creation of Utility Easement: This conveyance is subject to R.C. Section 723.041 so that any affected public utility shall be deemed to have a permanent easement in such vacated portions of Bartle Avenue for the purpose of maintaining, operating, renewing, reconstructing, and removing said utility facilities and for purposes of access to said facilities.

This conveyance was authorized by Ordinance No. \_\_-2021, passed by Cincinnati City Council on \_\_\_\_\_, 2021.

Executed on \_\_\_\_\_, 2021.

**CITY OF CINCINNATI**

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_



STATE OF OHIO                    )  
  ) SS:  
COUNTY OF HAMILTON         )

The foregoing instrument was acknowledged before me this \_\_\_ day of \_\_\_\_\_, 2021 by \_\_\_\_\_, the \_\_\_\_\_ of the City of Cincinnati, an Ohio municipal corporation, on behalf of the municipal corporation. The notarial act certified hereby is an acknowledgment. No oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_

Approved by:

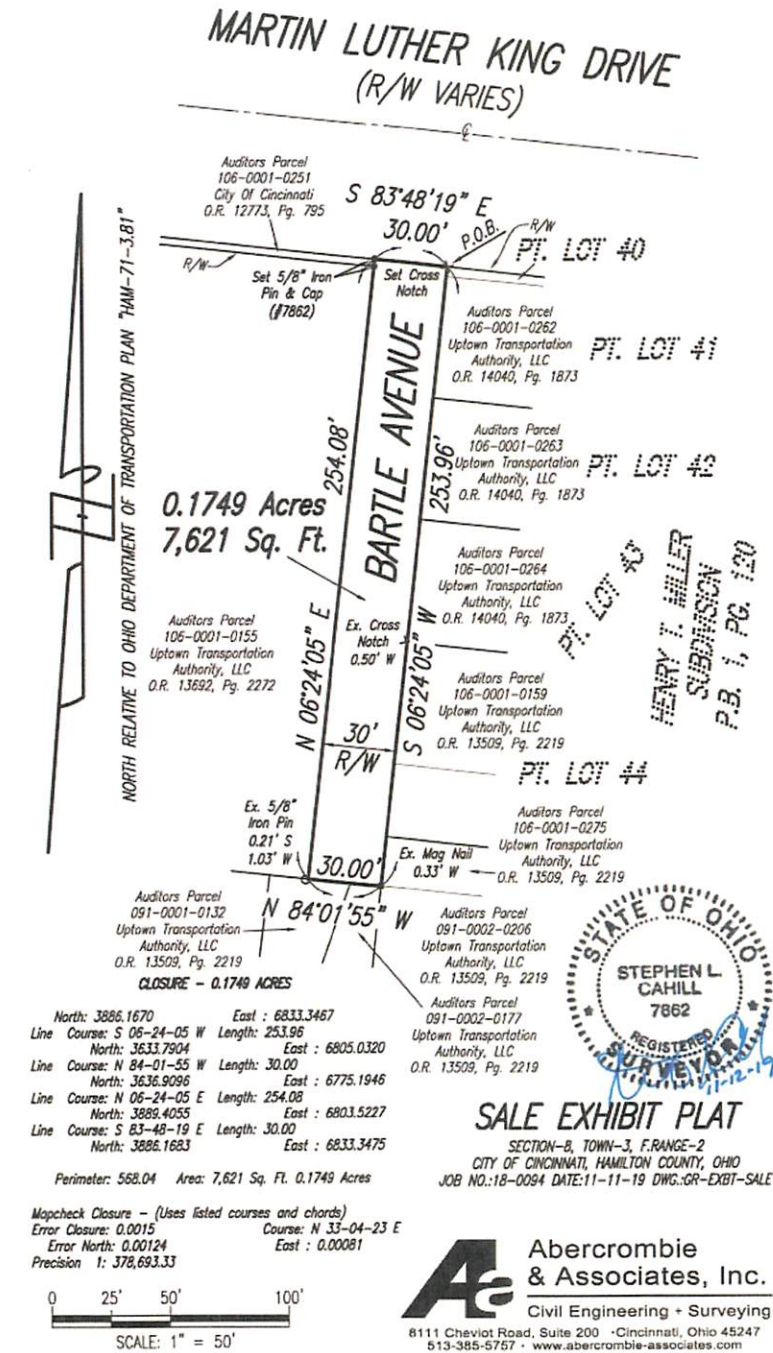
\_\_\_\_\_  
John S. Brazina, Director  
Department of Transportation and Engineering

Approved as to Form:

\_\_\_\_\_  
Assistant City Solicitor

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

**Exhibit A**  
to Quitclaim Deed  
Survey Plat



**Exhibit B**  
to Quitclaim Deed  
*Legal Description*

SITUATE IN SECTION 8, TOWN 3, FRACTIONAL RANGE 2, CITY OF CINCINNATI, HAMILTON COUNTY, OHIO AND BEING PART OF THE RIGHT OF WAY OF BARTLE AVENUE OF HENRY T. MILLER SUBDIVISION AS RECORDED IN PLAT BOOK 1, PAGE 120 OF THE HAMILTON COUNTY, OHIO RECORDS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A SET CROSS NOTCH AT THE INTERSECTION OF THE EASTERLY RIGHT OF WAY OF BARTLE AVENUE WITH THE SOUTHERLY RIGHT OF WAY OF MARTIN LUTHER KING DRIVE; THENCE ALONG THE EASTERLY RIGHT OF WAY OF BARTLE AVENUE, SOUTH 06°24'05" WEST, 253.96 FEET TO THE SOUTHEAST TERMINUS OF BARTLE AVENUE; BEING WITNESSED BY AN EXISTING MAG NAIL WHICH IS 0.33 FEET WEST; THENCE ALONG THE SOUTHERLY TERMINUS OF BARTLE AVENUE, NORTH 84°01'55" WEST, 30.00 FEET TO THE SOUTHWEST TERMINUS OF BARTLE AVENUE, BEING WITNESSED BY AN EXISTING 5/8" IRON PIN WHICH IS 0.21 FEET SOUTH AND 1.03 FEET WEST; THENCE ALONG THE WESTERLY RIGHT OF WAY OF BARTLE AVENUE, NORTH 06°24'05" EAST, 254.08 FEET TO A SET 5/8" IRON PIN AND CAP (#7862) AT THE INTERSECTION OF THE SOUTHERLY RIGHT OF WAY OF MARTIN LUTHER KING DRIVE WITH THE WESTERLY RIGHT OF WAY OF BARTLE AVENUE; THENCE ALONG THE SOUTHERLY RIGHT OF WAY OF MARTIN LUTHER KING DRIVE, SOUTH 83°48'19" EAST, 30.00 FEET TO THE PLACE OF BEGINNING.

THUS CONTAINING 0.1749 ACRES OF LAND AND BEING SUBJECT TO ALL EASEMENTS AND RESTRICTIONS OF RECORD.

BEARINGS USED IN THIS LEGAL DESCRIPTION ARE RELATIVE TO OHIO DEPARTMENT OF TRANSPORTATION RIGHT OF WAY PLAN, HAM-17-3.81.

BEING THE RESULT OF A SURVEY AND PLAT DATED 6/12/18 MADE BY STEPHEN L. CAHILL, PLS OF ABERCROMBIE & ASSOCIATES, INC, OHIO REGISTERED SURVEYOR #7862.

**Exhibit C**  
to Property Sale Agreement  
*Attorney Certificate of Title*

**ATTORNEY'S CERTIFICATE OF TITLE**  
(purchase of public right-of-way)

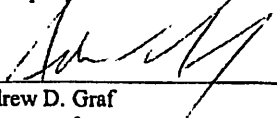
Uptown Transportation Authority, LLC ("Petitioner"), whose address is 619 Oak Street, Suite 1100, Cincinnati, Ohio 45206, has requested to purchase the public right-of-way known as Bartle Avenue as located between Martin Luther King Drive and Tax Parcels 091-0001-0132 and 091-0002-0177 and as more particularly described in Exhibit A hereto (the "Property").

NAME OF ABUTTING OWNER	Parcel(s) owned (address/parcel ID no.)
Uptown Transportation Authority	106-0001-0155-00
Uptown Transportation Authority	106-0001-0262-00
Uptown Transportation Authority	106-0001-0159-00
Uptown Transportation Authority	091-0002-0206-00
Uptown Transportation Authority	091-0001-0132-00
Uptown Transportation Authority	091-0002-0177-00

Cincinnati, Ohio

October 19, 2020

I, the undersigned attorney at law, practicing in Hamilton County, Ohio hereby certify that the above Petitioner(s) and the above listed owner(s) is/are all of the owner(s) of the land abutting on the Property.

  
\_\_\_\_\_  
Andrew D. Graf  
Attorney at Law

Ohio Attorney Registration No. 0068608

**Bartle Street Abutting Property Owners**

Street	Owner	Parcel
515 Melish Ave	Uptown Transportation Authority (UTA)	106-0001-0155-00
3041 Reading Road	Uptown Transportation Authority (UTA)	106-0001-0262-00
3035 Reading Road	Uptown Transportation Authority (UTA)	106-0001-0159-00
Reading Road	Uptown Transportation Authority (UTA)	091-0002-0206-00
Bartle Street	Uptown Transportation Authority (UTA)	091-0001-0132-00
Bartle Street	Uptown Transportation Authority (UTA)	091-0002-0177-00

Contract No. \_\_\_\_\_

Property: Bartle Avenue

## PROPERTY SALE AGREEMENT

This Property Sale Agreement (this "**Agreement**") is made and entered into on the Effective Date (as defined on the signature page hereof) by and between the **CITY OF CINCINNATI**, an Ohio municipal corporation, the address of which for purposes of this Agreement is 801 Plum Street, Cincinnati, OH 45202 (the "**City**") and **UPTOWN TRANSPORTATION AUTHORITY, LLC**, an Ohio limited liability company whose tax mailing address is 619 Oak Street, Suite 1100, Cincinnati, OH 45206 ("**Purchaser**").

### Recitals:

A. The City owns a 0.1749 acre tract of land dedicated as public right-of-way known as Bartle Avenue in the Avondale neighborhood of Cincinnati, Ohio, as depicted on Exhibit A (Survey Plat) and described on Exhibit B (Quitclaim Deed) hereto (the "**Sale Property**"). The Sale Property is under the management and control of the City's Department of Transportation and Engineering ("**DOT**").

B. Purchaser owns adjoining property that abuts the Sale Property, as depicted on Exhibit A hereto ("**Purchaser's Property**"). Purchaser has petitioned the City to vacate the Sale Property as public right-of-way and seeks to purchase it from the City.

C. Andrew D. Graf, Esq., a reputable attorney practicing in Hamilton County, Ohio, has provided the following: (i) an Attorney's Certificate of Title dated October 19, 2020, certifying that Purchaser is the owner of all real property abutting the Sale Property, and (ii) the written consent of all necessary abutters to the City's vacation and sale of the Sale Property to Purchaser, a copy of which is attached as Exhibit C (Attorney's Certificate of Title) hereto.

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

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

F. The City's Real Estate Services Division has determined, by a professional appraisal, that the fair market value of the Sale Property is \$114,300.00, which Purchaser is willing to pay.

G. The City has determined that eliminating competitive bidding in connection with the City's sale of the Sale Property is justified because Purchaser owns all real property that abuts the Sale Property, and as a practical matter no one other than an abutting property owner would have any use for it.

H. City Planning Commission, having the authority to approve the change in the use of City-owned property, approved the sale of the Sale Property to Purchaser at its meeting on March 5, 2021.

I. Execution of this Agreement was authorized by Cincinnati City Council by Ordinance No. [\_\_\_\_]-2021, passed on [\_\_\_\_], 2021.

NOW, THEREFORE, the parties agree as follows:

**1. Purchase Price.** Subject to the terms and conditions set forth herein, the City hereby agrees to sell the Sale Property to Purchaser, and Purchaser hereby agrees to purchase the Sale

Property from the City for \$114,300 (the “**Purchase Price**”). Purchaser acknowledges that it is familiar with the condition of the Sale Property and, at Closing (as defined below), the City shall convey the Sale Property to Purchaser in “as is” condition. The City makes no representations or warranties to Purchaser with respect to the condition of the Sale Property and, from and after the Closing, the City shall have no liability of any kind to Purchaser for any defects, adverse environmental condition, or any other matters affecting the Sale Property.

## 2. Closing.

(A) Conditions. The closing on the City’s sale of the Sale Property to Purchaser (the “**Closing**”) shall not occur unless and until the following conditions have been satisfied (the “**Conditions**”); *provided, however,* that if the City, in its sole discretion, determines that one or more of the Conditions would be more appropriately handled at Closing or post-Closing, the City may, if appropriate, include such Conditions in the City’s Quitclaim Deed to Purchaser or handle such Conditions post-Closing. Purchaser shall perform all work and investigations and shall obtain and prepare all necessary documents pertaining to the satisfaction of the Conditions, at no cost to the City.

- (i) Title & Survey: Purchaser’s approval of title to the Sale Property and, if obtained by Purchaser, an ALTA property survey of the Sale Property;
- (ii) Inspections, Utilities & Zoning/Building Code Requirements: Purchaser’s approval of inspections of the Sale Property, including without limitation environmental assessments and soil assessments, all matters pertaining to utility service for the Sale Property, and all zoning and building code requirements that are applicable to the Sale Property;
- (iii) Plats and Legal Descriptions: Purchaser shall have provided the City with all plats and legal descriptions as required by DOTE, the City Planning Department, and the Hamilton County Auditor and Recorder in connection with the City’s vacation and sale of the Sale Property;
- (iv) Abutter’s Interests: Purchaser shall have provided the City with an attorney’s certificate of title certifying the names of all abutters to the Sale Property.
- (v) Coordinated Report Conditions (CR #87-2019):
  - (a) DOTE:
    1. DOTE to review and approve proposed development prior to the sale to assess the impact on adjacent right-of-way.
    2. Abutting property owners must agree to the sale in writing.
    3. The existing utilities must be granted easements or relocated at petitioner’s expense.
    4. No Auditor’s parcels shall be landlocked by this vacation/sale. If possible, potential landlocked parcels should be consolidated with parcels having legal street frontage.
    5. The petitioner is required, at their expense, to provide the City with an acceptable legal description for the sale area that meets the recordable standards of the Hamilton County Recorder’s Office.
    6. Bartels Avenue must be closed off at Martin Luther King Drive with a curb, sidewalk, and/or drive approach.

7. A DOTE street opening permit, obtained by a DOTE licensed street contractor, is required for all private improvements in the public right-of-way. All improvements in the public right-of-way must be built to City standards, policies and guidelines. Application for permits may be made at Room 425, City Hall, 801 Plum Street. Please note that plan drawings (2 sets), to be reviewed by DOTE, must be attached to the permit application.

(b) Duke Energy:

1. Duke Energy overhead electric facilities currently located within the right of way of this portion of Bartle Avenue could potentially be impacted by the granting of the vacation and sale as requested. In order to minimize disruption to existing utilities within said rights of way, Duke Energy reserves the right of unrestricted ingress and egress. No structures may be constructed within said utility area in conflict with such electric facilities, nor may the utility area be physically altered so as to (i) reduce the clearances of the facilities; (ii) impair the ability to maintain the facilities or; (iii) create a hazard to the utility's facilities.
2. Any party damaging said facilities shall be responsible for all costs and expenses associated with the repair or replacement of the same.
3. If the said overhead electric facilities are to remain in the existing location, Duke Energy Ohio, Inc., Land Services would request that an easement be granted in our customarily used easement form at the time of the closing of the properties and prior to the objections being lifted.

(c) Cincinnati Bell:

1. There are existing underground telephone facilities at this location.
2. The existing facilities must remain in place, in service and able to be accessed. Any damage done to the facilities, or any work done to relocate the facilities as a result of this request will be handled entirely at the property owner's expense.

(d) B&I:

1. Petitioner shall consolidate the Sale Property with its abutting properties upon closing on the Sale Property.

(B) Right to Terminate. If either party determines, after exercising reasonable good faith efforts, that any of the Conditions are not or cannot be satisfied within a reasonable period of time, such party shall have the right to terminate this Agreement by giving written notice thereof to the other party, whereupon this Agreement and all rights and obligations of the parties hereunder shall terminate. If all of the Conditions have not been satisfied to the satisfaction of both parties or waived in writing and for that reason the Closing has not occurred within **90 days** after the Effective Date, this Agreement and all rights and obligations of the parties hereunder shall automatically terminate.

(C) Closing Date. Provided the Conditions have been satisfied, the Closing shall take place **30 days** after the Effective Date, or on such earlier or later date as the parties may agree upon.

(D) Closing Costs and Closing Documents. At the Closing, (i) Purchaser shall pay the Purchase Price in full, and (ii) the City shall convey all of its right, title and interest in and to the Sale Property to Purchaser by *Quitclaim Deed* in the form of Exhibit B. Purchaser shall pay all Hamilton County, Ohio recording fees, transfer tax, and any and all other customary closing costs associated with

the Closing. There shall be no proration of real estate taxes and assessments at Closing, and from and after the Closing, Purchaser shall pay all real estate taxes and assessments thereafter becoming due. At Closing, the parties shall execute a settlement statement and any and all other customary closing documents that are necessary for the Closing, in such forms as are approved by the City. The City shall not however be required to execute a title affidavit at Closing or other similar documents pertaining to title, it being acknowledged by Purchaser that the City is selling the Property "as is." Pursuant to Section 301-20, Cincinnati Municipal Code, at Closing, Purchaser shall pay to the City any and all unpaid related and unrelated fines, penalties, judgments, water or other utility charges, and any and all other outstanding amounts owed by Purchaser to the City. The provisions of this Agreement shall survive the City's execution and delivery of the *Quitclaim Deed* and shall not be deemed to have been merged therein.

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(ii) Purchaser's execution, delivery and performance of this Agreement and the transaction contemplated hereby will not violate any applicable laws, or any writ or decree of any court or governmental instrumentality, or any mortgage, contract, agreement or other undertaking to which Purchaser is a party or which purports to be binding upon Purchaser or upon any of its assets, nor is Purchaser in violation or default of any of the foregoing.

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

(iv) Purchaser shall give prompt notice in writing to the City of the occurrence or existence of any litigation, labor dispute or governmental proceedings or investigation affecting Purchaser that could reasonably be expected to interfere substantially or materially and adversely affect its financial condition or its purchase of the Sale Property.

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

(vi) Purchaser does not owe any outstanding fines, penalties, judgments, water or other utility charges or other amounts to the City.

**5. General Provisions.**

(A) Entire Agreement. This Agreement (including the exhibits hereto) contains the entire agreement between the parties with respect to the subject matter hereof and supersedes any and all prior



discussions, negotiations, representations or agreements, written or oral, between them respecting the subject matter hereof.

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

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

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Exhibit B – *Form of Quit Claim Deed*  
Exhibit C – *Attorney's Certificate of Title*

[signature pages follow]

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

**UPTOWN TRANSPORTATION AUTHORITY, LLC,**  
an Ohio limited liability company

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_, 2021

[City signatures on the following page]

**CITY OF CINCINNATI**

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_, 2021

Recommended by:

\_\_\_\_\_  
John S. Brazina, Director  
Department of Transportation and Engineering

Approved as to Form:

\_\_\_\_\_  
Assistant City Solicitor

Certified Date: \_\_\_\_\_

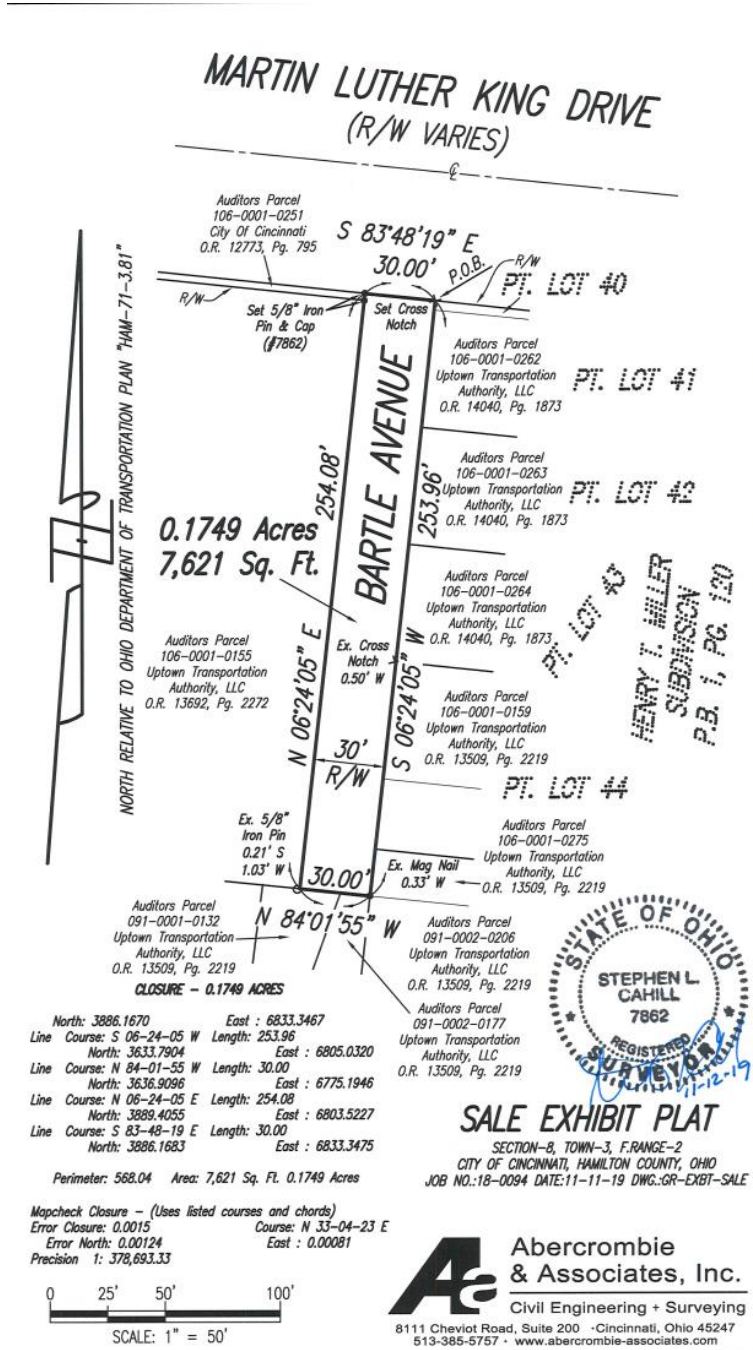
Fund/Code: \_\_\_\_\_

Amount: \_\_\_\_\_

By: \_\_\_\_\_  
Karen Alder, City Finance Director

**EXHIBIT A**  
to Property Sale Agreement

**SURVEY PLAT**



**EXHIBIT B**  
to Property Sale Agreement  
**FORM OF QUIT CLAIM DEED**

----- space above for recorder -----

**QUITCLAIM DEED**  
(Portion of Bartle Avenue)

The **CITY OF CINCINNATI**, an Ohio municipal corporation (the “**City**”), for valuable consideration paid, hereby grants and conveys to **UPTOWN TRANSPORTATION AUTHORITY, LLC**, an Ohio limited liability company, whose tax mailing address is 619 Oak Street, Suite 1100, Cincinnati, OH 45206, (“**Grantee**”), all of the City’s right, title and interest in and to the real property depicted on Exhibit A (*Survey Plat*) and described on Exhibit B (*Legal Description*) hereto (the “**Property**”).

Property Address:	None; certain portions of former public right-of-way known as Bartle Avenue.
Auditor’s parcels:	None (former public right-of-way)
Prior instrument reference:	None (former public right-of-way)

Pursuant to Ohio Revised Code Chapter 723 and Ordinance No. \_\_-2021, passed by Cincinnati City Council on \_\_\_\_\_, 2021, the Property is hereby vacated as public right-of-way by the City.

(A) Creation of Utility Easement: This conveyance is subject to R.C. Section 723.041 so that any affected public utility shall be deemed to have a permanent easement in such vacated portions of Bartle Avenue for the purpose of maintaining, operating, renewing, reconstructing, and removing said utility facilities and for purposes of access to said facilities.

This conveyance was authorized by Ordinance No. \_\_-2021, passed by Cincinnati City Council on \_\_\_\_\_, 2021.

Executed on \_\_\_\_\_, 2021.

**CITY OF CINCINNATI**

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF OHIO                    )  
  ) SS:  
COUNTY OF HAMILTON         )

The foregoing instrument was acknowledged before me this \_\_\_ day of \_\_\_\_\_, 2021 by \_\_\_\_\_, the \_\_\_\_\_ of the City of Cincinnati, an Ohio municipal corporation, on behalf of the municipal corporation. The notarial act certified hereby is an acknowledgment. No oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_

Approved by:

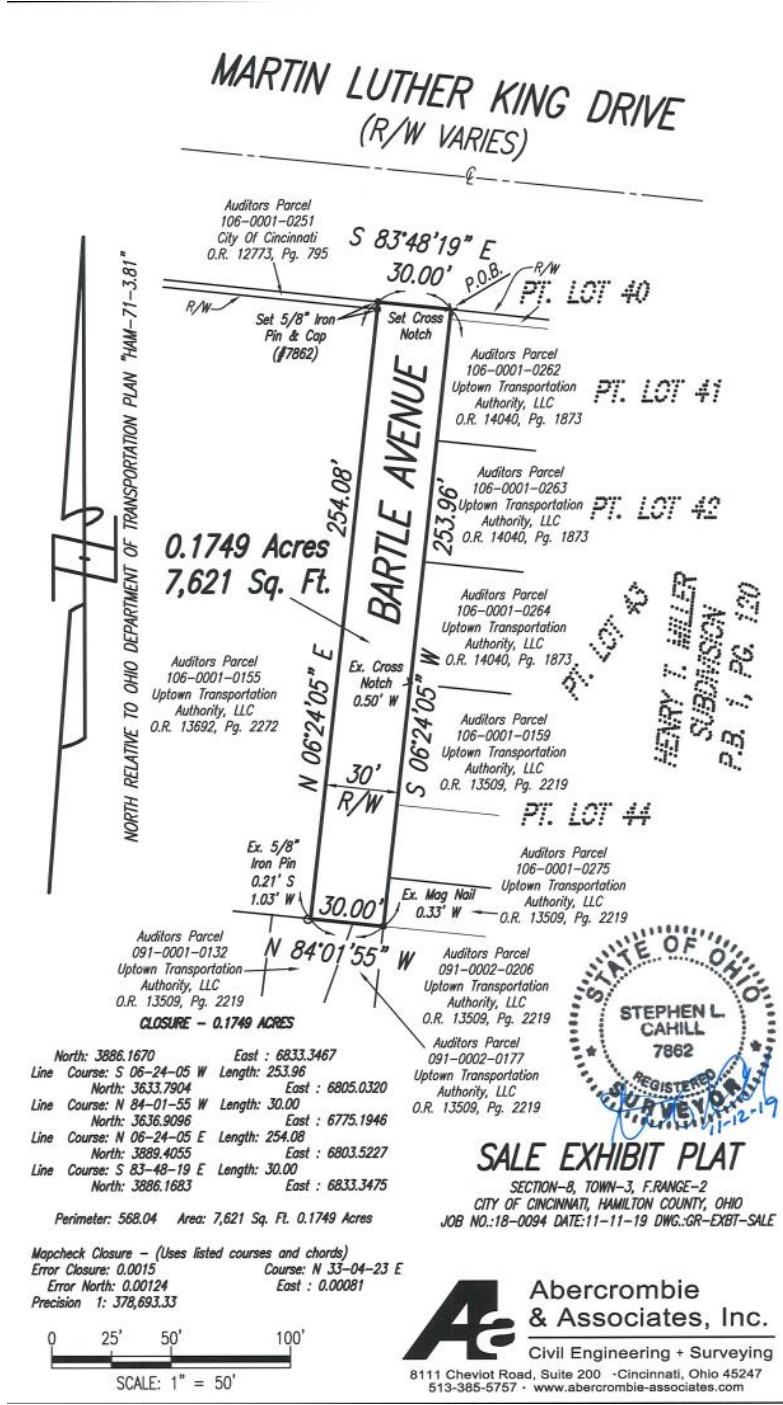
\_\_\_\_\_  
John S. Brazina, Director  
Department of Transportation and Engineering

Approved as to Form:

\_\_\_\_\_  
Assistant City Solicitor

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

**Exhibit A**  
to Quitclaim Deed  
Survey Plat



**Exhibit B**  
to Quitclaim Deed  
*Legal Description*

SITUATE IN SECTION 8, TOWN 3, FRACTIONAL RANGE 2, CITY OF CINCINNATI, HAMILTON COUNTY, OHIO AND BEING PART OF THE RIGHT OF WAY OF BARTLE AVENUE OF HENRY T. MILLER SUBDIVISION AS RECORDED IN PLAT BOOK 1, PAGE 120 OF THE HAMILTON COUNTY, OHIO RECORDS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A SET CROSS NOTCH AT THE INTERSECTION OF THE EASTERLY RIGHT OF WAY OF BARTLE AVENUE WITH THE SOUTHERLY RIGHT OF WAY OF MARTIN LUTHER KING DRIVE; THENCE ALONG THE EASTERLY RIGHT OF WAY OF BARTLE AVENUE, SOUTH 06°24'05" WEST, 253.96 FEET TO THE SOUTHEAST TERMINUS OF BARTLE AVENUE; BEING WITNESSED BY AN EXISTING MAG NAIL WHICH IS 0.33 FEET WEST; THENCE ALONG THE SOUTHERLY TERMINUS OF BARTLE AVENUE, NORTH 84°01'55" WEST, 30.00 FEET TO THE SOUTHWEST TERMINUS OF BARTLE AVENUE, BEING WITNESSED BY AN EXISTING 5/8" IRON PIN WHICH IS 0.21 FEET SOUTH AND 1.03 FEET WEST; THENCE ALONG THE WESTERLY RIGHT OF WAY OF BARTLE AVENUE, NORTH 06°24'05" EAST, 254.08 FEET TO A SET 5/8" IRON PIN AND CAP (#7862) AT THE INTERSECTION OF THE SOUTHERLY RIGHT OF WAY OF MARTIN LUTHER KING DRIVE WITH THE WESTERLY RIGHT OF WAY OF BARTLE AVENUE; THENCE ALONG THE SOUTHERLY RIGHT OF WAY OF MARTIN LUTHER KING DRIVE, SOUTH 83°48'19" EAST, 30.00 FEET TO THE PLACE OF BEGINNING.

THUS CONTAINING 0.1749 ACRES OF LAND AND BEING SUBJECT TO ALL EASEMENTS AND RESTRICTIONS OF RECORD.

BEARINGS USED IN THIS LEGAL DESCRIPTION ARE RELATIVE TO OHIO DEPARTMENT OF TRANSPORTATION RIGHT OF WAY PLAN, HAM-17-3.81.

BEING THE RESULT OF A SURVEY AND PLAT DATED 6/12/18 MADE BY STEPHEN L. CAHILL, PLS OF ABERCROMBIE & ASSOCIATES, INC, OHIO REGISTERED SURVEYOR #7862.



**Exhibit C**  
to Property Sale Agreement  
*Attorney Certificate of Title*

**ATTORNEY'S CERTIFICATE OF TITLE**  
(purchase of public right-of-way)


Uptown Transportation Authority, LLC ("Petitioner"), whose address is 619 Oak Street, Suite 1100, Cincinnati, Ohio 45206, has requested to purchase the public right-of-way known as Bartle Avenue as located between Martin Luther King Drive and Tax Parcels 091-0001-0132 and 091-0002-0177 and as more particularly described in Exhibit A hereto (the "Property").

NAME OF ABUTTING OWNER	Parcel(s) owned (address/parcel ID no.)
Uptown Transportation Authority	106-0001-0155-00
Uptown Transportation Authority	106-0001-0262-00
Uptown Transportation Authority	106-0001-0159-00
Uptown Transportation Authority	091-0002-0206-00
Uptown Transportation Authority	091-0001-0132-00
Uptown Transportation Authority	091-0002-0177-00

Cincinnati, Ohio

October 19, 2020

I, the undersigned attorney at law, practicing in Hamilton County, Ohio hereby certify that the above Petitioner(s) and the above listed owner(s) is/are all of the owner(s) of the land abutting on the Property.

  
Andrew D. Graf  
Attorney at Law

Ohio Attorney Registration No. 0068608

**Bartle Street Abutting Property Owners**

Street	Owner	Parcel
515 Melish Ave	Uptown Transportation Authority (UTA)	106-0001-0155-00
3041 Reading Road	Uptown Transportation Authority (UTA)	106-0001-0262-00
3035 Reading Road	Uptown Transportation Authority (UTA)	106-0001-0159-00
Reading Road	Uptown Transportation Authority (UTA)	091-0002-0206-00
Bartle Street	Uptown Transportation Authority (UTA)	091-0001-0132-00
Bartle Street	Uptown Transportation Authority (UTA)	091-0002-0177-00

March 31, 2021

To: Mayor and Members of City Council 202101232  
From: Paula Boggs Muething, City Manager  
Subject: **CRA TAX EXEMPTION AGREEMENT FOR 17E-FIFTEEN LLC**

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Attached is an Emergency Ordinance captioned as follows:

**APPROVING AND AUTHORIZING** the City Manager to execute a *Community Reinvestment Area Tax Exemption Agreement* with 17E-Fifteen LLC, thereby authorizing an 8-year tax exemption for 100% of the value of improvements made to real property located at 17 E. 15th Street in the Over-the-Rhine neighborhood of Cincinnati, in connection with the remodeling of an existing building into approximately 3,576 square feet of residential space, consisting of 6 residential rental units, at a total construction cost of approximately \$300,000.

### **BACKGROUND/CURRENT CONDITIONS**

17E-Fifteen, LLC owns and intends to renovate the residential property located at 17 E 15th Street in Over-the-Rhine, just south of Liberty Street, between Vine and Walnut Streets. The property has long been vacant, and the existing condition has put the building at great risk. Full stabilization and a gut renovation will be required to make the building habitable once again.

### **DEVELOPER INFORMATION**

17E-Fifteen LLC is a limited liability corporation operated by Amparo Beltri, an individual developer. Ms. Beltri has done at least one other historic rehab in Over-the-Rhine prior to this project, at 1540 Elm Street.

### **PROJECT DESCRIPTION**

The Developer is proposing a stabilization and gut renovation of the four-story, 3,576 sq ft historic property located at 17 E 15th Street to include six (6) market-rate one-bedroom, one-bathroom residential rental units. Rents will be on average \$1,000 per month. Total project cost is estimated to be \$609,368, with construction cost estimated to be \$300,000. The project is estimated to take seven months to complete

and will support the creation of 30 temporary construction jobs with a total payroll of \$200,000. The developer intends to commence construction in April 2021.

### **PROPOSED INCENTIVE**

DCED is recommending an eight-year net 52% CRA tax exemption. The exemption applies only to the increase in improvement value attributed to the renovation.

Pursuant to the Commercial CRA policy established by City Council, this project is located in the Streetcar VTICA Area and is therefore subject to analysis based on project underwriting, VTICA contribution, and job creation to determine abatement terms. The project merits an eight-year net 52% CRA Tax Abatement based on the following criteria:

- Net 15% Streetcar VTICA contribution totals \$6,685 over eight years
- Project will create 30 temporary construction jobs with a total payroll of \$200,000
- Project provides a \$1.59 return for each dollar of City investment

<b>SUMMARY</b>	
<b>Incentive Value</b>	
Annual Net Abatement (Savings to Developer)	\$2,897
<b>Total Term Net Abatement (Savings to Developer)</b>	<b>\$23,175</b>
<b>City's Portion of Property Taxes Forgone</b>	<b>\$5,752</b>
<b>Public Benefit</b>	
CPS PILOT	
Annual CPS Pilot	\$1,838
<b>Total Term CPS PILOT</b>	<b>\$14,707</b>
VTICA	
Annual VTICA	\$836
<b>Total Term VTICA PILOT</b>	<b>\$6,685</b>
Income Tax (Max)	<b>\$2,450</b>
New Permanent Jobs	0
<b>Total Public Benefit (CPS PILOT/VTICA PILOT/Income Tax)</b>	<b>\$23,842</b>
Total Public Benefit ROI	\$1.03
City's ROI	\$1.59

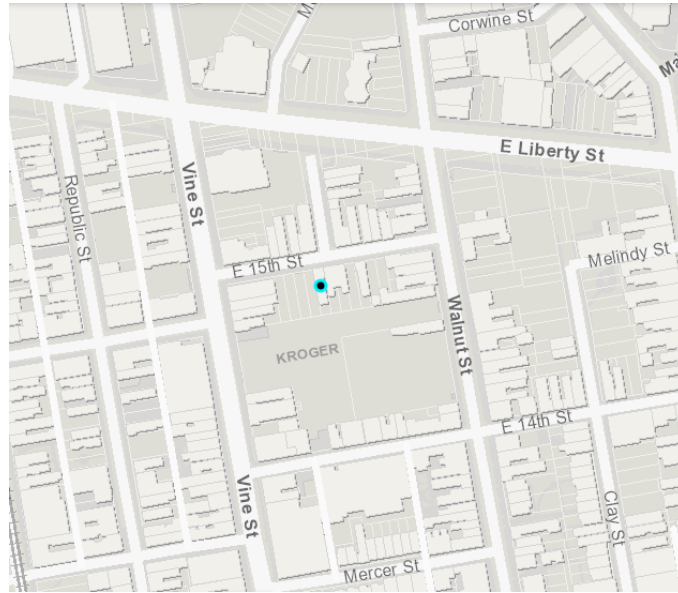
**RECOMMENDATION**

The Administration recommends approval of this Emergency Ordinance.

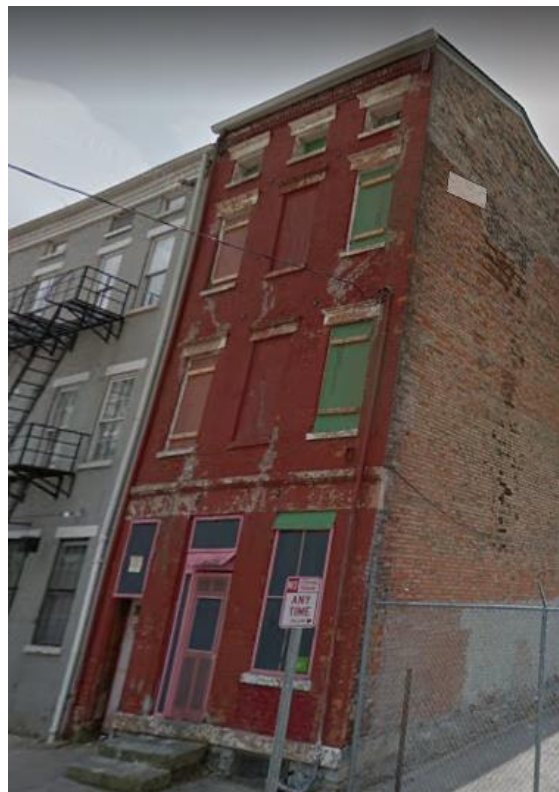
Attachment: A. Property location and photographs

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

**Attachment A: Location and Photographs**



*Property Location*



*17 E 15<sup>th</sup> Street*

EMERGENCY

JML

City of Cincinnati

AWG/ESW

An Ordinance No. \_\_\_\_\_ - 2021

**APPROVING AND AUTHORIZING** the City Manager to execute a *Community Reinvestment Area Tax Exemption Agreement* with 17E-Fifteen LLC, thereby authorizing an 8-year tax exemption for 100% of the value of improvements made to real property located at 17 E. 15th Street in the Over-the-Rhine neighborhood of Cincinnati, in connection with the remodeling of the existing building into approximately 3,576 square feet of residential space, consisting of 6 residential rental units, at a total construction cost of approximately \$300,000.

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

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

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

WHEREAS, 17E-Fifteen LLC (the “Company”) desires to remodel an existing building located on real property at 17 E. 15th Street located within the corporate boundaries of the City of Cincinnati into approximately 3,576 square feet of residential space, consisting of 6 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% of Community Reinvestment Area projects, waived advance notice and the right to review

such projects, and waived sharing or allocation of municipal income taxes in connection with such projects; and

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

WHEREAS, the Company has represented that it has entered into (or will enter into) a voluntary tax incentive contribution agreement with a third-party organization for amounts equal to 15% of the exempt real property taxes, which funds shall be committed by the third-party organization to pay for streetcar operations that specially benefit the property; and

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

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

Section 1. That Council approves a *Community Reinvestment Area Tax Exemption Agreement* with 17E-Fifteen LLC (the "Agreement"), thereby authorizing an 8-year tax exemption for 100% of the assessed value of improvements to be made to real property located at 17 E. 15th Street in Cincinnati, as calculated by the Hamilton County Auditor, in connection with the remodeling of the existing building into approximately 3,576 square feet of residential space, consisting of 6 residential rental units, to be completed at a total construction cost of approximately \$300,000.

Section 2. That Council authorizes the City Manager:

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

- (iv) to take all necessary and proper actions to fulfill the City's obligations under the Agreement.

Section 3. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to allow the 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: \_\_\_\_\_, 2021

\_\_\_\_\_  
John Cranley, Mayor

Attest: \_\_\_\_\_  
Clerk



**Attachment A to Ordinance**

**CRA Tax Exemption Agreement**

**SEE ATTACHED**

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 17E-FIFTEEN 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 (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 17 East Fifteenth 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 the building 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 four or more dwelling units, in order to be eligible for tax exemption the City and the Company must enter into an agreement pursuant to Ohio Revised Code Section 3735.671 prior to commencement of construction or remodeling.
- G. The City, having appropriate authority under the Statute for this type of project, agrees (as provided herein and subject to all conditions herein) to provide the Company with the tax exemption incentives stated herein, available under the Statute, for development of the Project.
- H. The Company has submitted to the City an application for this tax exemption agreement (the "Application"), a copy of which is attached hereto as Exhibit B, has remitted with the Application (i) the City application fee of One Thousand Two Hundred Fifty Dollars (\$1,250) made payable to

the City and (ii) in accordance with Ohio Revised Code Section 3735.672(C), the state application fee of Seven Hundred Fifty Dollars (\$750) made payable to the Ohio Development Services Agency ("ODSA"), to be forwarded to the ODSA with an executed copy of this Agreement.

- I. The Director of the City's Department of Community and Economic Development has recommended approval of the Application on the basis that the Company is qualified by financial responsibility and business experience to create and preserve employment opportunities and improve the economic climate of the City.
- J. The Board of Education of the Cincinnati City School District (the "Board of Education"), pursuant to that certain *Tax Incentive Agreement* effective as of April 28, 2020, has approved exemptions of up to one hundred percent (100%) of Community Reinvestment Area projects, waived advance notice and right to review such projects, and waived sharing or allocation of municipal income taxes in connection with such projects.
- K. The Company has entered into (or will enter into) an agreement with the Board of Education requiring the Company to pay the Board of Education amounts equal to thirty-three percent (33%) of the full amount of exempt real property taxes that would have been paid to Hamilton County if this Agreement were not in effect (the "Board of Education Agreement").
- L. The Company represents and warrants to the City that the Company and its major tenants, if any, do not intend to relocate part or all of their operations to the City from another county or municipal corporation in the State of Ohio (the "State").
- M. The Company represents that within the past five (5) years neither the Company, any related member of the Company, nor any entity to which the Company is a successor has discontinued operations at a project site in the State during the term of a property tax exemption agreement (under Ohio Revised Code Section 3735.671, 5709.62, 5709.63 or 5709.632) applicable to that site, and the Company acknowledges that misrepresentation hereunder will result in voiding of this Agreement.
- N. The Company represents and warrants to the City that the Company is not subject to an Enterprise Zone Agreement with the City of Cincinnati for the Property or the Project.
- O. 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 pay for streetcar operations that specially benefit 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. The Company acknowledges that Streetcar operations in the Central Business District and Over-the-Rhine 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.
- Q. 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.

- R. This Agreement has been authorized by Ordinance No. \_\_\_\_\_-2021, passed by Cincinnati City Council on \_\_\_\_\_, 2021.
- S. 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 building on the Property to include approximately 3,576 square feet of residential improvements, consisting of six residential units (the "Improvements"), at an estimated aggregate cost of \$300,000.00, to commence after the execution of this Agreement and to be completed no later than December 31, 2021; *provided*, however, that the Director of the Department of Community and Economic Development (the "Housing Officer") may, in his discretion, extend such deadline for a period of up to 12 months by written notice if, in the Director's judgment, the Company is proceeding in good faith towards completion. The remodeling 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 eight (8) 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 2022 nor extend beyond the earlier of (i) tax year 2029 or (ii) the end of the eighth (8<sup>th</sup>) year of exemption.

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

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

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

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

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

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

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

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

Section 11. Small Business Enterprise Program.

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

- (i) Including qualified SBEs on solicitation lists.
- (ii) Assuring that SBEs are solicited whenever they are potential sources.

The Company must advertise, on at least two separate occasions, both in local minority publications and in other local newspapers of general circulation, invitations to SBEs to provide services, to supply materials, or to bid on construction contracts, as applicable.

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

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

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

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

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

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

Section 13. Job Creation and Retention.

A. Jobs to be Created by Company. The Company agrees to use its best efforts to create 30 full-time temporary construction jobs at the Property in connection with the Project. The job creation and retention period shall be concurrent with remodeling.

B. Company's Estimated Payroll Increase. The Company's increase in the number of employees will result in approximately \$200,000.00 of additional annual payroll prior to the completion of the Project with respect to the full-time temporary construction jobs.

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

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

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

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

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

mortgage lien on real property. Amounts due and not paid when due under this Section 16 shall bear interest at the rate specified in Ohio Revised Code Section 1343.03(A) (as in effect on the date of the City's payment demand).

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

Section 18. Revocation.

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

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

Section 19. False Statements; Penalties; Material Representations.

A. Generally. As required in connection with Ohio Revised Code Section 9.66(C), the Company affirmatively covenants that it has made no false statements to the State or the City in the process of obtaining approval for this Agreement. If any representative of the Company has knowingly made a false statement to the State or the City to obtain approval for this Agreement, or if the Company fails to provide any information expressly required under the Application, the Company shall be required to immediately return all benefits received under this Agreement (by payment of the amount of taxes exempted hereunder, paid as directed by the City within thirty (30) days of written demand) and the Company shall be ineligible for any future economic development assistance from the State, any State agency or any political subdivision of the State pursuant to Ohio Revised Code Section 9.66(C)(1). Amounts due and not paid under this Section 19 shall bear interest at the rate of twelve percent (12%) per year. Any person who



provides a false statement to secure economic development assistance (as defined in Ohio Revised Code Section 9.66) may be guilty of falsification, a misdemeanor of the first degree, pursuant to Ohio Revised Code Section 2921.13(F)(1), which is punishable by fine of not more than One Thousand Dollars (\$1,000) and/or a term of imprisonment of not more than six (6) months.

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

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

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

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

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

To the City:

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

To the Company:

17E-FIFTEEN LLC  
Attention: Amparo Beltri Orta, Member  
1540 Elm St.  
Cincinnati, Ohio 45202

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

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

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

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

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

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

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

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

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

Section 32. Legislative Action Required. As provided in Ohio Revised Code Section 3735.671(C)(10), the Company and the City acknowledge that this Agreement must be approved by formal action of the City Council of the City as a condition for this Agreement to take effect.

Notwithstanding anything to the contrary herein, this Agreement shall take effect after the later of the date of such approval or the final date of execution of this Agreement by all parties.

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

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

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

Section 36. Wage Enforcement.

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

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

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

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

(c) If this contract is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this contract is required to authorize, and

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

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

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

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

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

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

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

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

CITY OF CINCINNATI,  
an Ohio municipal corporation

17E-FIFTEEN LLC,  
an Ohio limited liability Company

By: \_\_\_\_\_  
Paula Boggs Muething, City Manager

Date: \_\_\_\_\_, 2021

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_, 2021

Authorized by resolution dated \_\_\_\_\_

Approved as to Form:

\_\_\_\_\_  
Assistant City Solicitor

Certified Date: \_\_\_\_\_

Fund/Code: \_\_\_\_\_

Amount: \_\_\_\_\_

By: \_\_\_\_\_  
Karen Alder, City Finance Director

**Exhibit A to CRA Agreement**

**LEGAL DESCRIPTION OF PROPERTY**

**Situated in the County of Hamilton, in the State of Ohio and in the City of Cincinnati:**

**Being Lot Number 60 of Hugh Moore's Subdivision, a Plat of which is recorded in Plat Book 2, Pages 184 and 185 of the Hamilton County, Ohio Records, said premises fronting 20 feet on the south side of East Fifteenth Street (formerly Mary Street) and having a depth of 90 feet, and lying 170 feet east of Vine Street.**

**Commonly known as: 17 East 15<sup>th</sup> Street, Cincinnati, OH-45202  
Hamilton County  
Parcel ID 080-0001-0069-00 st**

**Prior Instrument Reference: O.R 10968, Page 532 Deed Records of Hamilton County, OHIO.**

**Exhibit B to CRA Agreement**  
**APPLICATION FOR TAX EXEMPTION**  
**TO BE ATTACHED**

## 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 17E-FIFTEEN 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 (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 17 East Fifteenth 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 the building 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 four or more dwelling units, in order to be eligible for tax exemption the City and the Company must enter into an agreement pursuant to Ohio Revised Code Section 3735.671 prior to commencement of construction or remodeling.
- G. The City, having appropriate authority under the Statute for this type of project, agrees (as provided herein and subject to all conditions herein) to provide the Company with the tax exemption incentives stated herein, available under the Statute, for development of the Project.
- H. The Company has submitted to the City an application for this tax exemption agreement (the "Application"), a copy of which is attached hereto as Exhibit B, has remitted with the Application (i) the City application fee of One Thousand Two Hundred Fifty Dollars (\$1,250) made payable to



the City and (ii) in accordance with Ohio Revised Code Section 3735.672(C), the state application fee of Seven Hundred Fifty Dollars (\$750) made payable to the Ohio Development Services Agency ("ODSA"), to be forwarded to the ODSA with an executed copy of this Agreement.

- I. The Director of the City's Department of Community and Economic Development has recommended approval of the Application on the basis that the Company is qualified by financial responsibility and business experience to create and preserve employment opportunities and improve the economic climate of the City.
- J. The Board of Education of the Cincinnati City School District (the "Board of Education"), pursuant to that certain *Tax Incentive Agreement* effective as of April 28, 2020, has approved exemptions of up to one hundred percent (100%) of Community Reinvestment Area projects, waived advance notice and right to review such projects, and waived sharing or allocation of municipal income taxes in connection with such projects.
- K. The Company has entered into (or will enter into) an agreement with the Board of Education requiring the Company to pay the Board of Education amounts equal to thirty-three percent (33%) of the full amount of exempt real property taxes that would have been paid to Hamilton County if this Agreement were not in effect (the "Board of Education Agreement").
- L. The Company represents and warrants to the City that the Company and its major tenants, if any, do not intend to relocate part or all of their operations to the City from another county or municipal corporation in the State of Ohio (the "State").
- M. The Company represents that within the past five (5) years neither the Company, any related member of the Company, nor any entity to which the Company is a successor has discontinued operations at a project site in the State during the term of a property tax exemption agreement (under Ohio Revised Code Section 3735.671, 5709.62, 5709.63 or 5709.632) applicable to that site, and the Company acknowledges that misrepresentation hereunder will result in voiding of this Agreement.
- N. The Company represents and warrants to the City that the Company is not subject to an Enterprise Zone Agreement with the City of Cincinnati for the Property or the Project.
- O. 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 pay for streetcar operations that specially benefit 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. The Company acknowledges that Streetcar operations in the Central Business District and Over-the-Rhine 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.
- Q. 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.

- R. This Agreement has been authorized by Ordinance No. \_\_\_\_\_-2021, passed by Cincinnati City Council on \_\_\_\_\_, 2021.
- S. 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 building on the Property to include approximately 3,576 square feet of residential improvements, consisting of six residential units (the "Improvements"), at an estimated aggregate cost of \$300,000.00, to commence after the execution of this Agreement and to be completed no later than December 31, 2021; *provided*, however, that the Director of the Department of Community and Economic Development (the "Housing Officer") may, in his discretion, extend such deadline for a period of up to 12 months by written notice if, in the Director's judgment, the Company is proceeding in good faith towards completion. The remodeling 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 eight (8) 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 2022 nor extend beyond the earlier of (i) tax year 2029 or (ii) the end of the eighth (8<sup>th</sup>) year of exemption.

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

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

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

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

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

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

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

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

Section 11. Small Business Enterprise Program.

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

(i) Including qualified SBEs on solicitation lists.

(ii) Assuring that SBEs are solicited whenever they are potential sources.

The Company must advertise, on at least two separate occasions, both in local minority publications and in other local newspapers of general circulation, invitations to SBEs to provide services, to supply materials, or to bid on construction contracts, as applicable.

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

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

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

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

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

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

Section 13. Job Creation and Retention.

A. Jobs to be Created by Company. The Company agrees to use its best efforts to create 30 full-time temporary construction jobs at the Property in connection with the Project. The job creation and retention period shall be concurrent with remodeling.

B. Company's Estimated Payroll Increase. The Company's increase in the number of employees will result in approximately \$200,000.00 of additional annual payroll prior to the completion of the Project with respect to the full-time temporary construction jobs.

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

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

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

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

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

mortgage lien on real property. Amounts due and not paid when due under this Section 16 shall bear interest at the rate specified in Ohio Revised Code Section 1343.03(A) (as in effect on the date of the City's payment demand).

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

Section 18. Revocation.

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

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

Section 19. False Statements; Penalties; Material Representations.

A. Generally. As required in connection with Ohio Revised Code Section 9.66(C), the Company affirmatively covenants that it has made no false statements to the State or the City in the process of obtaining approval for this Agreement. If any representative of the Company has knowingly made a false statement to the State or the City to obtain approval for this Agreement, or if the Company fails to provide any information expressly required under the Application, the Company shall be required to immediately return all benefits received under this Agreement (by payment of the amount of taxes exempted hereunder, paid as directed by the City within thirty (30) days of written demand) and the Company shall be ineligible for any future economic development assistance from the State, any State agency or any political subdivision of the State pursuant to Ohio Revised Code Section 9.66(C)(1). Amounts due and not paid under this Section 19 shall bear interest at the rate of twelve percent (12%) per year. Any person who

provides a false statement to secure economic development assistance (as defined in Ohio Revised Code Section 9.66) may be guilty of falsification, a misdemeanor of the first degree, pursuant to Ohio Revised Code Section 2921.13(F)(1), which is punishable by fine of not more than One Thousand Dollars (\$1,000) and/or a term of imprisonment of not more than six (6) months.

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

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

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

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

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

To the City:

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

To the Company:

17E-FIFTEEN LLC  
Attention: Amparo Beltri Orta, Member  
1540 Elm St.  
Cincinnati, Ohio 45202

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

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

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

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

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

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

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

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

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

Section 32. Legislative Action Required. As provided in Ohio Revised Code Section 3735.671(C)(10), the Company and the City acknowledge that this Agreement must be approved by formal action of the City Council of the City as a condition for this Agreement to take effect.



Notwithstanding anything to the contrary herein, this Agreement shall take effect after the later of the date of such approval or the final date of execution of this Agreement by all parties.

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

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

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

Section 36. Wage Enforcement.

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

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

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

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

(c) If this contract is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this contract is required to authorize, and

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

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

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

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

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

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

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

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

CITY OF CINCINNATI,  
an Ohio municipal corporation

17E-FIFTEEN LLC,  
an Ohio limited liability Company

By: \_\_\_\_\_  
Paula Boggs Muething, City Manager

By: \_\_\_\_\_

Date: \_\_\_\_\_, 2021

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_, 2021

Authorized by resolution dated \_\_\_\_\_

Approved as to Form:

\_\_\_\_\_  
Assistant City Solicitor

Certified Date: \_\_\_\_\_

Fund/Code: \_\_\_\_\_

Amount: \_\_\_\_\_

By: \_\_\_\_\_  
Karen Alder, City Finance Director

**Exhibit A to CRA Agreement**

LEGAL DESCRIPTION OF PROPERTY

Situated in the County of Hamilton, in the State of Ohio and in the City of Cincinnati:

Being Lot Number 60 of Hugh Moore's Subdivision, a Plat of which is recorded in Plat Book 2, Pages 184 and 185 of the Hamilton County, Ohio Records, said premises fronting 20 feet on the south side of East Fifteenth Street (formerly Mary Street) and having a depth of 90 feet, and lying 170 feet east of Vine Street.

Commonly known as: 17 East 15<sup>th</sup> Street, Cincinnati, OH-45202

Hamilton County

Parcel ID 080-0001-0069-00 **st**

Prior Instrument Reference: O.R 10968, Page 532 Deed Records of Hamilton County, OHIO.

**Exhibit B to CRA Agreement**  
APPLICATION FOR TAX EXEMPTION  
TO BE ATTACHED

Date: March 31, 2021

202101233

To: Mayor and Members of City Council

From: Paula Boggs Muething, City Manager

Subject: LEGISLATIVE RESOLUTION – DECLARING THE NECESSITY OF ASSESSING PROPERTIES FOR SPECIAL STREETLIGHTING IN GROUP 1 RESIDENTIAL DISTRICT (2020-2023)

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Attached is a legislative resolution captioned as follows:

DECLARING the necessity of assessing properties in Lighting Group 1 that benefit from special street lighting within the City of Cincinnati for the cost of such lighting for the three-year period beginning August 1, 2020.

The Assessed Street Lighting program allows property owners to pay the added costs for enhanced or increased street lighting services. The Assessed Street Lighting program is divided into three groups; each group is assessed for a three-year period with one group being renewed each year. The groups are classified by the category of lighting and divided into individual districts usually consisting of a street segment.

- Group 1 consists of residential streets lighted by boulevard lights on decorative poles with underground wiring formerly owned by Duke Energy and now owned and maintained by the City.
- Group 2 consists of streets within the central business district. There are various types of lighting within this area, most of which is owned and maintained by the City.
- Group 3 is an assortment of lights and streets not included in Group 1 and Group 2. Included in this group are neighborhood business districts and new residential developments. The ownership and maintenance responsibility for the lighting in these areas is divided between Duke Energy and the City.

The lighting for Group 1 consists of 863 streetlights of various types and wattage's installed on boulevard poles. The estimated total assessment for Group 1 is \$374,944.89 for the three-year assessment period. The City pays for a portion of the total street lighting costs that are relatively equivalent to what is normally provided from City funds on non-assessed streets. This lighting credit, the City's share of the cost of this lighting, for Group 1 varies from \$0.33 to \$2.00 per foot for the period and is determined by the street classification. On streets that have both standard lighting and special lighting, a 2% credit to the total operating and maintenance costs is applied instead. The City also pays the assessments associated with lighting intersections and city, federal, and state property contained within an assessment district.

The annual assessment renewal process has four major steps, which require action by City Council.

- A Resolution of Necessity is prepared by the Law Department and submitted for passage.
- After Council passes the Resolution of Necessity, all property owners who will be assessed more than \$250.00 for the three-year period are notified and given an opportunity to object to the proposed assessment.
- After all objections to the proposed assessment have been addressed, an Ordinance Determining to Proceed is prepared by the Law Department and submitted for passage.
- Immediately following the Ordinance Determining to Proceed, an Assessing Ordinance is prepared and submitted.

The Administration recommends the passage of this legislative resolution.

Attachment I – Exhibit A, Summary of Group 1 Lighting Assessments by Street

cc: John Brazina, Director, Transportation and Engineering  
Greg Long, Deputy Director, Transportation and Engineering  
Curtis Hines, Transportation and Engineering  
Kimberly Jackson, Transportation and Engineering

*John B*

# Legislative Resolution

JRS

AWG/EESW

RESOLUTION NO. \_\_\_\_\_ - 2021

**DECLARING** the necessity of assessing properties in Lighting Group 1 that benefit from special street lighting within the City of Cincinnati for the cost of such lighting for the three-year period beginning August 1, 2020.

WHEREAS, R.C. Chapter 727 authorizes the City to levy and collect special assessments for the cost of special street lighting upon abutting, adjacent, contiguous, or specially benefitted lots or lands within the City; and

WHEREAS, Council has determined that properties abutting, adjacent, and contiguous to the streets or portions of streets identified on the attached Exhibit A specially benefit from the special street lighting thereon; now, therefore,

BE IT RESOLVED by the Council of the City of Cincinnati, State of Ohio, three-fourths of the members elected thereto concurring:

Section 1. That it is hereby declared necessary and conducive to the public health, safety, convenience, and general welfare to assess properties in Lighting Group 1 on the streets set forth in Exhibit A attached hereto that benefit from special street lighting, which assessments shall be for such properties' share of the cost of such lighting during the three-year period commencing on August 1, 2020.

Section 2. That the plans, specifications, and cost estimates corresponding to the proposed assessments are on file in the Clerk of Council's office, incorporated herein by reference, and hereby approved.

Section 3. That the City of Cincinnati shall pay from \$0.33 to \$2.00 per front foot for the City's share of the cost of the special lighting subject to the proposed assessment, depending on the street classification, which is equivalent to the estimated cost of lighting the streets to standard level street lighting and is greater than two percent of the total cost of the special street lighting.



Section 4. The balance of the cost shall be assessed by the front-foot method upon all lots and lands that specially benefit from the lighting, except public right-of-way bounding and abutting upon the street or portions thereof and lands owned by the federal or state government.

Section 5. That all properties along the portions of right of way listed on Exhibit A are found to be specially benefited by the special street lighting.

Section 6. That the assessments shall be paid in cash to the City Treasurer within 30 days after the passage of the assessing ordinance or, at the option of the property owner, in three annual installments with interest payable to the City; and that assessments not paid in cash within the 30-day period shall be certified to the County Auditor for collection by the County Treasurer in the same manner as real estate taxes are collected.

Section 7. That the City Manager or her designee shall prepare, in accordance with the method of assessment set forth in Sections 3 and 4 hereof, an estimate of the amount of the assessment against each lot or parcel to be assessed and shall file it in the Office of the Clerk of Council.

Section 8. That the Clerk of Council or a person designated by the Clerk shall serve notice of the passage of this resolution upon the owners of the parcels of land to be assessed by one of the methods authorized by R.C. 727.14, unless the estimate against an owner is over two hundred fifty dollars in which case such owner shall be notified by one of the methods authorized by R.C. 727.13. In addition, notice of the passage of this resolution shall be provided via advertisement in the City Bulletin pursuant to Article II, Section 6 of the City Charter.

Section 9. That the portion of the cost of any uncollectible assessments of federal, state, or City property shall be paid by the City out of a fund provided for this purpose.

Section 10. That notes and bonds of the City of Cincinnati may be issued in anticipation of the levy and collection of the special assessments.

Section 11. That this legislative resolution shall take effect and be in force from and after the earliest period allowed by law.

Passed: \_\_\_\_\_, 2021

\_\_\_\_\_  
John Cranley, Mayor

Attest: \_\_\_\_\_  
Clerk

**EXHIBIT A**

<u>Dist #</u>	<u>Street</u>	<u>Limits</u>	<u>Number of Lights</u>	<u>Proposed Rate per Front Foot per Year</u>	<u>Total Assessment</u>
1	ANDINA AVENUE	from the east line of Reading Road to the west line of Rhode Island Avenue	18	\$0.57	\$7,511.38
2	AVONLEA AVENUE	from the east line of Reading Road to the west line of Rhode Island Avenue	19	\$0.58	\$7,952.21
3	BAYARD AVENUE	from the north line of Erie Avenue to the south line of Victoria Avenue	18	\$0.57	\$7,736.13
4	BEAVERTON AVENUE	from the west line of Parkdale Avenue to approx. 487.41' west of west line of Elmshade Avenue	11	\$0.67	\$4,837.99
5	BEECHVIEW CIRCLE	from the south line of Montgomery Road to Rogers Park Place & to the south line of Beech View Subdivision	12	\$0.47	\$4,990.54
6	BELLA VISTA	from the east line of Reading Road to its east terminus	6	\$0.75	\$2,680.21
7	BELLEWOOD AVENUE	from the west line of Ridge Avenue to the east line of Lester Road	9	\$0.60	\$3,894.55
8	BERKLEY AVENUE	from the west line of Rhode Island Avenue to the east line of Reading Road	18	\$0.55	\$7,677.24
9	CASTELTON PLACE	from 140' south of the south line of Northwood Drive to its north terminus	8	\$0.66	\$3,509.13
10	CATALINA AVENUE	from the west line of Rhode Island Avenue to its west terminus	21	\$0.65	\$9,196.17
11	CHALFONTE PLACE	from the west line of Reading Road to its west terminus	6	\$0.63	\$2,614.11
12	CHEYENNE DRIVE	from the south line of Towanda Terrace to the west line of Maketewah View Subdivision	7	\$0.60	\$2,949.03
13	CLIFTON AVENUE	E.S. from the north line of Mc Millian Street to to the north line of Calhoun Street and from the south line of M. L. King Drive to 855' south of the south line of Ludlow Avenue. W.S. from the north line of Mc Millian Street to the south line of Dixmyth	68	\$1.55	\$34,136.34
14	CLIFTON AVENUE	from the south line of Ludlow Ave.: to 855' south of the south line of Ludlow Avenue E.S. the south line of Dixmyth Avenue W.S.	13	\$1.06	\$5,518.71
15	CLIFTON AVENUE	from the north line of Ludlow Avenue to the south line of Lafayette Avenue	38	\$0.46	\$13,203.83
16	CORONADO AVENUE	from the north line of Zula Avenue to the south line of Cleves Pike	17	\$0.80	\$7,657.82
17	CORVALLIS AVENUE	from the west line of Parkdale Avenue to approx. 466.92' west of the west line of Elmshade Avenue	11	\$0.61	\$4,774.08
18	COVEDALE AVENUE	from the north line of Cleves Pike to the south line of Sidney Road	15	\$0.64	\$6,556.46
19	EILEEN DRIVE	from the north line of Madison Road to the south line of Markbrite Avenue	10	\$0.68	\$4,406.65

<u>Dist #</u>	<u>Street</u>	<u>Limits</u>	<u>Number of Lights</u>	<u>Proposed Rate per Front Foot per Year</u>	<u>Total Assessment</u>
20	EPWORTH AVENUE	from the north line of Werk Road to the south line of Ramona Avenue	9	\$0.80	\$4,052.03
21	EUGENIE LANE	from the east line of Werk Road to the west line of LaFeuille Avenue	11	\$0.60	\$4,633.94
22	FAR HILLS DRIVE	Michigan Avenue, south and around Michigan Avenue	10	\$0.56	\$4,165.93
23	FENMORE DRIVE	from the west line of Paddock Road to the east line of Coad Drive	6	\$0.76	\$2,684.10
24	GARDEN LANE	from the west line of Rhode Island Avenue to the west terminus	14	\$0.57	\$6,114.71
25	GRAFTON AVENUE	from the north line of Dale Road to the north line of 5438 Grafton Avenue	13	\$0.54	\$5,526.91
26	GREENLAND PLACE	from the north line of Northwood Drive to 163 feet south of the south line of Miramar Court	6	\$0.65	\$2,629.16
27	HANSFORD PLACE	from the south line of Harrison Ave to the south terminus	8	\$0.69	\$3,533.43
28	HAYWARD AVENUE	from the south line of Principio Avenue to the north line of Arnold Street	12	\$0.69	\$5,299.41
29	JOHNSTONE PLACE	from the south line of Madison Road to the south terminus	8	\$0.64	\$3,498.04
30	KELLYWOOD AVENUE	from the north line of Guerley Road to the north terminus	10	\$0.64	\$4,367.02
31	KENOVA AVENUE	from the west line of Reading Road to a point approximately 1500' west of Reading Road	13	\$0.63	\$5,662.77
32	LACONIA AVENUE	from the north line of Dale Road to the north terminus	13	\$0.59	\$5,618.52
33	LAKELAND AVENUE	from the west line of Parkdale Avenue to approximately 505.08 feet west of Elmshade Avenue	10	\$0.67	\$4,403.15
34	LARRY AVENUE	from the east line of Hamilton Avenue to the east terminus	9	\$0.64	\$3,937.48
35	LAWN AVENUE	from the west line of Rhode Island Avenue to the west terminus	16	\$0.58	\$6,882.56
36	LILLIAN DRIVE	from the north line of Dale Road to the north terminus	10	\$0.61	\$4,343.95
37	LUDLOW AVENUE	from the south line of LaFayette Avenue to the west line of Whitfield Avenue	37	\$0.65	\$14,150.19
38	MANOR HILL DRIVE	from the north line of Ludlow Avenue to the north terminus	8	\$0.50	\$3,268.15
39	MARLINGTON AVENUE	from the east line of Westgate Avenue to the west line of Middlebrook Avenue from the south line of Marlinton Avenue to the north line of Downing Avenue	10	\$0.75	\$4,468.06
40	SOUTH CLEROSE CIRCLE	from the east line of Rosemont Avenue to the east line of Rosemont Avenue	12	\$0.65	\$5,255.35
41	NORTHAMPTON DRIVE	from the east line of Reading Road to the east terminus	5	\$0.64	\$2,187.63

<u>Dist #</u>	<u>Street</u>	<u>Limits</u>	<u>Number of Lights</u>	<u>Proposed Rate per Front Foot per Year</u>	<u>Total Assessment</u>
42	NORTHCUTT AVENUE	from the east line of Reading Road to the west line of Rhode Island Avenue	18	\$0.58	\$7,888.48
43	NORTHWOOD DRIVE	from 150 feet west of Reading Road to the east line of Castleton Place	11	\$0.61	\$4,771.39
44	ORCHARD LANE	the north line of Montgomery Road to approx. 1800' north of Montgomery Road	14	\$0.57	\$6,017.18
45	PORTSMOUTH AVENUE	the east line of Paxton Avenue to the north line of Victoria Avenue	26	\$0.65	\$11,387.28
46	RAWSON WOODS LANE	the west line of Middleton Avenue to the west terminus Rawson Woods Lane Rawson Woods Lane	7	\$0.27	\$2,560.48
47	RAYMAR DRIVE	from the south line of Victoria Avenue to the north line of Erie Avenue and the line of Raymar Drive	24	\$0.73	\$10,683.97
48	ROBINWOOD AVENUE	from from the north line of Kenova & the to west line of Scottwood to approximately 526.5' west of the west line of Elmshade Ave	13	\$0.71	\$5,763.99
49	ROOKWOOD DRIVE, EAST	from from the north line of Grandin Road to the north line of East Rookwood Drive from the east line of Rookwood Drive to the west line of Edwards Road from the east line of Rookwood Avenue to the south line of East Rookwood Drive	30	\$0.60	\$12,989.00
50	ROSECLIFF AVENUE	from from the west line of Reading Road to the east line of Parkdale Avenue	4	\$0.46	\$1,650.89
51	SCHULTE DRIVE	from from the north line of Cappel Drive north than east to the east terminus	10	\$0.68	\$4,408.44
52	SCOTTWOOD AVENUE	from from the south line of Shenandoah Avenue to the north line of Kenova Avenue	10	\$0.43	\$4,086.21
53	SHENANDOAH AVENUE	from from the west line of Reading Road to approximately 446.09' west of Elmshade Avenue	17	\$0.60	\$7,358.62
54	STRATFORD AVENUE	from the north line of DeVotie Avenue to the south line of Probasco Street	7	\$0.54	\$2,980.00
55	STRATFORD PLACE	from the east line of Paddock Road northeast to the northeast terminus	4	\$0.65	\$1,751.14
56	SUNCREST DRIVE	from the west line of Herschel Avenue to the north line of Griest Avenue	9	\$0.60	\$3,897.66
57	TOWANDA TERRACE	from the west line of Paddock Road to the west line of Maketwah View Subdivision	10	\$0.70	\$4,074.50
58	VICTORIA AVENUE	from the east line of Paxton Road to the west line of Erie Avenue	26	\$0.81	\$11,728.83

<u>Dist #</u>	<u>Street</u>	<u>Limits</u>	<u>Number of Lights</u>	<u>Proposed Rate per Front Foot per Year</u>	<u>Total Assessment</u>
59	WARWICK AVENUE	from the south line of Mitchell Avenue to the north line of Clinton Springs Avenue	11	\$0.63	\$4,661.30
60	WERKASTLE LANE	from the east line of Werk Road to the west line of Eugenie Lane	7	\$0.52	\$2,876.06
61	YORKSHIRE PLACE	from the north line of Northwood Drive to the north terminus	7	\$0.78	\$3,142.66
62	U OF C	East side of Clifton Calhoun to M. L. King	23	\$1.82	\$11,781.75
Count of Assemblies			<u>863</u>	Total Assessment:	<u>\$374,944.89</u>

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62	U OF C	East side of Clifton Calhoun to M. L. King	23	\$1.82	\$11,781.75
Count of Assemblies			<u>863</u>	Total Assessment:	<u>\$374,944.89</u>



**David S. Mann**  
*Councilmember*

March 30, 2021

## MOTION

I move for a report from the city administration evaluating the compliance with basic COVID precautions by this past weekend's attendees at the Banks DORA and what additional enforcement or education may be appropriate to minimize the risk that the DORA will become a major source of new COVID cases.

  
Councilmember David Mann

## STATEMENT

We all look forward to the day when we can move around mask free without social distancing. That moment is getting close, but we cannot risk causing a setback with a surge of new cases. Soon, just about everyone will be vaccinated and we can declare freedom from the COVID nightmare. In the meantime, the Health Commissioner and City Manager should review whether DORA rules should be modified temporarily.