



# City of Cincinnati

801 Plum Street  
Cincinnati, Ohio 45202

## CALENDAR

### Cincinnati City Council

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Wednesday, September 30, 2020

2:00 PM

Council Chambers, Room 300

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#### ROLL CALL

#### PRAYER AND PLEDGE OF ALLEGIANCE

#### FILING OF THE JOURNAL

#### MAYOR CRANLEY

1. [202000842](#)

**STATEMENT, (DECLARATION OF EMERGENCY)** submitted by Mayor John Cranley, The ongoing COVID-19 pandemic presents emergency conditions and dangers to the public health and welfare without precedent in the past 100 years. After declaring a state of emergency and instituting severe measures to "flatten the curve," the State of Ohio has begun to reopen Ohio's economy, sector by sector, concluding that initial steps toward reopening can be safely taken in accordance with good hygiene and social distancing measures. Consistent with the State's reopening efforts and at the request of the City Manager, I hereby amend, revise and tailor the existing COVID-19 declaration of emergency to this new phase of the response to the pandemic, pursuant to Article III of the Cincinnati Charter and Article XVIII of the Administrative Code of the City of Cincinnati. The emergency condition and danger that forms the basis for this amended and revised declaration is the ongoing public health emergency caused by the pandemic and the need to enable the safe reopening of the City including, but not limited to, reopening of retail businesses, restaurants and workplaces in the City. By this revised declaration, the Mayor retains emergency authority to issue orders under the limited circumstances necessary for the safe reopening of Cincinnati. This declaration is consistent with the statewide health emergency declared by Governor DeWine, the issuance of Ohio Department of Health's compulsory health orders and related guidelines and the fundamental need to protect vulnerable populations during this pandemic. This Order supersedes the March 11, 2020, emergency declaration as to any conflicts and hereby amends any such conflicts consistent with the provisions of this declaration. All emergency orders issued under the March 11, 2020, declaration are hereby terminated except for the Outdoor Street Dining and Social Distancing order dated May 12, 2020, a copy of which is attached to this declaration, which is extended. If extended, emergency orders shall continue in effect in accordance with the terms of Article XVIII of the Administrative Code. This amended and revised declaration shall be issued to the news media for the widest possible dissemination to the citizens of Cincinnati. This declaration shall be effective June 29, 2020.

**Recommendation**

APPROVE & FILE

**Sponsors:** Cranley

**Bicentennial Commons at Sawyer Point (BCSP) Board of Visitors: 2 Appts: 2 W; 1 M/ 1 F**

2. [202001651](#) **REAPPOINTMENT**, submitted by Mayor John Cranley, I hereby reappoint Keke Sansalone to Bicentennial Commons at Sawyer Point (BCSP) Board of Visitors for a term of one year. This reappointment is submitted to City Council for its advice and consent pursuant to its Rules. (Female/White)

**Recommendation** CONFIRM

**Sponsors:** Cranley

**Cincinnati Recreation Commission (CRC): 3 Appts: 2 W/ 1 AA; 2 M/ 1 F**

3. [202001660](#) **REAPPOINTMENT**, submitted by Mayor John Cranley, I hereby reappoint Pat O'Callaghan, Jr. to the Board of the Cincinnati Recreation Commission for a term of five years. This reappointment is submitted to City Council for its advice and consent pursuant to its Rules. (Male/White)

**Recommendation** CONFIRM

**Sponsors:** Cranley

**Hamilton County Transportation Improvement District (TID): 1 Appt; Female/White**

4. [202001665](#) **APPOINTMENT**, submitted by Mayor John Cranley, I hereby appoint John Brazina as the City's representative to the Hamilton County Transportation Improvement District (TID) for a term of two years. This appointment is submitted to City Council for its advice and consent pursuant to its Rules. (Male/White)

**Recommendation** CONFIRM

**Sponsors:** Cranley

**Banks Community Authority: 5 members: 3 F/ 2 M; 1 AA/ 4 W**

5. [202001754](#) **REAPPOINTMENT**, submitted by Mayor John Cranley, I hereby reappoint Kaitlyn Geiger as the local government representative member of the Board of Trustees governing the Banks Community Authority for a term that shall expire in September 2022. This reappointment is submitted to City Council for its advice and consent pursuant to its Rules. (Female/White)

**Recommendation** HOLD ONE WEEK PURSUANT TO THE RULES OF COUNCIL

**Sponsors:** Cranley

6. [202001760](#) **REAPPOINTMENT**, submitted by Mayor John Cranley, I hereby reappoint Markiea Carter as a citizen member of the Board of Trustees governing the Banks Community Authority for a term that shall expire in September 2022. This reappointment is submitted to City Council for its advice and consent pursuant to its Rules. (Female / AA)

**Recommendation** HOLD ONE WEEK PURSUANT TO THE RULES OF COUNCIL

**Sponsors:** Cranley

7. [202001765](#) **APPOINTMENT**, submitted by Mayor John Cranley, I hereby appoint Tony Cafeo as a citizen member of the Board of Trustees governing the Banks Community Authority for a term that shall expire in September 2021. This reappointment is submitted to City Council for its advice and consent pursuant to its Rules. (Male/White)

**Recommendation** HOLD ONE WEEK PURSUANT TO THE RULES OF COUNCIL

**Sponsors:** Cranley

8. [202001769](#) **REAPPOINTMENT**, submitted by Mayor John Cranley, I hereby appoint Bob Deck as a citizen member of the Board of Trustees governing the Banks Community Authority for a term that shall expire in September 2021. This reappointment is submitted to City Council for its advice and consent pursuant to its Rules. (Male/White)

**Recommendation** HOLD ONE WEEK PURSUANT TO THE RULES OF COUNCIL

**Sponsors:** Cranley

### **Tax Incentive Review Council: 1 Councilmember**

9. [202001749](#) **APPOINTMENT**, submitted by Mayor John Cranley, I hereby appoint Councilwoman Jan-Michele Lemon Kearney to the Tax Incentive Review Council (TIRC) for a term of two years. This appointment is submitted to City Council for its advice and consent pursuant to its Rules. (Female/ AA)

**Recommendation** HOLD ONE WEEK PURSUANT TO THE RULES OF COUNCIL

**Sponsors:** Cranley

10. [202001771](#) **ORDINANCE (EMERGENCY)**, submitted by Andrew Garth, Interim City Solicitor, **ESTABLISHING** new capital improvement program project account no. 980x101x211033, "Findlay Park Recreation Improvements," for the purpose of partnering with Cincinnati Center City Development Corporation ("3CDC") to provide resources for the design and construction of new state-of-the-art recreation improvements in and around Findlay Park in the Over-The-Rhine neighborhood; **AUTHORIZING** the transfer of the sum of \$50,000 from the General Fund balance sheet reserve account no. 050x2580, "Reserve for Weather Related Events, Other Emergency and One-Time Needs," to the unappropriated surplus of General Fund 050; **AUTHORIZING** the transfer and appropriation of \$50,000 from the unappropriated surplus of General Fund 050 to newly created capital improvement program project account no. 980x101x211033, "Findlay Park Recreation Improvements," for the purpose of providing resources for the design and construction of such recreation improvements; **AUTHORIZING** the City Manager to accept in-kind donations from 3CDC by providing design, community engagement, and development services to complete the Findlay Park Recreation Improvements valued at \$50,000; and **DECLARING** expenditures from capital improvements program project account no. 980x101x211033, "Findlay Park Recreation Improvements," to be for a public purpose.

**Recommendation** BUDGET AND FINANCE COMMITTEE

**Sponsors:** Cranley

## **MRS. KEARNEY**

11. [202001725](#) **COMMUNICATION**, submitted by Councilmember Kearney from Gerhardstein & Branch Law Firm, regarding support for proposed ban on no-knock warrants.

**Recommendation** LAW AND PUBLIC SAFETY COMMITTEE

**Sponsors:** Kearney

12. [202001732](#) **MOTION**, submitted by Councilmember Kearney, **WE MOVE** that the City Administration provide a report as soon as possible and not longer than fourteen (14) days regarding the feasibility of installing a mechanism (e.g., speed bumps, a stop sign or traffic lights) to reduce vehicle speed to the required speed of 25 mph at the intersection of Winneste and Strand in Winton Hills, and continuing through the school zone where are located Winton Hills Academy, Winton Hills Medical and Health Center, Winton Hills Community Church, Mother of Christ Catholic Church, and the Winton Hills Recreation Center. **WE MOVE** further that the City of Cincinnati make a recommendation and provide a timeline for resolving the issue of speeding vehicles in the area referenced above. (STATEMENT ATTACHED)

**Recommendation** NEIGHBORHOODS COMMITTEE

**Sponsors:** Kearney

### MR. SEELBACH

13. [202001711](#) **COMMUNICATION**, submitted by Councilmember Seelbach from Fred Chen, regarding FCC lighting.

**Recommendation** MAJOR PROJECTS & SMART GOVERNMENT COMMITTEE

**Sponsors:** Seelbach

### MS. SUNDERMANN

14. [202001706](#) **MOTION**, submitted by Councilmember Sundermann, **WE MOVE** that the City of Cincinnati allow for a variety of celebration activities for Halloween to proceed this year, informed by guidance from the Cincinnati Health Department. **WE FURTHER MOVE** that City Council shall not add any additional barriers to celebration activities other than those established by the Cincinnati Health Department and the Ohio Department of Health. (STATEMENT ATTACHED)

**Recommendation** BUDGET AND FINANCE COMMITTEE

**Sponsors:** Sundermann

### MR. SITTFELD

### MR. SEELBACH

### MR. LANDSMAN

### MRS. KEARNEY

### MRS. SUNDERMANN

15. [202001739](#) **MOTION**, submitted by Councilmember Sittenfeld, Seelbach, Landsman and

Kearney, **WHEREAS** the City of Cincinnati continues to commit to citywide pedestrianization efforts to improve quality of life, safety, and environmental health; and, **WHEREAS** these efforts have included smaller-scale efforts like improved signage and markings in Neighborhood Business Districts and large-scale efforts like the Liberty Street Improvement Project; and, **WHEREAS** a core tenet of these efforts has been reducing the portion of the right-of-way dominated by automobile traffic and increasing the portion of the right-of-way available to walkers, cyclists, trees, art and civic and cultural gatherings; and, **WHEREAS** Central Parkway - one of Cincinnati's most high-profile and historic corridors - is poised for and in need of such improvements; and, **WHEREAS** the North-South portion of Central Parkway from the south end turn in the road up to Liberty Street, which runs alongside some of our City's most important cultural, civic, arts, educational, and governmental institutions, can and should be a world-class corridor, on par with the world's great urban streets. (BALANCE ON FILE IN CLERK'S OFFICE).

**Recommendation** MAJOR PROJECTS & SMART GOVERNMENT COMMITTEE

**Sponsors:** Sittenfeld, Seelbach, Landsman and Kearney

### CITY MANAGER

16. [202001602](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, Interim City Manager, on 9/23/2020, **MODIFYING** Article XV, "Retirement System," of the Administrative Code of the City of Cincinnati by amending Section 1, "Board of Trustees," Section 3, "Organization of Board," Section 7, "Actuary," and Section 9, "Actuarial Investigations," to harmonize the Administrative Code with the provisions of the Collaborative Settlement Agreement reached in Sunyak, et al. v. City of Cincinnati, et al., Case Number 1:11-cv-445 in the United States District Court, Southern District of Ohio, Western Division.

**Recommendation** BUDGET AND FINANCE COMMITTEE

**Sponsors:** City Manager

17. [202001683](#) **ORDINANCE** submitted by Paula Boggs Muething, Interim City Manager, on 9/30/2020, **AUTHORIZING** the City Manager to accept in-kind donations from the Cincinnati Parks Foundation of signage, landscaping materials, equipment and furnishings, and contract services valued at up to \$96,391.35, to benefit and improve various City parks.

**Recommendation** BUDGET AND FINANCE COMMITTEE

**Sponsors:** City Manager

18. [202001684](#) **ORDINANCE** submitted by Paula Boggs Muething, Interim City Manager, on 9/30/2020, **AUTHORIZING** the City Manager to apply for grants, loans, and loan assistance awarded by Hamilton County from the Municipal Road Fund Program and the Ohio Public Works Commission State Capital Improvement Program, the Local Transportation Improvement Program, and the Revolving Loan Program (Funding Round 35) for the purpose of ensuring the timely completion of various road and bridge construction projects throughout the City.

**Recommendation**

## BUDGET AND FINANCE COMMITTEE

**Sponsors:** City Manager

19. [202001685](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, Interim City Manager, on 9/30/2020, **AUTHORIZING** the City Manager to accept a Coronavirus Aid Relief and Economic Security Act grant (CFDA No. 20.507) from the Federal Transit Administration, an operating administration of the U.S. Department of Transportation, in an amount up to \$566,610 for the purpose of providing funding for the Cincinnati Bell Connector operating budget; and further **AUTHORIZING** the Director of Finance to deposit the funds in Fund 455, "Streetcar Operations."

**Recommendation** BUDGET AND FINANCE COMMITTEE

**Sponsors:** City Manager

20. [202001686](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, Interim City Manager, on 9/30/2020, **AUTHORIZING** the City Manager to apply for, accept, and appropriate a grant in the amount of up to \$25,000 from the Greater Cincinnati Foundation to the Office of Environment and Sustainability's General Fund non-personnel operating budget account no. 050x104x7400 for the purpose of providing resources to support the City's Urban Agriculture Program; and **AUTHORIZING** the Finance Director to deposit the grant resources into General Fund revenue account no. 050x8571.

**Recommendation** BUDGET AND FINANCE COMMITTEE

**Sponsors:** City Manager

## CLERK OF COUNCIL

21. [202001722](#) **COMMUNICATION**, submitted by the Clerk of Council from various citizens regarding opposition to the OTR Special Improvement District.

**Recommendation** FILE

**Sponsors:** Clerk of Council

## BUDGET AND FINANCE COMMITTEE

22. [202001445](#) **REPORT**, dated 9/10/2020, submitted by Paula Boggs Muething, Interim City Manager, regarding FY 2020 Carryover to FY 2021.

**Recommendation** APPROVE & FILE

**Sponsors:** City Manager

23. [202001536](#) **REPORT**, dated 9/16/2020, submitted by Paula Boggs Muething, Interim City Manager, regarding Department of Finance Reports for the Month Ended July 31, 2020.

**Recommendation** APPROVE & FILE

**Sponsors:** City Manager

24. [202001600](#) **REPORT**, dated 9/23/2020, submitted by Paula Boggs Muething, Interim City Manager, regarding Avondale Grocery Store. (Reference Document #202001164)

**Recommendation**

APPROVE & FILE

Sponsors:

City Manager

25. [202001583](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, Interim City Manager, on 9/23/2020, **AUTHORIZING** the transfer of the sum of \$2,729,245 from the unappropriated surplus of General Fund 050 to the unappropriated surplus of Working Capital Reserve Fund 754 for the purpose of increasing the City's working capital reserve; **AUTHORIZING** the transfer of the sum of \$2,811,948 from the unappropriated surplus of General Fund 050 to balance sheet reserve account no. 050x2585, "Economic Downturn Reserve," for the purpose of increasing the City's emergency reserve to 5.0% of FY 2020 General Fund revenues; **AUTHORIZING** the transfer of the sum of \$5,676,785 from the unappropriated surplus of General Fund 050 to balance sheet reserve account no. 050x2580, "Reserve for Weather Events, Other Emergency and One-Time Needs," for the purpose of providing resources for unanticipated emergencies including those caused by unusual weather events, in order to increase the City's reserve for this purpose to 2.0% of FY 2020 General Fund revenues; **AUTHORIZING** the appropriation of the sum of \$700,000 from the unappropriated surplus of the General Fund 050 to the Cincinnati Police Department's General Fund personnel operating budget account no. 050x222x7100 for the purpose of funding police visibility overtime as part of the City's violence reduction initiatives; **AUTHORIZING** the appropriation of the sum of \$100,000 from the unappropriated surplus of the General Fund 050 to the Law Department's General Fund personnel operating budget account no. 050x111x7100 for the purpose of funding an additional prosecuting attorney as part of the City's violence reduction initiatives; **AUTHORIZING** the appropriation of the sum of \$200,000 from the unappropriated surplus of the General Fund 050 to the City Manager's Office's General Fund non-personnel operating budget account no. 050x101x7200 for the purpose of funding a Safety Coordinators/Organizers Program as part of the City's violence reduction initiatives; **AUTHORIZING** the appropriation of the sum of \$330,000 from the unappropriated surplus of the General Fund 050 to the Cincinnati Police Department's General Fund non-personnel operating budget account no. 050x222x7400 for the purpose of funding tuition reimbursement expenses for sworn officers; **AUTHORIZING** the appropriation of the sum of \$100,000 from the unappropriated surplus of the General Fund 050 to the Tuition Reimbursement General Fund NonDepartmental non-personnel operating budget account no. 050x928x7400 for the purpose of funding tuition reimbursement expenses for General Fund employees; **AUTHORIZING** the appropriation of the sum of \$100,000 from the unappropriated surplus of General Fund 050 to the Law Department's non-personnel operating budget account no. 050x111x7200, for the purpose of providing funding for costs associated with the creation of the Housing Court; **AUTHORIZING** the appropriation of the sum of \$40,000 from the unappropriated surplus of the General Fund 050 to the Department of Finance's General Fund non-personnel operating budget account no. 050x131x7200 for the purpose of providing funding for contractual services related to increasing compliance with the City's Short-Term Rental Excise Tax; **AUTHORIZING** the transfer of the sum of \$339,245 from the unappropriated surplus of the General Fund 050 to the unappropriated surplus of Cincinnati Health District Fund 416; **AUTHORIZING** the appropriation of the sum of \$339,245 from the unappropriated surplus of Cincinnati Health District Fund

416 to the Cincinnati Health Department's Cincinnati Health District Fund non-personnel operating budget account no. 416x263x7200 for the purpose of providing funding for COVID-19 related expenses including the 2 cost of contact tracers and testing; AUTHORIZING the appropriation of the sum of \$95,000 from the unappropriated surplus of General Fund 050 to the Department of Recreation's General Fund non-personnel operating budget account no. 050x199x7200 for the purpose of providing funding to upgrade WIFI access at Recreation Centers to allow students to attend school virtually; AUTHORIZING the appropriation of the sum of \$50,000 from the unappropriated surplus of General Fund 050 to the City Manager's Office's General Fund non-personnel operating budget account no. 050x101x7200 for the purpose of replacing CitiCable's Video Playback System; REVISING the Classification and Salary Range Schedule for all employment classifications in Divisions 0, 5, 7 (LAW), 8, and 9 of Chapter 307 of the Cincinnati Municipal Code to reflect the new Classification and Salary Range Schedule for said classifications and to provide for a cost-of-living ("COLA") adjustment of 2.0% effective October 4, 2020; AUTHORIZING the appropriation of the sum of \$596,570 from the unappropriated surplus of General Fund 050 to various General Fund personnel operating budget accounts according to the attached Schedule of Transfer for the purpose of restoring merit pay for FY 2021 for non-represented employees and providing for a 2.0% COLA adjustment for non-represented employees effective October 4, 2020; AUTHORIZING the transfer of the sum of \$78,430 from the unappropriated surplus of General Fund 050 to the unappropriated surplus of Cincinnati Health District Fund 416; AUTHORIZING the transfer and appropriation of the sum of \$78,430 from the unappropriated surplus of Cincinnati Health District Fund 416 to the Cincinnati Health Department's Cincinnati Health District Fund personnel operating budget accounts according to the attached Schedule of Transfer for the purpose of restoring merit pay for FY 2021 for non-represented employees and providing for a 2.0% COLA adjustment for non-represented employees effective October 4, 2020; and further AUTHORIZING the appropriation of the sum of \$278,050 from the unappropriated surplus of the various Restricted Funds to personnel operating budget accounts of the various Restricted Funds according to the attached Schedule of Transfer for the purpose of restoring merit pay for non-represented employees and providing for a 2.0% COLA adjustment for non-represented employees effective October 4, 2020.

**Recommendation** PASS EMERGENCY

**Sponsors:** City Manager

26. [202001599](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, Interim City Manager, on 9/28/2020, **AUTHORIZING** the City Manager to execute a Funding Agreement with Fountain Place, LLC, a subsidiary of Cincinnati Center City Development Corporation (3CDC), providing for a forgivable loan of \$2,929,750 to fund redevelopment of 505 Vine Street (formerly known as Fountain Place) and proximate public infrastructure, located in the Central Business District of Cincinnati; ESTABLISHING new capital improvement program project account no. 980x164x211636, "Fountain Place Redevelopment - TIF" to provide resources for the redevelopment of 505 Vine Street and proximate public infrastructure; AUTHORIZING the transfer and appropriation of the sum of



\$2,093,071.13 from unappropriated surplus of Downtown/OTR West Equivalent Fund 482 (Downtown/OTR West TIF District) to the newly-established capital improvement program account no. 980x164x211636, "Fountain Place Redevelopment - TIF," to provide resources for the redevelopment of 505 Vine Street and proximate public infrastructure; AUTHORIZING the transfer and appropriation of the sum of \$836,678.87 from the unappropriated surplus of Fountain Square West Trust Fund 156 to the newly-established capital improvement program project account no.980x164x211636, "Fountain Place Redevelopment - TIF," to provide resources for the redevelopment of 505 Vine Street and proximate public infrastructure; and further DECLARING expenditures from such project account serve a public purpose

**Recommendation** PASS EMERGENCY

**Sponsors:** City Manager

27. [202001689](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, Interim City Manager, on 9/28/2020, **APPROVING AND AUTHORIZING** the City Manager to execute a Community Reinvestment Area Tax Exemption Agreement (LEED or Living Building Challenge) with 2330 VP Apartments, LLC, thereby authorizing a 15-year tax exemption for 100% of the value of improvements made to real property located at 2332 Victory Parkway in the Walnut Hills neighborhood of Cincinnati, in connection with the remodeling of an existing building into approximately 35,173 square feet of residential space, approximately 6,400 square feet of office space, and approximately 1,240 square feet of commercial space, which remodeling shall be completed in compliance with Leadership in Energy and Environmental Design Silver, Gold or Platinum standards or Living Building Challenge standards, at a total remodeling cost of approximately \$2,100,000.

**Recommendation** PASS EMERGENCY

**Sponsors:** City Manager

28. [202001690](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, Interim City Manager, on 9/28/2020, **APPROVING AND AUTHORIZING** the City Manager to execute a *Community Reinvestment Area Tax Exemption Agreement (LEED or Living Building Challenge)* with Zeta House Corporation of Delta Delta Delta, thereby authorizing a 14-year tax exemption for 100% of the value of the improvements made to real property located at 2605 University Court in the CUF neighborhood of Cincinnati, in connection with the construction of a new sorority house at the University of Cincinnati, consisting of approximately 15,478 square feet of residential space, which construction shall be completed in compliance with Leadership in Energy and Environmental Design Silver, Gold or Platinum standards or Living Building Challenge standards, at a total construction cost of approximately \$2,250,000.

**Recommendation** PASS EMERGENCY

**Sponsors:** City Manager

29. [202001691](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, Interim City Manager, on 9/28/2020, **APPROVING AND AUTHORIZING** the City Manager to execute a *Community Reinvestment Area Tax Exemption Agreement (LEED or Living Building Challenge)* with 602 Main Street, LLC, thereby authorizing a 15-year tax exemption for 100% of the value of improvements made to real property located at 216 E. Sixth Street and 600-610 Main Street in the Central Business District of Cincinnati, in connection with the remodeling of an existing building into approximately 168,883 square foot hotel with 163 rooms, and approximately 9,500 square feet of commercial space, which remodeling shall be completed in compliance with Leadership in Energy and Environmental Design Silver, Gold or Platinum standards or Living Building Challenge standards, at a total remodeling cost of approximately \$53,718,163.

**Recommendation** PASS EMERGENCY

**Sponsors:** City Manager

30. [202001695](#) **ORDINANCE (EMERGENCY)**, dated 09/25/2020, submitted by Councilmember Landsman, **AUTHORIZING** the transfer of \$150,000 from the General Fund balance sheet reserve account no. 050x2580, "Reserve for Weather Related Events, Other Emergency and One-Time Needs," to the unappropriated surplus of General Fund 050; **AUTHORIZING** the transfer of \$150,000 from the unappropriated surplus of General Fund 050 to the Department of Community and Economic Development's General Fund non-personnel operating budget account no. analysis necessary to implement a tiered residential tax abatement program; and **AUTHORIZING** the designation of \$250,000 of the \$1,000,000 included in the Approved FY 2021 Budget Update for the Community Safety Response Program be designated for the Women Helping Women's Domestic Violence Enhanced Response Team (DVERT) program.

**Recommendation** PASS EMERGENCY

**Sponsors:** Landsman

31. [202001697](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, Interim City Manager, on 9/28/2020, **ESTABLISHING** the Over-the-Rhine South Special Improvement District Assessment Equalization Board, appointing three members thereto, and setting the time and place for hearings in accordance with the applicable provisions of the Ohio Revised Code.

**Recommendation** PASS EMERGENCY

**Sponsors:** City Manager

## NEIGHBORHOODS COMMITTEE

32. [202001200](#) **MOTION**, submitted by Councilmember Sittenfeld, dated 8/4/2020, **WE MOVE** that the City Administration prepare and provide a report regarding the feasibility of installing a stop sign on Heekin Avenue at or near the intersection

of Heekin Avenue and Bouton Street in Linwood in order to address speeding and vehicular collisions. **WE FURTHER MOVE** that the City of Cincinnati make a recommendation on a safe, effective effort, either through the installation of a stop sign, or a different solution that creates a safer environment along Heekin Avenue. (STATEMENT ATTACHED)

**Recommendation** ADOPT

**Sponsors:** Sittenfeld

33. [202001207](#) **MOTION**, submitted by Councilmember Sittenfeld, dated 8/4/2020, **WE MOVE** that the City Administration prepare a report on the feasibility of implementing a Parklet Program utilizing City-controlled right of way for Cincinnati restaurants looking to expand outdoor dining throughout the duration of the pandemic and beyond. Parklets would be procured, owned, and operated by local businesses for enhanced dining operations, and the City would collect revenues associated with the use of the right of way. (STATEMENT ATTACHED)

**Recommendation** ADOPT

**Sponsors:** Sittenfeld and Landsman

34. [202001320](#) **MOTION**, submitted by Councilmember Sundermann, dated 8/31/2020, **WE MOVE** the City Administration direct the Department of Transportation and Engineering (DOTE) to conduct a parking analysis of the Madisonville Neighborhood Business District (generally highlighted area of the attached map). The data should include - as closely as possible - the number of public and private parking spots available in the immediate, walkable area after phase I, II, and III of the Ackerman Group's (developer) project at Madison & Whetsel are completed. (STATEMENT ATTACHED)

**Recommendation** ADOPT

**Sponsors:** Sundermann

35. [202001483](#) **MOTION**, submitted by Councilmember Pastor and Councilmember Seelbach, **WE MOVE** that the Department of Transportation and Engineering study the feasibility of a "road diet" on Linn Street in the West End from Central Parkway to West Court Street for the purpose of increasing the pedestrian character and walkability of this corridor thereby furthering the safety of the neighborhood and the potential for future development. The Administration shall report on this study by January 1, 2021.

**Recommendation** ADOPT

**Sponsors:** Pastor and Seelbach

36. [202001615](#) **MOTION (AMENDED)**, submitted by Councilmember Kearney and Young, **WE MOVE** for the entire stretch of Reading Road that is located within Cincinnati city limits, specifically from downtown Cincinnati to the edge of Reading, Ohio at Galbraith Road, to be named "President Barack Obama Avenue" in honor of the 44th president of the United States who became the first African-American elected to serve in the highest office in our country when he was inaugurated on January 20, 2009, \* and we request a report by the City Administration. (BALANCE ON FILE IN CLERK'S OFFICE) (STATEMENT ATTACHED).

**Recommendation** ADOPT

**Sponsors:** Kearney and Young

37. [202001629](#) **MOTION**, submitted by Councilmember Sittenfeld, **WE MOVE** that the City Administration work with the Northside Community Council, and the Northside Business Association, to install parking meters along Hamilton Avenue and Hoffner Street. (STATEMENT ATTACHED).

**Recommendation** ADOPT

**Sponsors:** Sittenfeld

38. [202001339](#) **ORDINANCE (EMERGENCY)**, submitted by Councilmember Pastor, dated August 20, 2020, **DECLARING** that Dana Avenue between Victory Parkway and Madison Road shall hereby receive the honorary, secondary name of William J. Keating Way in memory of William J. Keating and in recognition of his many contributions and dedication to the City of Cincinnati.

**Recommendation** PASS EMERGENCY

**Sponsors:** Pastor

## SUPPLEMENTAL ITEMS

### LAW & PUBLIC SAFETY COMMITTEE

39. [202001428](#) **RESOLUTION**, submitted by Councilmember Pastor, **RECOGNIZING** that the practice of involuntary servitude of the duly convicted is both heinous and inhumane; and **URGING** the members of the Ohio General Assembly and the United States Congress to take action to remove the phrase from the United States Constitution.

**Recommendation** ON PURSUANT TO RULE 10.8

**Sponsors:** Pastor

40. [202001547](#) **MOTION**, submitted by Councilmember Kearney, Sittenfeld, Young, Seelbach, Landsman, Sundermann, Pastor and Vice Mayor Smitherman, **WE MOVE** that Cincinnati City Council hold a public hearing to discuss with the Hamilton County Commissioners, Lincoln Heights City Council, the Cincinnati Police Department, and other interested parties Cincinnati's gun range. The focus of the public hearing is to discuss the environmental impact of the gun range, including any available data in addition to hearing from residents, business owners, and others affected by the gun range. **WE FURTHER MOVE** that the public meeting to discuss solutions for the gun range issues is held before the end of October 2020.

**Recommendation** ADOPT

**Sponsors:** Kearney, Sittenfeld, Young, Seelbach, Landsman and Sundermann

## ANNOUNCEMENTS

### NEW BUSINESS

Adjournment



Office of Mayor John Cranley

801 Plum Street, Suite 150  
Cincinnati, Ohio 45202  
Phone (513) 352-3250  
Fax (513) 352-5201  
Email: [John.Cranley@cincinnati-oh.gov](mailto:John.Cranley@cincinnati-oh.gov)

## Joint Emergency Order

### 11. Outdoor Dining and Social Distancing

Pursuant to Article III of the Cincinnati Charter, Article XVIII of the Administrative Code of the City of Cincinnati, and in furtherance of orders issued by the Governor of Ohio and the Ohio Department of Health, it is hereby ordered that certain City requirements for outdoor dining areas and right-of-way occupancy be temporarily suspended or modified so that the City Administration may immediately institute temporary health measures to expand outdoor dining options during the COVID-19 pandemic.

In administering this order, the City Administration shall consult with the Cincinnati Department of Health to establish guidelines for the review and approval of applications for temporary outdoor dining areas. Approvals may be granted only in such areas and under conditions that the City determines will be protective of outdoor diners and bar patrons, maintain sidewalk accessibility, take into account transportation circulation needs, and ensure ongoing access for emergency vehicles and first responders. To be eligible for temporary outdoor dining relief, restaurants and bars must comply with applicable City and state health orders (whichever is more protective of the public health) – including strict adherence to social distancing, face covering, and other safety requirements for restaurants released by the State of Ohio in connection with the reopening of outdoor dining effective May 15, 2020.

It is hereby ordered that the City Administration may temporarily suspend or otherwise relax local permit requirements for outdoor dining areas including, without limitation, under Chapters 718, 721, and 723 of the Municipal Code, the Zoning Code, and the Land Development Code. The City Manager is hereby authorized to take such


action as is reasonably necessary to maintain order in the implementation of this public health directive, including, without limitation, temporarily restricting access of the traveling public (e.g., automobiles) from portions of the right of way.


The City Administration is further authorized to take reasonably necessary steps consistent with this order to allow for use of private property under control of an applicant for temporary expansion of outdoor dining opportunities at existing restaurants.

The City Administration shall first implement this order as a pilot program that will enable the City to start immediately to gain experience processing applications, evaluating traffic safety and circulation needs, and developing safe public health practices in relation to the outdoor dining program. This order authorizes temporary, revocable permissions to operate outdoor dining areas. This order does not create a private right to occupy the public right-of-way or diminish the City Manager's authority to oversee and manage the use public right-of-way in the City's best interests.

This order is based upon the existence of a condition of public danger and emergency associated with the COVID-19 pandemic, as established by the Mayor's Declaration of Emergency. By City Charter and in accordance with Section 7 of Article XVIII of the Cincinnati Municipal Code, the City Administration is authorized to exercise whatever powers and authority are necessary in order to carry out this order.

This order and the permissions granted pursuant to this order shall remain in effect until the later of 90 days from issuance or upon the expiration of the Mayor's Declaration of Emergency for the COVID-19 pandemic.

  
\_\_\_\_\_  
Mayor John Cranley  
5/12/2020  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Commissioner Melba Moore  
5/12/2020  
\_\_\_\_\_  
Date



202000842

Office of Mayor John Cranley

801 Plum Street, Suite 150  
Cincinnati, Ohio 45202  
Phone (513) 352-3250  
Fax (513) 352-5201  
Email: [John.Cranley@cincinnati-oh.gov](mailto:John.Cranley@cincinnati-oh.gov)

## DECLARATION OF EMERGENCY


The ongoing COVID-19 pandemic presents emergency conditions and dangers to the public health and welfare without precedent in the past 100 years. After declaring a state of emergency and instituting severe measures to “flatten the curve,” the State of Ohio has begun to reopen Ohio’s economy, sector by sector, concluding that initial steps toward reopening can be safely taken in accordance with good hygiene and social distancing measures. Consistent with the State’s reopening efforts and at the request of the City Manager, I hereby amend, revise, and tailor the existing COVID-19 declaration of emergency to this new phase of the response to the pandemic, pursuant to Article III of the Cincinnati Charter and Article XVIII of the Administrative Code of the City of Cincinnati.

The emergency condition and danger that forms the basis for this amended and revised declaration is the ongoing public health emergency caused by the pandemic and the need to enable the safe reopening of the City including, but not limited to, reopening of retail businesses, restaurants, and workplaces in the City. By this revised declaration, the Mayor retains emergency authority to issue orders under the limited circumstances necessary for the safe reopening of Cincinnati. This declaration is consistent with the statewide health emergency declared by Governor DeWine, the issuance of Ohio Department of Health’s compulsory health orders and related guidelines, and the fundamental need to protect vulnerable populations during this pandemic.

This Order supersedes the March 11, 2020, emergency declaration as to any conflicts, and hereby amends any such conflicts consistent with the provisions of this

declaration. All emergency orders issued under the March 11, 2020, declaration are hereby terminated except for the Outdoor Street Dining and Social Distancing order dated May 12, 2020, a copy of which is attached to this declaration, which is extended. If extended, emergency orders shall continue in effect in accordance with the terms of Article XVIII of the Administrative Code. This amended and revised declaration shall be issued to the news media for the widest possible dissemination to the citizens of Cincinnati. This declaration shall be effective June 29, 2020.

DECLARED this 23 th day of June, 2020.

BY:   
John Cranley, Mayor  
City of Cincinnati

DATE: \_\_\_\_\_

TIME: \_\_\_\_\_

ATTEST: 



# City of Cincinnati



Mayor John Cranley

202001451

Office of Mayor John Cranley

801 Plum Street, Suite 150  
Cincinnati, Ohio 45202  
Phone (513) 352-3250  
Fax (513) 352-5201  
Email: [John.Cranley@cincinnati-oh.gov](mailto:John.Cranley@cincinnati-oh.gov)

September 2020

## REAPPOINTMENT

I hereby reappoint Keke Sansalone to Bicentennial Commons at Sawyer Point (BCSP) Board of Visitors for a term of one year. This reappointment is submitted to City Council for its advice and consent pursuant to its Rules.

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



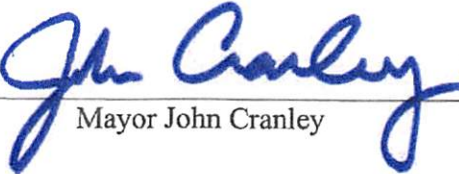
Office of Mayor John Cranley

801 Plum Street, Suite 150  
Cincinnati, Ohio 45202  
Phone (513) 352-3250  
Fax (513) 352-5201  
Email: [John.Cranley@cincinnati-oh.gov](mailto:John.Cranley@cincinnati-oh.gov)

September 2020

## REAPPOINTMENT

I hereby reappoint Pat O'Callaghan, Jr. to the Board of the Cincinnati Recreation Commission for a term of five years. This reappointment is submitted to City Council for its advice and consent pursuant to its Rules.

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



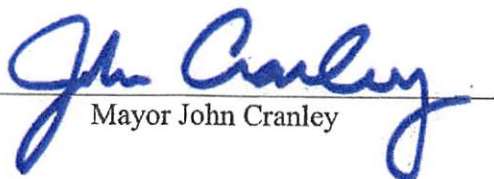
Office of Mayor John Cranley

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Phone (513) 352-3250  
Fax (513) 352-5201  
Email: [John.Cranley@cincinnati-oh.gov](mailto:John.Cranley@cincinnati-oh.gov)

September 2020

## APPOINTMENT

I hereby appoint John Brazina as the City's representative to the Hamilton County Transportation Improvement District (TID) for a term of two years. This appointment is submitted to City Council for its advice and consent pursuant to its Rules.

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



Office of Mayor John Cranley

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Phone (513) 352-3250  
Fax (513) 352-5201  
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September 2020

## REAPPOINTMENT

I hereby reappoint Kaitlyn Geiger as the local government representative member of the Board of Trustees governing the Banks Community Authority for a term that shall expire in September 2022. This reappointment is submitted to City Council for its advice and consent pursuant to its Rules.

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

Dr. Carling



202001760

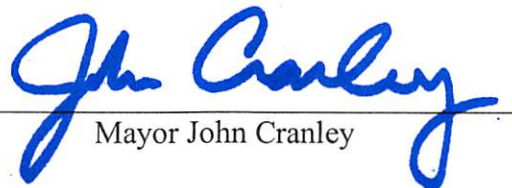
Office of Mayor John Cranley

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Phone (513) 352-3250  
Fax (513) 352-5201  
Email: [John.Cranley@cincinnati-oh.gov](mailto:John.Cranley@cincinnati-oh.gov)

September 2020

## REAPPOINTMENT

I hereby reappoint Markiea Carter as a citizen member of the Board of Trustees governing the Banks Community Authority for a term that shall expire in September 2022. This reappointment is submitted to City Council for its advice and consent pursuant to its Rules.

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

Dr. Carney



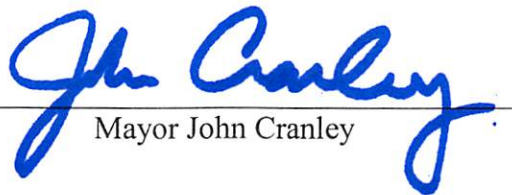
Office of Mayor John Cranley

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Fax (513) 352-5201  
Email: [John.Cranley@cincinnati-oh.gov](mailto:John.Cranley@cincinnati-oh.gov)

September 2020

## APPOINTMENT

I hereby appoint Tony Cafeo as a citizen member of the Board of Trustees governing the Banks Community Authority for a term that shall expire in September 2021. This appointment is submitted to City Council for its advice and consent pursuant to its Rules.

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



for Country



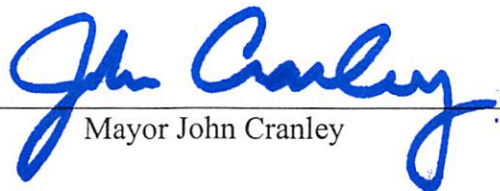
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Fax (513) 352-5201  
Email: [John.Cranley@cincinnati-oh.gov](mailto:John.Cranley@cincinnati-oh.gov)

September 2020

## REAPPOINTMENT

I hereby reappoint Bob Deck as a citizen member of the Board of Trustees governing the Banks Community Authority for a term that shall expire in September 2021. This reappointment is submitted to City Council for its advice and consent pursuant to its Rules.

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

John C. Calhoun

## **Bob Deck**

**Managing Partner, 4EG**

**Bob Deck serves as chief operations officer for Four Entertainment Group's (4EG) Cincinnati concepts. Deck oversees the operations, management and growth of each location and ensures each of the Queen City's bars – Igby's, Mt. Adams Pavilion, The Righteous Room, The Sandbar, The Lackman, The St. Clair, The Roosevelt Room, Hightail, Rosedale, The Stretch, and Low Spark – and the full-service, casual bar and grill concept Keystone Bar & Grill provide consistent superior service, captivating décor and high-quality products, resulting in a strong brand definition and a loyal following. He also assists with the marketing division of 4EG by identifying creative and unique marketing plans that engage desired audiences.**

**After graduating from Miami University in Oxford, Ohio, in 1995, Deck moved to Atlanta to pursue his doctorate of chiropractic degree. While attending school, he worked at several different bars and clubs until moving to Cincinnati in 2000 to open a private chiropractic practice in his hometown of Anderson Township.**

**In 2001, Deck reconnected with collegiate friends David Halpern and Ben Klopp who had already partnered to open aliveOne and Estelle's bars in Chicago. Deck joined Halpern and Klopp to expand their operation of upscale bars, and through a partnership with Klopp's childhood friend Dan Cronican, the four opened aliveOne and Mt. Adams Pavilion in Cincinnati in 2002. After much success with the first four locations, the team continued to open and operate several additional establishments. In 2007, the team converted their individual businesses into a larger operating company that is now Four Entertainment Group.**



202001749

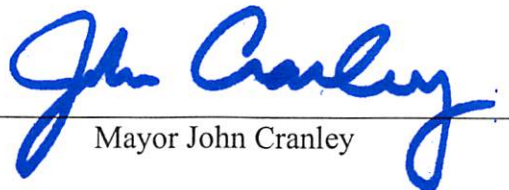
Office of Mayor John Cranley

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Cincinnati, Ohio 45202  
Phone (513) 352-3250  
Fax (513) 352-5201  
Email: John.Cranley@cincinnati-oh.gov

September 2020

## APPOINTMENT

I hereby appoint Councilwoman Jan-Michele Lemon Kearney to the Tax Incentive Review Council (TIRC) for a term of two years. This appointment is submitted to City Council for its advice and consent pursuant to its Rules.

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

for analysis

202001771

**Date:** September 29, 2020

**To:** Mayor John Cranley  
**From:** Andrew W. Garth, Interim City Solicitor *AWG*  
**Subject:** **Emergency Ordinance – 3CDC Findlay Park Recreation Improvements (Non-TIF Dollars)**

---

Transmitted herewith is an emergency ordinance captioned as follows:

**ESTABLISHING** new capital improvement program project account no. 980x101x211033, “Findlay Park Recreation Improvements,” for the purpose of partnering with Cincinnati Center City Development Corporation (“3CDC”) to provide resources for the design and construction of new state-of-the-art recreation improvements in and around Findlay Park in the Over-The-Rhine neighborhood; **AUTHORIZING** the transfer of the sum of \$50,000 from the General Fund balance sheet reserve account no. 050x2580, “Reserve for Weather Related Events, Other Emergency and One-Time Needs,” to the unappropriated surplus of General Fund 050; **AUTHORIZING** the transfer and appropriation of \$50,000 from the unappropriated surplus of General Fund 050 to newly created capital improvement program project account no. 980x101x211033, “Findlay Park Recreation Improvements,” for the purpose of providing resources for the design and construction of such recreation improvements; **AUTHORIZING** the City Manager to accept in-kind donations from 3CDC by providing design, community engagement, and development services to complete the Findlay Park Recreation Improvements valued at \$50,000; and **DECLARING** expenditures from capital improvement program project account no. 980x101x211033, “Findlay Park Recreation Improvements,” to be for a public purpose.

AWG/CMZ/(Ink)  
Attachment  
321189

EMERGENCY

City of Cincinnati

CMZ

*AWB*

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

- 2020

**ESTABLISHING** new capital improvement program project account no. 980x101x211033, "Findlay Park Recreation Improvements," for the purpose of partnering with Cincinnati Center City Development Corporation ("3CDC") to provide resources for the design and construction of new state-of-the-art recreation improvements in and around Findlay Park in the Over-The-Rhine neighborhood; **AUTHORIZING** the transfer of the sum of \$50,000 from the General Fund balance sheet reserve account no. 050x2580, "Reserve for Weather Related Events, Other Emergency and One-Time Needs," to the unappropriated surplus of General Fund 050; **AUTHORIZING** the transfer and appropriation of \$50,000 from the unappropriated surplus of General Fund 050 to newly created capital improvement program project account no. 980x101x211033, "Findlay Park Recreation Improvements," for the purpose of providing resources for the design and construction of such recreation improvements; **AUTHORIZING** the City Manager to accept in-kind donations from 3CDC by providing design, community engagement, and development services to complete the Findlay Park Recreation Improvements valued at \$50,000; and **DECLARING** expenditures from capital improvement program project account no. 980x101x211033, "Findlay Park Recreation Improvements," to be for a public purpose.

WHEREAS, the Cincinnati Recreation Commission's Findlay and Grant Parks Community Engagement Summary Report, dated August 2019, identified the need for additional recreational improvements in and around Findlay Park (the "Recreation Improvements") to serve Over-The-Rhine and the community; and

WHEREAS, due to the extensive nature of the Recreation Improvements envisioned and the likely complex financing required to complete such improvements, the City will need to engage an experienced development manager to provide design, community engagement, and development services to complete the Recreation Improvements; and

WHEREAS, Cincinnati Center City Development Corporation ("3CDC") is uniquely qualified to act as the development manager for the Recreation Improvements due to its successful experiences designing, planning, and completing redevelopment of public spaces throughout the Central Business District and Over-The-Rhine, including the successful redevelopment of Fountain Square, Washington Park, and Zeigler Park; and

WHEREAS, an estimated \$100,000 is needed to complete the design phase for the Recreation Improvements; and

WHEREAS, 3CDC has agreed to match a City contribution of \$50,000 with an in-kind contribution in order to fully fund the necessary design work; now, therefore,

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



Section 1. That Cincinnati Center City Development Corporation (“3CDC”) is hereby designated as development manager to oversee design and development of recreation improvements in and around Findlay Park due to its unique and demonstrated experience successfully designing, planning, and completing large-scale redevelopment of public spaces in the Over-The-Rhine neighborhood and the Central Business District.

Section 2. That the Director of Finance is authorized to establish new capital improvement program project account no. 980x101x211033, “Findlay Park Recreation Improvements,” for the purpose of providing resources for the cost of completing design work for redevelopment of recreation improvements in and around Findlay Park or for other related hard or soft costs associated with such redevelopment (the “Recreation Improvements”).

Section 3. That the transfer of \$50,000 from the General Fund balance sheet reserve account no. 050x2580, “Reserve for Weather Related Events, Other Emergency and One-Time Needs,” to the unappropriated surplus of General Fund 050 is hereby authorized.

Section 4. That the transfer and appropriation of \$50,000 from the unappropriated surplus of General Fund 050 to capital improvement program project account no. 980x101x211033, “Findlay Park Recreation Improvements,” is hereby authorized for the purpose of providing resources for the costs of completing design work for redevelopment of the Recreation Improvements, as allowable by Ohio law.

Section 5. That the City Manager is hereby authorized to accept in-kind donations from 3CDC constituting design, community engagement, and development services valued at \$50,000 that are necessary to complete the Recreation Improvements.

Section 6. That Council hereby declares that the expenditure of the herein-appropriated funds to provide resources for the Recreation Improvements (i) serves a public purpose because

the project will increase neighborhood vitality, and (ii) that the Recreation Improvements are anticipated to have an estimated life or estimated period of usefulness of five years or more.

Section 7. That the proper City officials are hereby authorized to do all things necessary and proper to carry out the provisions of this ordinance including, without limitation, entering into a development manager agreement with 3CDC consistent with this ordinance.

Section 8. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to commence the design of the Recreation Improvements so that community outreach, design, and construction may occur as quickly as possible.

Passed: \_\_\_\_\_, 2020

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

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

---

## GERHARDSTEIN & BRANCH

A LEGAL PROFESSIONAL ASSOCIATION

441 VINE ST., SUITE 3400

CINCINNATI, OHIO 45202

(513) 621-9100

FAX (513) 345-5543

\* ALPHONSE A. GERHARDSTEIN  
JENNIFER L. BRANCH  
REBECCA SALLEY  
M. CAROLINE HYATT

*\*Also admitted in  
Minnesota*

*Of Counsel*  
ROBERT F. LAUFMAN

September 28, 2020

Members of City of Cincinnati City Council

RE: Proposed Ban on No Knock Warrants

Dear Members of Council:

I write in support of the proposed ban on no-knock warrants. Al has been litigating police misconduct cases for more than forty years, and Jennifer for over 23 years. Several of our cases have involved citizens shot or seriously injured during the execution of no-knock warrants. One case in particular haunts us. In *Jennings v. City of Lima, Ohio*, USDC, ND OH Case No. 3:08-cv-01868, we represented the five surviving children of Tarika Wilson. The regional drug unit in Lima, Ohio raided her home at night using a no-knock warrant where a suspected drug dealer was located. When members of the SWAT team rushed into the home, they encountered pit bulls who were promptly shot by officers. The discharge of those weapons caused the officer clearing the upstairs to believe he was under fire. He saw movement in a bedroom doorway and fired in that direction striking Tarika in the neck, killing her. She was standing near the doorway holding her baby and trying to shield her other four young children in the bedroom. The baby was struck by high powered ammunition in his shoulder causing severe injuries.

Tarika was unarmed. The suspected drug dealer was unarmed. The children were unarmed. The officer did not properly assess the risk and needlessly took Tarika's life. The local Black Community was outraged at the reckless use of no-knock warrants. Our case settlement included an independent review of SWAT search warrant policies and practices in an effort to restrict their use.

We have not seen evidence that no knock warrants are utilized in a way that puts innocent people at risk in Cincinnati. But not every Chief may be as careful as Chief Isaac. The fact is that the killing of innocents is likely to happen if the intelligence about the target home is wrong and people in addition to the suspect are present when the warrant is executed. Such errors do

happen. We have litigated these cases in other communities. It is not worth the risk. We urge you to pass the measure and would be happy to provide additional information. Thank you.

Sincerely,

*Alphonse A. Gerhardstein*

*Jennifer L. Branch*

Alphonse A. Gerhardstein

Jennifer L. Branch



**Jan-Michele Lemon Kearney**  
*Councilmember*

## MOTION

WE MOVE that the City Administration provide a report as soon as possible and not longer than fourteen (14) days regarding the feasibility of installing a mechanism (e.g., speed bumps, a stop sign, or traffic lights) to reduce vehicle speed to the required speed of 25 mph at the intersection of Winneste and Strand in Winton Hills, and continuing through the school zone where are located Winton Hills Academy, Winton Hills Medical and Health Center, Winton Hills Community Church, Mother of Christ Catholic Church, and the Winton Hills Recreation Center.

WE MOVE further that the City of Cincinnati make a recommendation and provide a timeline for resolving the issue of speeding vehicles in the area referenced above.

---

Councilmember Jan-Michele Lemon Kearney

## **STATEMENT**

Winton Hills residents report that vehicles typically speed up and down Winneste near the intersection of Strand. Some residents state that they have witnessed pedestrians being endangered by the speeding vehicles. The part of Winneste at issue is in a 25 mph school zone as it is only a few yards from Winton Hills Academy. This stretch of Winneste also includes Winton Hills Medical and Health Center, Winton Hills Community Church, Mother of Christ Catholic Church, and the Winton Hills Recreation Center. Residents are asking that the City install speed bumps, a stop sign, or a traffic light in order to bring vehicles into compliance with the 25 mph speed limit, per the speed limit signs that are prominently posted, and yet frequently ignored, according to residents.

CAL J-mk  
Neighborhoods

COMMUNITY

The first step in the process of community development is to identify the needs of the community. This is done through a process of community assessment, which involves gathering information about the community's strengths, weaknesses, and resources. This information is then used to develop a community development plan that addresses the community's needs and goals.

Community development is a process that involves working with the community to identify and address its needs. This process is often done through a series of steps, including assessment, planning, implementation, and evaluation.

COMMUNITY DEVELOPMENT

COMMUNITY DEVELOPMENT

COMMUNITY DEVELOPMENT

Community development is a process that involves working with the community to identify and address its needs. This process is often done through a series of steps, including assessment, planning, implementation, and evaluation. The first step is to identify the community's needs, which is done through a process of community assessment. This involves gathering information about the community's strengths, weaknesses, and resources. This information is then used to develop a community development plan that addresses the community's needs and goals. The next step is to implement the plan, which involves working with the community to carry out the plan's activities. Finally, the plan is evaluated to see if it has been successful in addressing the community's needs.

## Williams, Brenda

---

**From:** Seelbach, Chris  
**Sent:** Thursday, September 24, 2020 7:58 AM  
**To:** Williams, Brenda  
**Subject:** Fwd: [External Email] FCC Lighting

Please file as communication  
Thanks

Sent from my iPhone

Begin forwarded message:

**From:** fred chen ·  
**Date:** September 23, 2020 at 9:57:17 PM EDT  
**To:** "Smitherman, Christopher" <Christopher.Smitherman@cincinnati-oh.gov>, "Kearney, Jan-Michele" <Jan-Michele.Kearney@cincinnati-oh.gov>, "Landsman, Greg" <Greg.Landsman@cincinnati-oh.gov>, "Sundermann, Betsy" <Betsy.Sundermann@cincinnati-oh.gov>, "Pastor, Jeff" <Jeff.Pastor@cincinnati-oh.gov>, "Seelbach, Chris" <Chris.Seelbach@cincinnati-oh.gov>, "Sittenfeld, P.G." <P.G.Sittenfeld@cincinnati-oh.gov>, "Young, Wendell" <Wendell.Young@cincinnati-oh.gov>  
**Subject:** [External Email] FCC Lighting

External Email Communication

City Council-

As you consider voting on any additional lighting and signage permissions for FCC beyond what has already been approved for the new stadium, we ask that you consider our need for peaceful enjoyment of our home.

Living one block away from the stadium, we would not want to be bombarded by a Times Square extravaganza of lights all evening long for more than a few days of the year. We have been supportive of the stadium and the redevelopment in the neighborhood and look forward to the game-day excitement that the stadium will bring. We want you to consider the impact of the lighting on the other 340+ days/year.

Frederick Chen

Cincinnati OH ✓



**Betsy Sundermann**  
*Cincinnati City Councilmember*

September 25, 2020

## MOTION

**WE MOVE** that the City of Cincinnati allow for a variety of celebration activities for Halloween to proceed this year, informed by guidance from the Cincinnati Health Department.

**WE FURTHER MOVE** that City Council shall not add any additional barriers to celebration activities other than those established by the Cincinnati Health Department and the Ohio Department of Health.

  
\_\_\_\_\_  
Betsy Sundermann

## STATEMENT

As Governor Mike DeWine has left the decision to allow Halloween activities to local governments, the Ohio Department of Health has provided guidance for best practices. "Communities set the time themselves and they will make the determination about that. That will not change...They will do that in consultation with their local health departments...Parents, in turn, will do what parents do and make a decision if their child will go out trick-or-treating," said DeWine, during his Halloween Guidelines press conference.

We shall follow any order established by the Cincinnati Health Department, who is being asked to clarify any rules and guidelines for families to follow in order for the citizens of Cincinnati to safely participate in the annual celebration of Halloween festivities.

Most parts of trick-or-treating can be done while observing the mask and social distancing mandates. Masks can easily be worn on, under, or with the costumes and outfits of participants, and it is believed these events would not cause a significant increase in unwanted and unprotected contact due to the transient nature of the events.

It is recommended that extra precautions be taken, such as avoiding leaving out a large bucket of candy that many people may touch and keeping hand sanitizer handy for both trick-or-treaters and those giving out candy. However, given the overall infection status of the city, the potential risk of allowing for this cultural event to take place is not great enough to justify banning the celebrations outright.





**P.G. Sittenfeld**  
*Councilmember*

September 23, 2020

## MOTION

**WHEREAS** the City of Cincinnati continues to commit to citywide pedestrianization efforts to improve quality of life, safety, and environmental health; and,

**WHEREAS** these efforts have included smaller-scale efforts like improved signage and markings in Neighborhood Business Districts and large-scale efforts like the Liberty Street Improvement Project; and,

**WHEREAS** a core tenet of these efforts has been reducing the portion of the right-of-way dominated by automobile traffic and increasing the portion of the right-of-way available to walkers, cyclists, trees, art, and civic and cultural gatherings; and,

**WHEREAS** Central Parkway - one of Cincinnati's most high-profile and historic corridors - is poised for and in need of such improvements; and,

**WHEREAS** the North-South portion of Central Parkway from the south end turn in the road up to Liberty Street, which runs alongside some of our City's most important cultural, civic, arts, educational, and governmental institutions, can and should be a world-class corridor, on par with the world's great urban streets; now, therefore,

**WE MOVE** that City Council directs the City Administration to partner with stakeholders along this corridor to envision a plan - including a potential "road diet" - that strategizes investment to make this historic portion of Central Parkway a safe, inclusive, vibrant, world-class corridor.

## COMMITTEES

*Chair:* Education, Innovation & Growth

*Member:* Budget & Finance • Equity, Inclusion, Youth & The Arts



**P.G. Sittenfeld**  
*Councilmember*

**WE FURTHER MOVE** that City Administration report back to Council in 90 days with such a plan alongside an implementation strategy.

*PG Sittenfeld*

Council Member P.G. Sittenfeld

*[Signature]*

*[Signature]*

*Jan-Michele Leno Larnay*

**COMMITTEES**

*Chair:* Education, Innovation & Growth

*Member:* Budget & Finance • Equity, Inclusion, Youth & The Arts

Cal - Referral  
C.A.

September 23, 2020

**202001602**

To: Mayor and Members of City Council  
From: Paula Boggs Muething, Interim City Manager  
Subject: **Modifying Administrative Code Article XV “Retirement System”**

---

Transmitted herewith is an Emergency Ordinance captioned:

**MODIFYING** Article XV, “Retirement System,” of the Administrative Code of the City of Cincinnati by amending Section 1, “Board of Trustees,” Section 3, “Organization of Board,” Section 7, “Actuary,” and Section 9, “Actuarial Investigations,” to harmonize the Administrative Code with the provisions of the Collaborative Settlement Agreement reached in *Sunyak, et al. v. City of Cincinnati, et al.*, Case Number 1:11-cv-445 in the United States District Court, Southern District of Ohio, Western Division.

cc: Paula Tilsley, Executive Director  
Cincinnati Retirement System

**EMERGENCY**

**LES**

**- 2020**

**MODIFYING** Article XV, “Retirement System,” of the Administrative Code of the City of Cincinnati by amending Section 1, “Board of Trustees,” Section 3, “Organization of Board,” Section 7, “Actuary,” and Section 9, “Actuarial Investigations,” to harmonize the Administrative Code with the provisions of the Collaborative Settlement Agreement reached in *Sunyak, et al. v. City of Cincinnati, et al.*, Case Number 1:11-cv-445 in the United States District Court, Southern District of Ohio, Western Division.

WHEREAS, on May 7, 2015, the City of Cincinnati entered into a Collaborative Settlement Agreement (“CSA”) to resolve multiple consolidated court cases against the City that were pending in the United States District Court for the Southern District of Ohio, Western Division, in Case Number 1:11-cv-445; and

WHEREAS, the terms of the CSA prevail over conflicting provisions of Article XV of the Administrative Code; and

WHEREAS, amendment of the Administrative Code to conform it to the terms of the CSA and current policies and procedures of the Cincinnati Retirement System provides increased clarity and transparency; now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio, with three-fourths of its members concurring:

Section 1. That existing Section 1, “Board of Trustees,” Section 3, “Organization of Board,” Section 7, “Actuary,” and Section 9, “Actuarial Investigations,” of Article XV, “Retirement System,” of the Cincinnati Administrative Code are hereby amended to read as follows:

**Sec. 1. Board of Trustees.**

a) The general administration and responsibility for the proper operation of the retirement system shall be vested in a board of trustees. The board of trustees shall consist of ~~eleven~~ nine members:

i. ~~Six~~ Four members with qualifications specified in subsection (b) shall be appointed by the Mayor with the advice and consent of Council.

ii. ~~Four~~ Two members, who ~~may~~shall be employee members of the system, shall be elected by deferred ~~members~~ retirees and active members, as defined in Sections 203-1-~~DM1~~ and 203-1-~~A23~~, who are not currently receiving a retirement benefit.

iii. ~~One~~ Three members, who ~~may~~shall be a retired members of the system, shall be elected by persons who are receiving retirement allowances, optional benefits, or survivor benefits from the system.

b) ~~The Mayor shall appoint a nominating committee to recruit and recommend candidates for appointment to the board. At least two of the~~ The appointed members of the board shall have the following qualifications:

i. Baccalaureate degree from an accredited college or university in finance, economics, business, or other field of study involving financial management; or addition to the expertise required pursuant to subsection (b)(ii) herein.

ii. A minimum of ten years of experience in pension administration, pension actuarial practice, institutional investment management, employee benefits/investment law, banking, asset/liability management for an insurance company, or university or college professor with a focus on fiduciary or trust fund law or quantitative background in financial theory or actuarial math. ~~corporate or municipal finance, institutional investments, law, corporate governance, risk management, health care administration, employee benefits, retirement plan administration, insurance or actuarial science.~~

iii. ~~Except for any appointed member appointed on the basis of expertise in municipal finance, the appointed member shall not be a current or former City employee; a current or former appointed City official; a participant, retiree, or beneficiary in the retirement system; a representative from any union representing City employees; or an immediate relative or spouse of a City employee or City retiree.~~

~~iiiv.~~ The appointed member shall not have any business, personal, or family interests related to the City or the retirement system that would constitute a conflict of interest, or that would create the appearance of a conflict of interest, with the duties of a trustee. Being a member of the Cincinnati Retirement System or a beneficiary of the Cincinnati Retirement System shall not constitute a conflict of interest.

iv. Residency shall not be considered as a qualification for any appointed member.

vi. A current or former elected City official appointed as a member of the board pursuant to this subsection b)iii herein does not have to meet the requirements of subsection b)i and b)ii of this section. No more than two current or former elected City officials appointed as members of the board pursuant to this subsection b)iii herein shall be eligible to simultaneously serve as members of the board.

c) Board members shall serve four-year terms, except that:

i. when the Mayor makes initial appointments to the board under this Article, the Mayor shall appoint two members to serve four-year terms, ~~two members to serve~~

~~three-year terms~~, and two members to serve two-year terms, so that the terms overlap to establish continuity in board membership from year to year.

ii. for the initial election of the board members elected pursuant to subsection a)ii of this section, the ~~two~~ active employee candidates with the highest vote totals shall serve a four-year terms and the ~~other two~~ active employee candidates with the next highest vote totals shall serve a two-year terms.

iii. for the initial election of the board members elected pursuant to subsection a)iii of this section, the two retiree candidates with the two highest vote totals shall serve four year terms and the retiree candidate with the third highest vote total shall serve a two year term.

d) Each board member may serve up to three four-year terms, except that persons serving ~~three-year or two-year terms~~ upon the their initial appointments to the board may serve the initial term and two subsequent four-year terms.

e) Each board member shall hold office from the first date of the term until the end of the term for which the member was appointed. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of the unexpired term. Any member shall continue in office after the expiration date of the member's term until the member's successor takes office, or until a period of thirty days has elapsed, whichever occurs first.

i. Appointed members: A vacancy on the board shall be filled in the same manner as the original appointment; ~~however, if the vacancy is not filled within ninety days, the board members may appoint a member to complete the unexpired term.~~

ii. Elected members: If the remaining portion of the unexpired term is sixten months or less, the position will remain vacant until the next regularly-scheduled election. If the remaining portion of the unexpired term is more than sixten months, ~~the entity whose representative position is vacant shall nominate candidates to fill the unexpired term. The board shall choose a member to fill the vacancy from the nominated candidates~~ an election to elect a new board member shall be held in accordance with the election rules promulgated by the board, regarding vacancies of more than six ten months.

f) An entity authorized to appoint or elect a member under subsection a) shall remove its appointee or representative from the board for any act of misconduct involving the trustee's duties, including breach of fiduciary duty and failure to properly discharge the duties of the trustee, to the extent permitted by state law.

g) The board shall meet regularly and shall convene other meetings at the request of the chairperson or a majority of the members. A member who fails to attend at least three-fifths of the regular and special meetings of the board during any two-year period forfeits membership on the board.

h) The board shall report to ~~Council~~council at least ~~quarterly~~annually on the following issues:

i. Success at meeting the investment and funding objectives.

- ii. Investment performance and attribution.
  - iii. Compliance with conflict of interest and ethics policies.
  - iv. Compliance with benefit delivery policies.
  - v. Results of external and internal audit findings and follow-up efforts.
  - vi. Board member attendance, travel, and educational efforts.
- i) The board shall vote to disqualify any candidate from seeking election to the board or any member from remaining as a board trustee for any of the following reasons:
- i. Finding of dishonesty in any civil proceeding or disciplinary decision.
  - ii. Conviction of a felony for an act committed while the candidate or member was an adult.
  - iii. Failure to comply with election requirements established by the board.

**Sec. 3. - Organization of Board.**

The board shall elect from its membership a chair and vice-chair. The ~~manager~~ executive director of the retirement system shall be secretary, ex officio, of the board, but shall not vote on items considered by the board. At least ~~seven~~ six board members shall be present for the board to meet. The concurring votes of ~~six~~ five board member~~trustees~~ shall be necessary for any decision by the board.

**Sec. 7. - Actuary.**

The board shall ~~designate~~retain an actuary who shall be its technical adviser on matters regarding the operation of the retirement system and shall perform such other duties as are required in connection therewith. The retention of the actuary shall follow the city's established procurement process. The board shall keep in convenient form such data as shall be necessary for actuarial valuation of the retirement system and for checking the experience of the retirement system.

**Sec. 9. - Actuarial Investigations.**

At least once in each five-year period, the board shall cause an actuarial investigation to be made into the mortality, service, and compensation experience of the members and beneficiaries of the retirement system, and shall make a valuation of its assets and liabilities. Taking into account the results of such investigation and valuation, the board shall:

- (a) Adopt such mortality service and other tables as it shall consider necessary; and
- ~~(b) Certify the rates of contributions payable by members in accordance with ordinance provisions;~~
- ~~(be) Certify the rates of contribution payable by the city on account of new entrants at various ages~~Cause an actuarial valuation to be made of the assets and liabilities of the retirement system at least once every two years.



Section 2. That existing Section 1, “Board of Trustees,” Section 3, “Organization of Board,” Section 7, “Actuary,” and Section 9, “Actuarial Investigations,” of Article XV, “Retirement System,” of the Cincinnati Administrative Code are hereby repealed.

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 update the Administrative Code so that the Board of the Cincinnati Retirement System’s ability to meet and conduct business is not affected.

Passed: \_\_\_\_\_, 2020

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

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

\_\_\_\_\_  
New language underscored. Deletions indicated by strike-through.

September 30, 2020

**To:** Mayor and Members of City Council **202001683**

**From:** Paula Boggs Muething, Interim City Manager

**Subject:** **Ordinance – In-Kind Donations from Cincinnati Parks Foundation**

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Attached is an Ordinance captioned:

**AUTHORIZING** the City Manager to accept in-kind donations from the Cincinnati Parks Foundation of signage, landscaping materials, equipment and furnishings, and contract services valued at up to \$96,391.35, to benefit and improve various City parks.

This Ordinance authorizes the City Manager to accept in-kind donations from the Cincinnati Parks Foundation of signage, landscaping materials, equipment and furnishings, and contract services valued at up to \$96,391.35 to benefit and improve various City parks.

There are no FTEs or matching funds associated with the acceptance of this donation.

This Ordinance is in accordance with the “Sustain” goal to “Preserve our natural and built environment” and the strategy to “Protect our natural resources,” as set forth on pages 194-196 of Plan Cincinnati (2012).

The Administration recommends passage of this Ordinance.

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

Attachment



**AUTHORIZING** the City Manager to accept in-kind donations from the Cincinnati Parks Foundation of signage, landscaping materials, equipment and furnishings, and contract services valued at up to \$96,391.35, to benefit and improve various City parks.

WHEREAS, the Cincinnati Parks Foundation intends to donate signage, landscaping materials, equipment and furnishings, and contract services to the City of Cincinnati to benefit and improve various City parks; and

WHEREAS, the value of the donation is approximately \$96,391.35; and

WHEREAS, there are no FTEs associated with acceptance of this donation; and

WHEREAS, this ordinance is in accordance with the “Sustain” goal to “Preserve our natural and built environment,” and the strategy to “Protect our natural resources,” as set forth on pages 194-196 of Plan Cincinnati (2012); now, therefore,

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

Section 1. That the City Manager is hereby authorized to accept in-kind donations from the Cincinnati Parks Foundation of signage, landscaping materials, equipment and furnishings, and contract services valued at up to \$96,391.35 to benefit and improve various City parks.

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

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

Passed: \_\_\_\_\_, 2020

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

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

September 30, 2020

**To:** Mayor and Members of City Council 202001684  
**From:** Paula Boggs Muething, Interim City Manager  
**Subject:** **Ordinance – Municipal Road Fund Program and Ohio Public Works Commission Round 35 Funding Applications**

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Attached is an Ordinance captioned:

**AUTHORIZING** the City Manager to apply for grants, loans, and loan assistance awarded by Hamilton County from the Municipal Road Fund Program and the Ohio Public Works Commission State Capital Improvement Program, the Local Transportation Improvement Program, and the Revolving Loan Program (Funding Round 35) for the purpose of ensuring the timely completion of various road and bridge construction projects throughout the City.

Approval of this Ordinance would authorize the City Manager to apply for grants, loans, and loan assistance awarded by Hamilton County from the Municipal Road Fund (MRF) program and the Ohio Public Works Commission (OPWC) State Capital Improvement Program (SCIP), the Local Transportation Improvement Program (LTIP), and the Revolving Loan Fund Program as part of Funding Round 35.

The Department of Transportation and Engineering (DOTE) identified the attached list of potential projects and local matching resources for which it intends to submit applications for grant resources by November 6, 2020 for funding year 2022. DOTE may apply for projects not included on this list if City priorities change. However, if the City is awarded any grants, loans, or loan assistance under these programs, DOTE will only accept grant resources for which City Council has provided authorization. Depending on the terms of the grant award for each project, local match funds may be required. Local match resources would come from existing and future capital improvement program project accounts as indicated in the attachment. No additional FTE are associated with these applications for grants, loans, or loan assistance.

The implementation of these potential projects is in accordance with the "Connect" goal to "develop an efficient multi-modal transportation system that supports neighborhood livability," as described on pages 129-138 of Plan Cincinnati (2012).

The Administration recommends passage of this Ordinance.

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

Attachments



**AUTHORIZING** the City Manager to apply for grants, loans, and loan assistance awarded by Hamilton County from the Municipal Road Fund Program and the Ohio Public Works Commission State Capital Improvement Program, the Local Transportation Improvement Program, and the Revolving Loan Program (Funding Round 35) for the purpose of ensuring the timely completion of various road and bridge construction projects throughout the City.

WHEREAS, the Department of Transportation and Engineering (DOTE) intends to request grants, loans, and loan assistance awarded by Hamilton County from the Municipal Road Fund program and the Ohio Public Works Commission State Capital Improvement Program, the Local Transportation Improvement Program, and the Revolving Loan Program (Funding Round 35) by November 6, 2020, for funding year 2022, in order to ensure the timely completion of projects DOTE identifies as high priorities; and

WHEREAS, DOTE has identified the attached list of potential projects as high priorities for which it intends to apply for assistance, although the list is subject to change and DOTE may apply for resources for projects not included in Attachment A; and

WHEREAS, depending on the terms of the grant award for each project, local match funds would be required for acceptance; and

WHEREAS, anticipated sources of local match funds, which would come from existing and future capital improvement program project accounts, are identified for each of the projects in Attachment A; and

WHEREAS, DOTE will prepare all applications as requests for grant funding, but there may be opportunities to obtain additional zero percent interest loan funds for these projects once the District Integrating Committee allocation of grant monies is exhausted; and

WHEREAS, if the City is awarded any grants, loans, or loan assistance under these programs, DOTE will request authorization from City Council in order to accept and appropriate such resources; and

WHEREAS, no additional FTEs are associated with the applications for grants, loans, and loan assistance; and

WHEREAS, the implementation of these potential projects is in accordance with the “Connect” goal to “develop an efficient multi-modal transportation system that supports neighborhood livability” as described on pages 129-138 of Plan Cincinnati (2012); now, therefore,

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

Section 1. That the City Manager is hereby authorized to apply for grants, loans, and loan assistance awarded by Hamilton County from the Municipal Road Fund Program and the Ohio Public Works Commission State Capital Improvement Program, the Local Transportation Improvement Program, and the Revolving Loan Program (Funding Round 35) to ensure the timely completion of various road and bridge construction projects throughout the City.

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

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

Passed: \_\_\_\_\_, 2020

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

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

ATTACHMENT A

**OPWC Round 35 - Potential Projects**

	Project Name	Local Match		Grant Amount	Total Project	Description	Neighborhoods
		Source	Amount				
1	Auburn Ave Phase II	Federal Grant	\$ 3,300,800	\$ 1,500,000	\$ 4,800,800	Auburn Ave Safety Improvements Phase II	Mt. Auburn
2	Beekman Avenue Rehabilitation	Future DOTE Capital Appropriations, including Street Rehab Program .	\$ 800,000	\$ 800,000	\$ 1,600,000	Rehabilitation of Beekman Av from Westwood Northern Blvd to Elmore St. Includes retaining wall and sidewalk repair at 3200 Beekman Av.	Millvale
3	Berkshire Road Roadway Stabilization	Future DOTE Capital Appropriations including Wall Stabilization and Landslide Correction Program	TBD (20-50% of total Project Cost)	TBD (50-80% of total Project Cost)	\$ 700,000	Stabilize approximately 300 ft. of roadway that is being eroded by Berkshire Creek with a drilled pier retaining wall	Mt. Washington
4	Eden Park/Victory Parkway/	Future DOTE Capital Appropriations including Bridge Program, Safety, Street Rehab, Street Lighting	\$ 1,600,000	\$ 6,400,000	\$ 8,000,000	Rehabilitation of the Park Avenue Bridge, Eden Park Dr, Park Dr and Victory Parkway. Various safety improvements and street light replacement.	Walnut Hills/East Walnut Hills
5	Fairbanks Avenue & Delhi Avenue Safety Project	Future DOTE Capital Appropriations including Wall Stabilization and Landslide Correction Program, Street Rehab & Safety	TBD (20-50% of total Project Cost)	TBD (50-80% of total Project Cost)	\$ 3,000,000	Landslide correction, multiple safety improvements and street rehabilitation.	Sedamsville
6	Faraday Ave Improvement	Future DOTE Capital Appropriations including Wall Stabilization and Landslide Correction Program, Street Rehab & Safety	TBD (20-50% of total Project Cost)	TBD (50-80% of total Project Cost)	\$ 1,500,000	Landslide correction, safety improvements and street rehabilitation.	South Cumminsville
7	Park Avenue Bridge Rehabilitation, Phase 1	Future DOTE Capital Appropriations including Bridge Program	TBD (20-50% of total Project Cost)	\$ 2,400,000	\$ 3,000,000	This project will rehabilitate the Park Avenue Bridge near Eden Park.	East Walnut Hills
8	Paxton Avenue Rehabilitation	Future DOTE Capital Appropriations including Street Rehab Program	\$ 1,000,000	\$ 1,000,000	\$ 2,000,000	Rehabilitation of Paxton Ave between Wasson Road and Marburg Avenue. Includes a redesign of the Paxton, Wasson & Isabella intersection and a new traffic signal.	Oakley/Hyde Park
9	River Rd & Thornton Signal	Federal Grant	\$ 923,460	\$ 250,000	\$ 1,173,460	Project will install a signal with railroad preemption at the intersection of River Rd and Thornton Ave.	Saylor Park
10	Street Lighting Improvement	Future DOTE Capital Appropriations including Street Lighting and Duke Energy Grant Funds	\$ 400,000	\$ 1,600,000	\$ 2,000,000	This project would upgrade existing high-mast street lighting in the CBD to LED.	CBD
11	West Fork Ave Rehabilitation	Future DOTE Capital Appropriations including Street Rehab Program	\$ 500,000	\$ 500,000	\$ 1,000,000	Rehabilitation of West Fork Rd from Colerain Av to Montana Av.	Northside



September 30, 2020

**To:** Mayor and Members of City Council **202001685**  
**From:** Paula Boggs Muething, Interim City Manager  
**Subject:** **Emergency Ordinance – Acceptance of CARES Act Federal Transit Administration Grant for the Cincinnati Bell Connector**

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Attached is an Emergency Ordinance captioned:

**AUTHORIZING** the City Manager to accept a Coronavirus Aid Relief and Economic Security Act grant (CFDA No. 20.507) from the Federal Transit Administration, an operating administration of the U.S. Department of Transportation, in an amount up to \$566,610 for the purpose of providing funding for the Cincinnati Bell Connector operating budget; and further **AUTHORIZING** the Director of Finance to deposit the funds in Fund 455, “Streetcar Operations.”

Approval of this Emergency Ordinance would authorize the City Manager to accept up to \$566,610 in CARES Act funds via a grant from the Federal Transit Administration to provide funding for the FY 2021 Cincinnati Bell Connector operating budget. Ordinance No. 0147-2020 authorized the City Administration to apply for the federal assistance, and the grant award is now available. These funds were anticipated and included in the FY 2021 Cincinnati Bell Connector operating budget as approved by the City Council. The Finance Director is authorized to deposit the funds into Streetcar Operations Fund 455. There is no local match and no additional FTE are associated with the grant.

The reason for the emergency is the immediate need to take the actions necessary to secure grant funds available to support Cincinnati Bell Connector operations for FY21.

The Administration recommends passage of this Emergency Ordinance.

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

Attachments

**EMERGENCY**

**JRS**

**- 2020**

**AUTHORIZING** the City Manager to accept a Coronavirus Aid Relief and Economic Security Act grant (CFDA No. 20.507) from the Federal Transit Administration, an operating administration of the U.S. Department of Transportation, in an amount up to \$566,610 for the purpose of providing funding for the Cincinnati Bell Connector operating budget; and further **AUTHORIZING** the Director of Finance to deposit the funds in Fund 455, “Streetcar Operations.”

WHEREAS, Council authorized the City Administration, pursuant to Ordinance 0147-2020, to file applications with the Federal Transit Administration (“FTA”) for federal financial assistance for transportation projects; and

WHEREAS, the FTA has awarded a grant in an amount up to \$566,610 to the City pursuant to Coronavirus Aid Relief and Economic Security Act (“CARES Act”) to be used as operating assistance for the Cincinnati Bell Connector; and

WHEREAS, there are no match requirements associated with the acceptance of this grant; and

WHEREAS, the FY21 budget for the Cincinnati Bell Connector anticipated the use of the CARES Act funds; and

WHEREAS, the City will provide all annual certifications and assurances to the FTA required for the grant and as required of the City in its capacity as a federal grantee; now, therefore,

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

Section 1. That the City Manager is hereby authorized to accept a Coronavirus Aid Relief and Economic Security Act grant (CFDA No. 20.507) from the Federal Transit Administration, an operating administration of the U.S. Department of Transportation, in an amount up to \$566,610 to Fund 455, “Streetcar Operations,” for the purpose of providing funding for the Cincinnati Bell Connector FY21 operating budget.

Section 2. That the City Manager or her designees is authorized to execute grant and cooperative agreements with the FTA on behalf of the City of Cincinnati.

Section 3. That the Director of Finance is hereby authorized to receive and deposit the grant resources into Fund 455, "Streetcar Operations."

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

Section 5. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to take the actions necessary to secure grant funds available to support Cincinnati Bell Connector operations for FY21.

Passed: \_\_\_\_\_, 2020

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

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

September 30, 2020

**To:** Mayor and Members of City Council **202001686**

**From:** Paula Boggs Muething, Interim City Manager

**Subject: Emergency Ordinance – Greater Cincinnati Foundation (GCF) Urban Agriculture Grant**

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Attached is an Emergency Ordinance captioned:

**AUTHORIZING** the City Manager to apply for, accept, and appropriate a grant in the amount of up to \$25,000 from the Greater Cincinnati Foundation to the Office of Environment and Sustainability's General Fund non-personnel operating budget account no. 050x104x7400 for the purpose of providing resources to support the City's Urban Agriculture Program; and **AUTHORIZING** the Finance Director to deposit the grant resources into General Fund revenue account no. 050x8571.

This Emergency Ordinance authorizes the City Manager to apply for, accept, and appropriate a grant in the amount of up to \$25,000 from the Greater Cincinnati Foundation to the Office of Environment and Sustainability's General Fund non-personnel operating budget account no. 050x104x7400 for the purpose of providing resources to support the City's Urban Agriculture Program. This Emergency Ordinance also authorizes the Finance Director to deposit the grant resources into General Fund revenue account no. 050x8571.

The Greater Cincinnati Foundation grant requires no local match or FTEs.

The Office of Environment and Sustainability has already applied for the grant but will not accept any funds without the approval of the City Council.

The Urban Agriculture Program supports the goals to have "100% of residents have convenient access to healthy, affordable foods" and "Triple acreage of urban food production," as described on pages 126-130 of the Green Cincinnati Plan (2018).

This Emergency Ordinance is also in accordance with the "Sustain" goal to "Become a healthier Cincinnati" and strategy to "Create a healthy environment and reduce energy consumption," as described on pages 181-186 of Plan Cincinnati (2012).

The reason for the emergency is the immediate need to accept grant resources in a timely manner so the Urban Agriculture Program can continue to provide essential food services.

The Administration recommends passage of this Emergency Ordinance.

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

Attachment



**EMERGENCY**

**KMB**

**- 2020**

**AUTHORIZING** the City Manager to apply for, accept, and appropriate a grant in the amount of up to \$25,000 from the Greater Cincinnati Foundation to the Office of Environment and Sustainability’s General Fund non-personnel operating budget account no. 050x104x7400 for the purpose of providing resources to support the City’s Urban Agriculture Program; and **AUTHORIZING** the Finance Director to deposit the grant resources into General Fund revenue account no. 050x8571.

WHEREAS, there is a grant available in the amount of up to \$25,000 from the Greater Cincinnati Foundation for the purpose of providing resources to support the City’s Urban Agriculture Program; and

WHEREAS, on May 16, 2018, the City Council adopted the original version of the 2018 Green Cincinnati Plan with its full list of recommendations in Motion No. 201800830; and

WHEREAS, the Urban Agriculture Program supports the goals to have “100% of residents have convenient access to healthy, affordable foods” and “[t]riple acreage of urban food production,” as described on pages 126-130 of the Green Cincinnati Plan (2018); and

WHEREAS, the Greater Cincinnati Foundation grant requires no local match, and there are no new FTEs associated with this grant; and

WHEREAS, the Office of Environment and Sustainability has already applied for the grant, 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,” and strategy to “Create a healthy environment and reduce energy consumption,” as described on pages 181-186 of Plan Cincinnati (2012); now, therefore,

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

Section 1. That the City Manager is hereby authorized to apply for, accept, and appropriate a grant in the amount of up to \$25,000 from the Greater Cincinnati Foundation to the Office of Environment and Sustainability’s General Fund non-personnel operating budget account no. 050x104x7400 for the purpose of providing resources to support the City’s Urban Agriculture Program.

Section 2. That the Director of Finance is hereby authorized to deposit the grant resources into General Fund revenue account no. 050x8571.

Section 3. That the proper City officials are authorized to do all things necessary and proper to carry out the terms of the grant and of 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 Urban Agriculture Program can continue to provide essential food services.

Passed: \_\_\_\_\_, 2020

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

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

I am writing to voice my objection to the  
SID assessment. I strongly oppose these  
fcs. Not only are these services ones which  
the city should provide already, the fcs  
are exorbitant compared to the services  
rendered. I pick up garbage on my street and  
in the alley behind me on a regular basis,  
as do my neighbors (Republic Street), so we  
are getting little benefit to the "services" being  
offered.

CLERK OF COUNCIL

25SEP20AM10:59

Obviously, I voted against this SID assessment.

Thank you.

Orana Deng



## **Crawford, Nicole**

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**From:** Margy Waller  
**Sent:** Tuesday, September 22, 2020 3:06 PM  
**To:** ClerkOfCouncilEmail  
**Subject:** [External Email] Objection to Special Assessment

External Email Communication

Dear Clerk of Council.

Pursuant to ORC 727.15, I am writing to file an objection to the proposed assessment of my property at \_\_\_\_\_ Cincinnati, OH \_\_\_\_\_ as part of a plan to assess property owners of the so-called "Over-the-Rhine South Special Improvement District".

I was notified of this plan in an unsigned letter from the Clerk of Council received on September 19, 2020.

I called the Clerk's office to ask about filing this objection and was told to send this email.

Margy Waller





## **Crawford, Nicole**

---

**From:** Lisa Bohman  
**Sent:** Wednesday, September 23, 2020 8:03 AM  
**To:** ClerkOfCouncilEmail  
**Subject:** [External Email] SID in OTR

External Email Communication

To the Clerk of Council -

I am writing to express my lack of support in the SID plans. The letter received last week made it sound like it was already approved and that we couldn't provide feedback. I thought there was going to be a vote that required 60% owner approval before this was passed.

I live on a small residential street where we do not need the 'benefits' of the SID. Instead, it feels as if we would be paying for benefits to the businesses. If they are services the businesses need then they should pay for them. My house has a mostly unused alley (aside from me and my neighbor driving to our driveways) that I am sure will not be taken care of despite my being charged for it. I do not want to pay for services I do not receive nor need.

From Lisa Bohman

## Crawford, Nicole

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**From:** E McEwan  
**Sent:** Wednesday, September 23, 2020 12:23 AM  
**To:** ClerkOfCouncilEmail  
**Subject:** [External Email] My objection to the OTR South SID district

External Email Communication

Dear Councilmembers and Clerk of Council-

I am a private property owner and resident of Over-the-Rhine asking that Council please vote **in objection** to the establishment of a SID improvement district in South OTR.

My neighbors and I received notice last week, by way of certified mail, of the establishment of this district. This was the first formal notice we have received regarding this SID district. Apart from casual mentions on social media, **we have received zero engagement or information about this program.**

We believed we would have more time--14 days, according to the notice--to gather our opinions regarding the issue but I just saw a news article that stated Council is set to approve this new program today (Sept 23).

It has certainly not been 14 days since we received the notice.

A little bit about me and my reasons for objecting to the SID district--

I live on a residential street where most of our homes are owner-occupied. We clean up and shovel our own sidewalks. We take care of our own property and each other. If the estimates available on the OTRSouthSid.com website are accurate, our tiny little street will be responsible for more than \$5,000 of the tax burden, annually, for this SID program.

**Frankly, our money would be better spent here on our own street and alleyway.**

I would be happy to pay my 11 year old son to rake the leaves or donate \$220 (my estimated yearly cost) to improve our shared sidewalks or alleyways, but I refuse to pay for someone else to pick up a bar patron's discarded litter six blocks away.

The impression I've received due to the "hush-hush" nature of this program up until now and the speed at which it's being pushed through **during a pandemic** (when the average resident is simply not paying attention to things like this and does not attend public hearings/meetings) is that this SID district was created for the purpose of increasing **investment capital for for-profit property owners and non-resident business owners.**

It seems to me that the tax liability for a program like this should rest on the shoulders of the people who will benefit financially from it most--them.

I simply don't understand why a for-profit company should not pay **its own employees** to clean its property and why landlords cannot hold **their residents and visitors** responsible for cleaning their own living space. If bar and restaurant patrons make too much of a mess on Vine Street on Saturday evening, then bar and restaurant staff should be paid to clean up the mess on Sunday morning.

This is how a community functions in cooperation. **It cleans up after itself**

Regarding maintenance of public alleyways, sidewalks, and streets, there are already city maintenance plans and funds in place to pay for these services. They are certainly slow and, often, inefficient, but this SID district constitutes a **duplication of services**.

Even if I could be convinced of the necessity for a SID in OTR, there are **too many questions** left unanswered at this point to move forward with the SID district as it's been proposed.

Among them--

- Do we have any idea whether the largest stakeholders in the neighborhood plan to opt out of the program? (The City of Cincinnati, for example. Will they be paying their estimated \$75,000 annually in contributions to the program?)
- **What will the actual cost be to private property owners** after those who are exempt choose to opt out of the program? The estimated costs provided are based on every property owner paying their share. If churches and public entities opt out, for example, will the rest of us be saddled with the cost of a 3/4 Million dollar program?
- Why are churches exempt and not other nonprofits? Why should community organizations such as the Peaslee Neighborhood Center (whose estimated yearly cost is almost \$1,800) be forced to pay for this service if they don't need/want it?
- Who are the "60% of front footage or 75% of assessed value" owners who have already shown support for this district? **The Community Council, which is the formal representative voice of the residents, has opposed it.** If I and my neighbors never received formal notification before now, asking for our vote regarding its establishment, who supports this? Are they homeowners and residents or absentee landlords and business owners? It seems that the only people the planning committee has engaged in the process thus far are--intentionally--those who will benefit most. The rest of us--those who will pay for services they do not need, nor want--have been intentionally left out of the process.
- Why is there not an "opt out" for resident property owners who are willing to clean and maintain their own residential areas? If the majority of the "mess" is in commercial and entertainment districts, why should residents pay the cost?
- **How is this different from the services already provided** by the Department of Public Services, DOTE, etc. and their contracted partners? Will we be getting a real estate and city tax refund for any duplicated services?
- Isn't it a **conflict of interest** to hire 3CDC to oversee the services outlined in this program when they are also such large stakeholders in the neighborhood? Could residents choose other trusted contractors such as Keep Cincinnati Beautiful, etc., to provide services?
- Do we know how the money will *actually* be spent? The provided outlines I've found online do not really tell us anything specific about services provided and, yet, the cost seems astronomical in total. (I often watch a downtown Ambassador snooze in my alleyway during the day while he's being paid to work. Will we be paying for more like him?)

How can this resolution be passed without these questions answered for Over-the-Rhine property owners who bear the financial burden of the program?

I would be happy to speak to you personally about my concerns but I know this issue is urgent and I wanted to send my objection as soon as possible.

Thank you for your consideration.

Elizabeth McEwan

## **Crawford, Nicole**

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**From:** William Slone  
**Sent:** Wednesday, September 23, 2020 8:43 AM  
**To:** ClerkOfCouncilEmail  
**Subject:** [External Email] Regarding the notice of special assessments

External Email Communication

To Whom It May Concern:

Opening the undated letter describing the Council's resolution of September 2, 2020 was one of my greatest disappointments in the City of Cincinnati.

To be clear: I strongly object to the Over-the-Rhine South Special Improvement District and this process for attempting to establish it.

I have lived in Over-the-Rhine since the year 2000 and have experienced a great deal in that time. I have been a homeowner in the neighborhood for seventeen years. I have been very involved in numerous neighborhood initiatives ranging for the City's Over-the-Rhine Comprehensive Plan and mentoring programs for at-risk youth to ongoing arts events. Since moving here I have also made conscious and consistent efforts to support neighborhood businesses from Main Street to Vine Street to Findlay Market.

In the last eighteen months I attended two different meetings regarding the proposed ballot initiative for a SID for Over-the-Rhine south of Liberty. These meetings were put on by those proposing the SID. During each of those meetings, held roughly a year apart, it was stated that Ohio laws require the establishment of a SID to go through a specific process to allow property owners to vote on it. Any unreturned ballot would simply be counted as a No vote in order to ensure the fairness of protecting property owners from an improperly established levy.

In both of those meetings I asked the organizers if they had sought to reduce the cost to the minimum of absolutely needed services and expenses. Their answer was, "No." I asked if they had first sought to establish funding for their initiatives that did not rely on co-opting the power of taxation. Their answer was, "No."

Those proposing the SID had reached out to many property owners individually, and the most vocal and active supporter of the SID stated to many of them that he was keeping a spreadsheet of how each property owner would vote. The point being, once the spreadsheet showed that the required threshold had been crossed the initiative would go to the ballot.

Early this year, multiple social media posts were made by one supporter of the SID, and these posts stated it would be on a spring ballot. That did not happen. A few times this year, neighbors asked each other if they had received anything, and none had.

Then of course last Friday, September 18, residents received a letter saying that the City Council had resolved to create the SID on September 2. It is difficult to understand how Council would have held a vote to approve such a thing without first gathering public input. It is difficult to understand why the individual Council members felt this was in any way a fair or equitable thing to do to residents of Over-the-Rhine, to residents of Cincinnati.

The SID, as described by those proposing and supporting it, would primarily help to make the neighborhood clean and safe.

The difficulties with maintaining clean public spaces in Over-the-Rhine are caused primarily by individuals who do not live in this neighborhood. I state that firm personal opinion based, again, on twenty years of living here, walking the neighborhood for the majority of my basic shopping and living needs. I believe that most acts of litter and graffiti are done by people who do not live here.

I have also had numerous conversations with law enforcement members of varying levels confirming this.

This fact combined with the stated goals of the for-profit businesses that support the SID is to increase the marketability of Over-the-Rhine businesses means you are taxing people's home in order to underwrite private businesses. Supporting local businesses is of course not an objectionable goal, but to put the cost of supporting any businesses on the tax bill of a select set of homeowners is so objectionable that it seems in every way to be un-American.

This is because I cannot think of one of these vocal SID-supporting business owners who lives here—or ever has lived here.

This SID literally levies a special tax on residents' homes in order to support the businesses of people who do not live in this neighborhood or possibly even this city, county or state. I cannot understand how any elected city official thinks this is a justified thing to do.

And I do not understand how any elected official would think it right to levy some citizens more than others in order to provide for their safety. Again, when the levy is based on where in the city one lives even though the majority of the crime is committed by those who don't live in that neighborhood it is even more difficult to understand.

Any elected official who supports this unjust removal of their voters' money in order to financially benefit business owners who live in other cities will forever be remembered for it. To propose during this during a time of great local, national and global distress as so many deal with the health and economic effects of a pandemic is unconscionable. This levy and the process to even consider it has been hidden from public view, cloaked in legalese and certainly seems to have resulted from backroom maneuvering.

This should not be allowed to stand.

Sincerely,

William N. Slone

**Crawford, Nicole**

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**From:** Ryan Smith  
**Sent:** Wednesday, September 23, 2020 9:26 AM  
**To:** ClerkOfCouncilEmail  
**Subject:** [External Email] OTR South SID Review: 9-23-20

External Email Communication

Good morning,

On 9-21-20 I received a certified letter re the newly enacted OTR South SID assessment. The letter states that the Services Plan and assessments are available for inspection at your office.

I am the President of our OTR condo HOA, so at a minimum I would like to review my individual property, along with all HOA properties if possible so I may forward that information to all HOA owners.

Can you forward me a digital copy of all said documents, specifically the assessment estimates? If not, how may I review these in person, to include any issues with Covid, etc.

Thank you,

Ryan Smith

September 19, 2020

**RE: Special Assessments within the Proposed Special Improvement District (SID)**

**To Who It May Concern:**

**This is within regards to the recent Notice to Property Owners of Special Assessments which was apparently passed by Cincinnati City Council and the State of Ohio on Sept 2<sup>nd</sup>, 2020.**

**For the record I received the official notice today, September 19, 2020.**

**I, as a property owner within the "proposed" Special Improvement District, due duly object to the enactment of this order on the grounds that the committee pushing this through did not fully comply with their own agenda regarding the surveying and voting of the property owners within the Special Improvement District.**

**On November 26<sup>th</sup>, 2019 the Special Improvement District "Working Committee/Group" held a public forum at Memorial Hall in Over-The-Rhine. They briefed residents on the proposals of the "SID" and their final point from their presentation was that they would be mailing surveys and "voting" to the property owners within a few months. That was the absolute last I heard of this until receiving your letter this evening. I have no record of casting of vote on the matter in the last few months.**

**I feel the current property owners of OTR are being taken advantage of during a time that more people are leaving this area than ever before. There is more property available on the market currently than there ever has been. Meanwhile, outside of the downtown area, property owners are putting their houses up for sale and having multiple competing offers within 24hrs. This doesn't exist at the current time within the downtown SID. Downtown and the areas within the "SID" have residents that no longer wish to live here anymore given the COVID-19 circumstances. Our building of 9 units has lost 3 residents within the last 6 months.**

**The committee behind the supposed Special Improvement District is trying to push their idea through at the expense of the residents. Many of the members on this committee are not going to be responsible for a paying an assessment and want their agenda/project pushed through no matter what.**

**I fully reject the idea of a Special Improvement District within the boundaries defined by the Committee. The area within is recessing in time as businesses close. More and more people will leave from these neighborhoods and the new property owners will be left with a ridiculous assessment cleaning up an area that very few people will visit.**



**Thank you for your time,  
Daniel Johnson**

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Sept 18, 2020

To Whom it may Concern:

I object to the "special assessments" placed on residents of OTR property, as dated by your memo of 9/2/20. I just received this notice on 9/18/20.

Please register this objection to the ASSESSMENT EQUALIZATION BOARD.

THANK YOU,

MARY FINCH



Cincinnati, OH

September 10, 2020

**TO:** Mayor and Members of City Council  
**FROM:** Paula Boggs Muething, Interim City Manager  
**SUBJECT:** FY 2020 Carryover to FY 2021 Report

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The following report provides an overview of the City of Cincinnati's General Fund FY 2020 year-end balance and application of the Stabilization Funds Policy adopted by the City Council. This report also includes FY 2021 Budget Update considerations for discussion.

**General Fund 2020 Fiscal Year-End Balance and One-Time Uses**

The FY 2021 Approved Budget Update includes \$10.2 million in emergency short-term note proceeds as authorized by Section 133-12 of the Ohio Revised Code to balance the budget. The City Council passed an ordinance that directs the Administration to use any additional available dollars in place of the emergency short-term note proceeds as part of the FY 2021 Budget Update. The City recently received \$7.7 million in additional Coronavirus Aid, Relief, and Economic Security (CARES) Act dollars. This amount will be applied to cover budgeted expenses in place of the emergency short-term note secured in May. The remaining balance of \$2.5 million budgeted in the FY 2021 Budget Update will be repaid from the Economic Downturn Reserve if additional COVID related support dollars are not received.

As shown in the table below, the City's General Fund ended FY 2020 with a carryover amount of \$20.3 million including \$6.2 million net FY 2019 carryover. The table includes a breakdown of how the carryover was applied to reserves and one-time uses.

### Application of FY 2020 Carryover Balance

<b>Cash Basis Carryover Balance FY 2020</b>		\$ 20,310,440
<b>Uses of Carryover Balance</b>		
<b>Application of Stabilization Funds Policy:</b>		
Less General Fund Carryover Balance (1.5% of operating revenue )		\$ 6,363,217
Less Transfers to Reserve Accounts:		
General Fund Contingency Account (2.00% of operating revenue)	\$ 5,676,785	
Economic Downturn Reserve (pledged for short-term note)	\$2,500,000	
Economic Downturn Reserve (additional waterfall amount)	<u>\$ 311,948</u>	
Economic Downturn Reserve Total (1.43% of operating revenue)	\$ 2,811,948	
Working Capital Reserve (8.36% of operating revenue)	<u>\$ 2,729,245</u>	
Total Reserve Transfer from Stabilization Funds Policy		<u>\$ 11,217,978</u>
<b>Carryover Balance Less Total Applied to Stabilization Funds Policy</b>		<b>\$ 2,729,245</b>
Less One-Time Uses:		
Police Violence Reduction Initiatives		\$ 1,000,000
Tuition Reimbursement		\$ 430,000
Merits and COLAs		\$ 675,000
Short Term Rental Contract		\$ 40,000
Housing Court Startup		\$ 100,000
COVID-19 Costs Health		\$ 339,245
COVID-19 Costs Recreation		\$ 95,000
CitiCable Video Playback System		<u>\$ 50,000</u>
<b>Balance Available</b>		<b>\$ -</b>

### Uses of Carryover Balances

#### **Application of Stabilization Funds Policy**

The Government Finance Officers Association (GFOA) recommends that local governments establish a formal policy on the level of unrestricted fund balance that should be maintained in the General Fund. The City's Stabilization Funds Policy, approved by the City Council in 2015 and revised in 2019, references the GFOA's recommended two months of operating revenues, or 16.7%.

Per the Revised Stabilization Funds Policy and also setting aside dollars to cover the ORC Section 133-12 loan, the following transfers will be requested via ordinance: \$2.7 million transfer to the Working Capital Reserve, \$5.7 million to the General Fund Contingency Account and \$2.8 million to the Economic Downturn Reserve Account. Based on the policy, \$6.4 million will remain in the General Fund balance. Please note below that in FY 2019 the Emergency Reserve Account was rolled into the General Fund Contingency Account and a new Economic Downturn Reserve Account was created in accordance with the revised policy.

## FY 2019 Balances after Close-out Adjustments

Annual Revenue	\$413,963,769	
Working Capital Reserve	\$32,068,572	7.75%
General Fund Contingency Account	\$8,279,275	2.00%
Economic Downturn Reserve	\$3,240,048	0.78%
General Fund Carryover Balance (After Uses)	\$6,209,457	1.50%
<b>Total Combined Reserves</b>	<b>\$49,797,352</b>	<b>12.03%</b>

### Projected Balances FY 2020 After Proposed Transfers

Annual Revenue		\$424,214,447
Working Capital Reserve		\$35,447,902      8.36%
General Fund Contingency Account		\$8,484,289      2.00%
Economic Downturn Reserve (pledged for short-term note)	\$2,500,000	
Economic Downturn Reserve (additional balance)	\$3,551,949	
Total Economic Downturn Reserve		\$6,051,949      1.43%
General Fund Carryover Balance (After Uses)		\$6,363,217      1.50%
Total Combined Reserves (\$2.5 million pledged for short-term note)		<b>\$56,347,357      13.28%</b>

Overall combined reserves have increased from 12.03% in FY 2019 to 13.28% in FY 2020, an increase of 1.25%. The City of Cincinnati is committed to managing the City's operations in a prudent, responsible way through the adherence to management disciplines to ensure fiscal stability. One of those methods is the Stabilization Funds Policy. The City must plan for and be prepared to mitigate fluctuations in demand for services as well as changes in revenues influenced by the economy and budgetary decisions made by the State of Ohio and the federal government. The City must be prepared for unforeseen events that could result in additional expenditure requirements or loss of revenues by maintaining prudent levels of fund balance and reserves as set forth in the policy adopted in 2015 and revised in 2019. The GFOA's recommendation of 16.7% reserves is the appropriate level we are striving toward.

The rating agencies have emphasized the importance of maintaining appropriate reserves to ensure financial stability and to retain the current bond ratings. The Administration has committed to the rating agencies' plan to build the reserve balances each year until reaching the goal of 16.7% as recommended by the GFOA.

### Carryover Uses

As part of the updated Stabilization Funds Policy, \$2,729,245 is available for one-time uses for FY 2021. Below are the Administration's recommendations on how to use these dollars with the highest priority to reduce the current spike in the crime in the City.

Violence Reduction Initiatives (\$1,000,000):

The Administration recommends funding for three programs to address the spike in crime:

- Police Visibility Overtime (PVO) (\$700,000) – One of the most effective solutions to address short term spikes in crime is to have officer presence in the areas where crime has spiked. PVO would be strategically deployed to address the increase in crime to maintain a proactive presence to deter crime.
- Add One FTE District Attorney Position (\$100,000) – The City Solicitor’s Office currently allocates one full-time City prosecuting attorney to be a Special Assistant to the US Attorney’s Office (SAUSA) focused on local law enforcement efforts to address gun violence. Funding an additional prosecuting attorney with the City Solicitor’s Office would allow the City to double its efforts with two additional prosecuting attorneys working with the SAUSA and the U.S. Attorney’s Office to combat and prosecute gun violence. Involvement by the City’s attorneys in the federal effort strengthens and maintains the critical, working relationships between local and federal agencies.
- Safety Coordinators/Organizers Program (\$200,000) – Reporting to the Division Manager of Criminal Justice Initiatives within the Office of the City Manager, Safety Coordinators/Organizers would be contractors that will lead collaborative efforts to improve safety and quality of life in priority neighborhoods, acting as a liaison between residents, community-based organizations, business owners, developers and police/prosecutors. The overarching goal is to integrate the resources of people and institutions which influence crime and perceptions within neighborhoods to uncover more strategic and effective remedies for safety problems and community engagement to ensure long-term and sustainable results.

Below is an explanation of additional high priority uses of the remaining FY 2020 Fund Balance:

- Tuition Reimbursement (\$430,000) – The Fraternal Order of Police (FOP) was successful in an arbitration related to the elimination of tuition reimbursement for FY 2020. As a result, an additional need of \$330,000 is necessary to pay the FY 2020 tuition reimbursement costs and the projected need for FY 2021. This request also includes the remaining \$100,000 to be appropriated to a General Fund non-departmental account for all General Fund staff to be able to participate in the tuition reimbursement program.
- Reinstating Non-Represented Employees’ Merit Pay and COLAs (\$675,000) – The Approved FY 2021 Budget Update included a freeze of merit pay and cost-of-living-adjustments (COLAs) for all non-represented staff. This was the last item eliminated in the budget to balance and creates pay inequities within the City. Reinstating merit pay for Fiscal Year 2021 and a 2.0% COLA effective October 4, 2020 will create equity among the union and non-represented ranks.
- Short-Term Rental Contractual Services (\$40,000) – The City implemented a Short-Term Rental Excise Tax and there is a need for an outside service to verify that all short-term rental owners are complying with the new laws. This service would provide the City with a list of all owners and confirm compliance.
- Housing Court Startup (\$100,000) – The City continues to stand up the Housing Court function and funds were allocated in FY 2020 that were unspent. These additional funds would be used to continue the process with the goal of standing up the City function by the end of FY 2021.
- COVID-19 Expenditures, Health (\$339,000) – Funds would be allocated to the Cincinnati Health Department to address any additional COVID-19 expenditures that are not funded with grant dollars and would include additional costs for contact tracing and testing.

- COVID-19 Expenditures, Recreation (\$95,000) – The Cincinnati Recreation Commission (CRC) is offering access to the internet for students as part of full day camp services during the pandemic. The current internet service is not capable of handling the additional load so these funds would be used for investment in WIFI access at all recreation centers to allow students to attend school virtually.
- CitiCable Video Playback System, City Manager’s Office (\$50,000) – CitiCable is currently unable to program or broadcast its Public and Educations (P&E) Channels (Public, Education and Religion channels) due to equipment failure. The City of Cincinnati will need to procure a new Video Playback System.

### **2021 Pending Matters**

There are several budget concerns for FY 2021 and beyond that are noteworthy. These include the following:

- COVID-19 Budget Impact – Due to the downturn in income tax and other sources of revenues related to the COVID-19 pandemic, the Approved FY 2021 Budget Update was balanced but not structurally balanced due to the reliance on \$43.9 million in one-time funds, including a loan related to ORC Section 133.12 in the amount of \$10.2 million, Coronavirus Aid, Relief, and Economic Security (CARES) Act funding from the State of Ohio and Hamilton County in the amount of \$32.0 million, and one-time transfers of \$1.7 million. While the closeout process has identified funds to pay off the loan, there is still uncertainty as to additional dollars available for COVID-19 related unbudgeted expenditures. The Administration will monitor the situation closely but will likely need additional State and Federal dollars to assist with these unbudgeted expenditures during FY 2021.
- FY 2022 Projected Deficit – The Approved FY 2021 Budget Update document includes a General Fund long-term financial forecast and shows a preliminary deficit of \$7.2 million for FY 2022. This assumes a 2% increase for personnel and a 10% increase for healthcare. If contract negotiations result in higher increases, the projected deficit will increase.
- Stabilization Funds – The Stabilization Funds Policy, which was adopted by the City Council in June 2015 and amended in June 2019, directs specific amounts of funds to reserves based on estimated revenues. Specifically, the policy directive addresses four components: Working Capital Reserve, General Fund Contingency Account, Economic Downturn Reserve Account and the General Fund Carryover Balance. Overall, the Combined Reserves were increased from 12.03% to 13.28%.
- Ratings Agencies – Moody’s Investors Services’ current assigned rating is Aa2 for the City’s outstanding general obligation unlimited tax (GOULT) debt, and the rating is Aa3 on the City’s outstanding non-tax revenue debt. The outlook is stable. Standard & Poor’s Ratings Services’ current assigned rating is AA for the City’s long-term unlimited-tax general obligation (GO) bonds and an AA long-term rating on the City’s non-tax revenue bonds. The outlook is stable.
- Income Tax – It should be stressed that the City remains over reliant on income tax revenue. The FY 2021 Income Tax estimate includes a 10% increase for FY 2022. If income tax does not rebound as estimated, the deficit will increase for FY 2022.

**Recommendation**

The Administration requests this report be approved and filed and will request the accompanying Ordinance for approval.

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



September 16, 2020

**TO:** Mayor and Members of City Council **202001536**

**FROM:** Paula Boggs Muething, Interim City Manager

**SUBJECT:** Department of Finance Reports for the Month Ended July 31, 2020

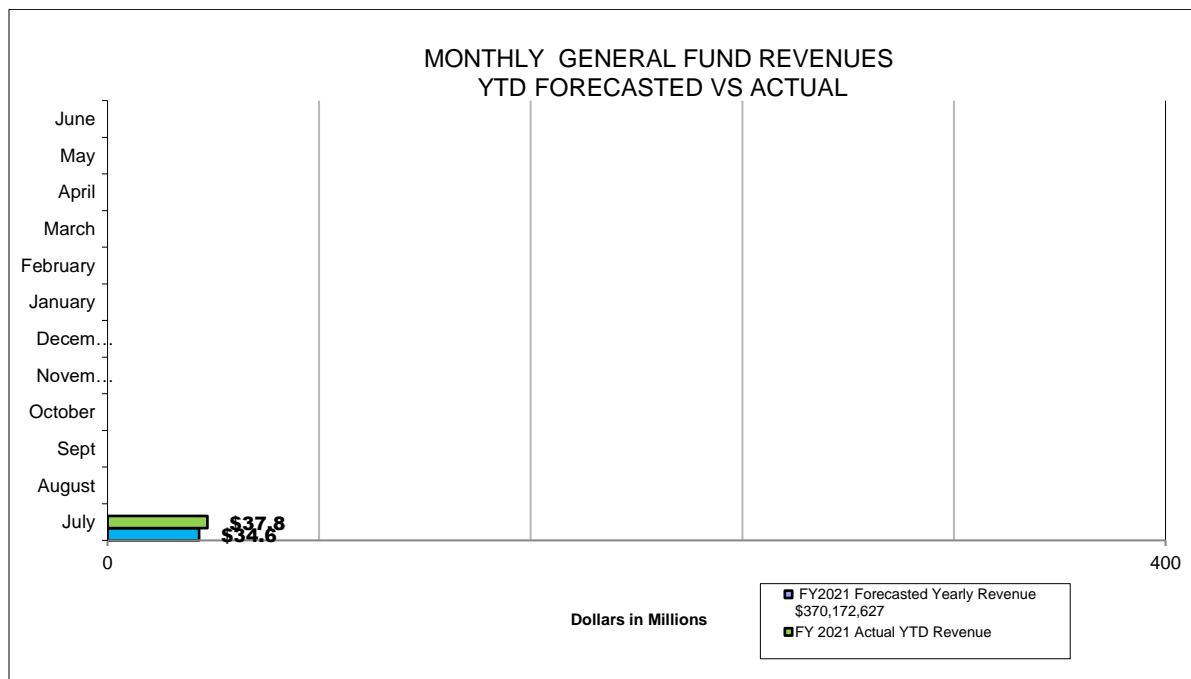
**JULY 2020  
MONTHLY FINANCIAL REPORTS**

The following report provides an update on the City of Cincinnati’s financial condition as of the month ending July 31, 2020. This report represents the first report for the new 2021 fiscal year, ending June 30, 2021. Variances are based on current year estimates and prior year activity in attached schedules.

A more detailed explanation of revenues and expenditures is attached for review, including reports comparing current year actual revenue vs. forecasted revenue and prior year actual revenue vs. current year actual revenue. Both of those reports are presented on a monthly and year to date basis.

Beginning with the September report there will be a new format which will be a joint report between the Finance department and the Budget office. This new format is intended to give a more complete reporting of the revenues and expenditures as monitored by the Budget office.

The chart below portrays the performance of actual revenue collected against the forecasted revenue collected through July 31, 2020 and shows that actual revenues of \$37.8 million was above forecasted revenues of \$34.6 million by \$3.2 million.



The major revenue components of the General Fund are listed in the table below. This table highlights the year to date variance (favorable and unfavorable) in General Fund revenue collections as compared to forecasted revenue collections. Each major category that differs significantly from forecasted collections will be discussed in further detail.

<b>GENERAL FUND REVENUE SOURCES</b>		
	<b>FAVORABLE VARIANCE</b>	<b>(UNFAVORABLE) VARIANCE</b>
General Property Tax		(\$6,805)
City Income Tax	\$2,466,659	
Admission Tax		(\$43,326)
Short Term Rental Excise Tax	\$10,907	
Licenses & Permits		(\$198,914)
Fines, Forfeitures, & Penalties		(\$359,817)
Investment Income		
Local Government	\$62,663	
Casino	\$100,326	
Police		(\$55,305)
Buildings and Inspections	\$207,158	
Fire	\$176,462	
Parking Meter		(\$115,886)
Other	\$999,327	
	\$4,023,501	(\$780,053)
Difference	\$3,243,448	

**General Fund (favorable variance) is \$3.2 million** above the amount forecasted thru July in the FY 2021 Budget. This is the first month's report for the new fiscal year. What follows is an explanation of significant variances of individual General Fund revenue components.

**Income Taxes (favorable variance) is \$2.5 million** above the forecasted amount. This is the first month of the new fiscal year and as such there is not enough data to discern any trends. However, overall, this variance represents an 45% increase over last year at this time due to the tax deadline being shifted from April 15<sup>th</sup> to July 15<sup>th</sup>. This shift is factored in the July projection. Employer withholdings are slightly below prior year collections. The tax component represents 71% of the total General Fund percentage, Administration continues to evaluate and watch for trends.

**License & Permits (unfavorable variance) is down \$199k.** The unfavorable variance is due to the current COVID19 overall slowdown.

**Fines, Forfeitures & Penalties (unfavorable variance) is down \$360k.** Parking fines are lower than estimated due to the lack of traffic at the meters resulting in less tickets. If this trend continues, the estimates in this revenue category will not be met for the fiscal year.

**Casino (favorable variance) is up \$100k.** Due to the COVID19 epidemic the FY 2021 revenue estimate was adjusted downward to account for the casino closures and restrictions on patrons permitted on the properties once they reopened.

**Buildings and Inspections (favorable variance) is up \$207k.** FY 2021 is continuing to realize an increase similar to FY 2020. This favorable variance continued in July.

**Fire (favorable variance) is up \$176k.** This favorable variance is a result of higher than expected collections related to EMS runs.

**Other (favorable variance) is up \$999k.** The majority of this is a result of revenue received by the Fire Department from a SAFER grant as a reimbursement for prior year expenses.

## **Restricted Funds:**

**Water Works Fund (favorable variance) is up \$ 476k.** For July, the favorable variance was 3.3% over projections; however, down 2.8% when compared to the prior year. This is only the first month of reporting for the fiscal year, Administration will continue to monitor and report, as necessary.

**Parking Meter (unfavorable variance) is down \$109k.** The unfavorable variance is due reduced economic activity as a result of the COVID-19 pandemic.

**Municipal Golf (favorable variance) is up \$189k.** The City has experienced an increase in the utilization of the golf courses as people are looking for outside activities during the pandemic.

**Sawyer Point (unfavorable variance) is down \$53k.** The unfavorable variance is a result of less economic activity at the park as a result of the pandemic restrictions.

**Recreation Special (unfavorable variance) is down \$104k.** The Cincinnati Recreation Commission has experienced a reduction in revenue due to the cancellation of recreation center programs as a result of the pandemic.

**CAGIS (unfavorable variance) is down \$119k.** The unfavorable variance is due to the continued timing of billing and receipt of revenue. The department carefully watches the fund expenses to ensure they do not exceed revenues in a given fiscal year.

**CLEAR (unfavorable variance) is down \$371k.** The department continues to monitor the fund to ensure that expenditures do not exceed revenue in the fiscal year.

Submitted herewith are the following Department of Finance reports:

1. Comparative Statement of Revenue and Expenditures (Actual, Forecast and Prior Year) as of July 31, 2020.
2. Statement of Balances in the various funds as of July 31, 2020.

By approval of this report, City Council appropriates the revenues received in the various restricted funds on the attached Statement of Balances and as stated in greater detail on the records maintained by the Department of Finance, Division of Accounts & Audits. Such revenues are to be expended in accordance with the purposes for which the funds were established.

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

September 23, 2020

**202001600**

To: Mayor and Members of City Council  
From: Paula Boggs Muething, Interim City Manager  
Subject: **COUNCIL REPORT – AVONDALE GROCERY STORE**

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**REFERENCE DOCUMENT #202001164**

The Budget & Finance Committee at its session on August 4, 2020 referred the following item for review and report:

MOTION, submitted by Councilmembers Sittenfeld, Kearney, Young and Landsman, WE MOVE that the City of Cincinnati commit \$500,000 to help catalyze the Avondale grocery store project. WE FURTHER MOVE that these dollars come from the City Operating or Capital Budget within the next two Fiscal Year budget cycles. WE FURTHER MOVE that these City dollars be contingent on there being a Community Benefits Agreement between the grocery operator and the neighborhood and its longtime partners who have advocated passionately for this outcome, as represented by the Avondale Community Council, Avondale Community Development Corporation, The Center for Closing the Health Gap and The Urban League in order to ensure that ongoing quality standards for the neighborhood are met; and also be contingent on vetting and due diligence from the City's Department of Community and Economic Development; and finally, be contingent on a financial match against City dollars from other partners.

**BACKGROUND**

In 2016, the City provided assistance to The Community Builders (TCB) to construct a mixed income apartment community with first floor retail at the Avondale Town Center. This development included 119 apartment units and 75,000 square feet of commercial space with 20,000 square feet targeted for a grocery store. The development required significant subsidy including a \$2,000,000 capital grant, \$1,364,500 land sale price reduction, forgiveness of \$1,317,000 of debt outstanding on the Town Center and two CRA tax abatements for the residential units and commercial spaces. While a space was targeted for a grocery store, the effort to find an operator willing to invest the capital needed to start a store had not yet yielded an operator.

## **THE CURRENT PROPOSAL**

The retail space targeted for the grocery is on the ground floor of the three-story mixed-use South Building, which is at the northwest quadrant of the intersection of Reading Road and Forest Avenue. The grocery will occupy approximately 7,000 square feet with 5,250 square feet as the sales floor. The space is adjacent to 10,000 square feet of office space for the future Center for Social Justice office and within the vicinity of other new retail and lifestyle businesses opening in the same building facing Reading Road.

The proposed grocery will operate 9:00 AM to 8:00 PM Monday through Saturday and 9:00 AM to 5:00 PM on Sunday. The store will feature an extremely space efficient interior layout that is dominant in meat, deli, produce aisles, alongside limited grocery sections with lower priced private label products. The proposed store will offer a 5% Senior Citizen Discount day and accept WIC and SNAP (Federal Food Stamps) immediately upon opening.

The grocery space will be leased and operated by Tannel and Chanel Bryant, current owners of The Country Meat Company with two retail divisions (service meat vendors) in farmers markets in Louisville, Kentucky and locally in Findlay Market. The owners also operate a food service division that provides hot and cold meals to schools, government agencies, childcare facilities, and catering events. An experienced urban, grocery manager will be hired to manage the day to day operations of the new Avondale grocery.

Upon completion, the Avondale Market will provide up to 4 FTE and 15 PTE employment positions in the overall Avondale community. The total annual payroll is approximately \$700,000.

## **MARKET STUDY ANALYSIS**

The market analysis conducted by TCB outlines the neighborhood demographics of Avondale and categorizes it as a food desert, where the residents – who are predominantly black and low-income – do not have reasonable access to a grocery store, particularly one with fresh fruits and vegetables. Based on the market research analysis, the Avondale neighborhood is underserved with a population base of approximately 25,627 persons with an average income of \$36,528. Currently, there is not a market within a 1.4-mile radius of the Avondale Town Center. It is important to highlight that 40% of the households in the primary trade area of the Town Center do not own a vehicle. In addition, 16.5% of the households live below the poverty line.

A new grocery to anchor the Avondale Town Center will offer local residents access to lower cost, nutritious and fresh foods and strong perishables. This new store will help achieve the overall goal of providing and promoting better diets and healthier living standards in this relatively low-income and urban area.

The market study concluded that while a new conventional grocery has been difficult to attract to perceptions of cost to operate within the Avondale market, a smaller grocery model can lessen these risks through lower overhead and lower break-even costs to achieve profitability within the Avondale market.

## **CONDITIONS OF SUPPORT**

TCB seeks the \$500,000 to facilitate the build-out of the grocery at the Avondale Town Center. TCB will be performing the build-out work for the tenant as part of the landlord scope of work.

DCED staff have analyzed information submitted by TCB including information about grocery operators and market information to confirm that the operator’s proposal is aware of the complexities of the grocery market.

DCED staff has and will continue to evaluate the partnership between TCB and the tenant to properly execute the project. Our understanding is that the funding appropriated by the City will directly support the tenant improvements needed to build out the space for the grocery. In order to maintain the City’s investment and intention in building a grocery store in the Avondale neighborhood the funds are expected to go directly to TCB who will manage the permanent improvements to the grocery space. For this reason, the Administration recommends providing the appropriated funds in the form of a forgivable loan to TCB which will directly support the development of the grocery store. Further, the Administration recommends the loan be contingent upon execution of a payment guaranty to be provided by the tenant and principals of the tenant, and the City will seek to secure its interests through a lien on the property or other available collateral, such as fixtures, furnishings, and equipment. Following successful operation of the Avondale Grocery for at minimum a five-year period, the City will agree to forgive the loan and release any collateral interests. All terms of the loan remain subject to further discussions between the City, tenant, and TCB.

City funding will be contingent upon secured commitments from the tenant and TCB. The requested assistance of the City represents 12% of the overall investment needed to bring the grocery and Center for Social Justice office to fruition. Below is a list of the investment commitments to date as provided by TCB.

<b>Organization</b>	<b>Funding Amount</b>
TCB Contribution / Other Sources	\$ 2,573,650.00
City of Cincinnati Capital Funding	\$ 500,000.00
Cincinnati Children’s	\$ 600,000.00
Greater Cincinnati Foundation	\$ 150,000.00
Impact	\$ 75,000.00
Fifth Third	\$ 25,000.00
Haile/U.S. Bank Foundation	\$ 75,000.00
Other Community Resources	\$ 75,000.00
<b>TOTAL PROJECT SOURCES</b>	<b>\$ 4,073,650.00</b>

The Administration has identified \$491,000 of existing capital resources previously allocated by City Council under Ordinance 208-2017 for similar purposes. When the conditions listed above have been met, the Administration will propose reallocating these resources for the Avondale Grocery with other resources to appropriate sufficient funding for this project.

**RECOMMENDATION**

The Administration recommends approval of this report. Following approval of this report DCED will enter into negotiations with the tenant and TCB. The administration will bring the necessary agreements to City Council for approval.

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

September 23, 2020

**To:** Mayor and Members of City Council **202001583**

**From:** Paula Boggs Muething, Interim City Manager

**Subject: Emergency Ordinance – FY 2020 Year-End Report  
Recommended Transfers and Appropriations**

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Attached is an Emergency Ordinance captioned:

**AUTHORIZING** the transfer of the sum of \$2,729,245 from the unappropriated surplus of General Fund 050 to the unappropriated surplus of Working Capital Reserve Fund 754 for the purpose of increasing the City’s working capital reserve; **AUTHORIZING** the transfer of the sum of \$2,811,948 from the unappropriated surplus of General Fund 050 to balance sheet reserve account no. 050x2585, “Economic Downturn Reserve,” for the purpose of increasing the City’s emergency reserve to 5.0% of FY 2020 General Fund revenues; **AUTHORIZING** the transfer of the sum of \$5,676,785 from the unappropriated surplus of General Fund 050 to balance sheet reserve account no. 050x2580, “Reserve for Weather Events, Other Emergency and One-Time Needs,” for the purpose of providing resources for unanticipated emergencies including those caused by unusual weather events, in order to increase the City’s reserve for this purpose to 2.0% of FY 2020 General Fund revenues; **AUTHORIZING** the appropriation of the sum of \$700,000 from the unappropriated surplus of the General Fund 050 to the Cincinnati Police Department’s General Fund personnel operating budget account no. 050x222x7100 for the purpose of funding police visibility overtime as part of the City’s violence reduction initiatives; **AUTHORIZING** the appropriation of the sum of \$100,000 from the unappropriated surplus of the General Fund 050 to the Law Department’s General Fund personnel operating budget account no. 050x111x7100 for the purpose of funding an additional prosecuting attorney as part of the City’s violence reduction initiatives; **AUTHORIZING** the appropriation of the sum of \$200,000 from the unappropriated surplus of the General Fund 050 to the City Manager’s Office’s General Fund non-personnel operating budget account no. 050x101x7200 for the purpose of funding a Safety Coordinators/Organizers Program as part of the City’s violence reduction initiatives; **AUTHORIZING** the appropriation of the sum of \$330,000 from the unappropriated surplus of the General Fund 050 to the Cincinnati Police Department’s General Fund non-personnel operating budget account no. 050x222x7400 for the purpose of funding tuition reimbursement expenses for sworn officers; **AUTHORIZING** the



appropriation of the sum of \$100,000 from the unappropriated surplus of the General Fund 050 to the Tuition Reimbursement General Fund Non-Departmental non-personnel operating budget account no. 050x928x7400 for the purpose of funding tuition reimbursement expenses for General Fund employees; AUTHORIZING the appropriation of the sum of \$100,000 from the unappropriated surplus of General Fund 050 to the Law Department's non-personnel operating budget account no. 050x111x7200, for the purpose of providing funding for costs associated with the creation of the Housing Court; AUTHORIZING the appropriation of the sum of \$40,000 from the unappropriated surplus of the General Fund 050 to the Department of Finance's General Fund non-personnel operating budget account no. 050x131x7200 for the purpose of providing funding for contractual services related to increasing compliance with the City's Short-Term Rental Excise Tax; AUTHORIZING the transfer of the sum of \$339,245 from the unappropriated surplus of the General Fund 050 to the unappropriated surplus of Cincinnati Health District Fund 416; AUTHORIZING the appropriation of the sum of \$339,245 from the unappropriated surplus of Cincinnati Health District Fund 416 to the Cincinnati Health Department's Cincinnati Health District Fund non-personnel operating budget account no. 416x263x7200 for the purpose of providing funding for COVID-19 related expenses including the cost of contact tracers and testing; AUTHORIZING the appropriation of the sum of \$95,000 from the unappropriated surplus of General Fund 050 to the Department of Recreation's General Fund non-personnel operating budget account no. 050x199x7200 for the purpose of providing funding to upgrade WIFI access at Recreation Centers to allow students to attend school virtually; AUTHORIZING the appropriation of the sum of \$50,000 from the unappropriated surplus of General Fund 050 to the City Manager's Office's General Fund non-personnel operating budget account no. 050x101x7200 for the purpose of replacing CitiCable's Video Playback System; REVISING the Classification and Salary Range Schedule for all employment classifications in Divisions 0, 5, 7 (LAW), 8, and 9 of Chapter 307 of the Cincinnati Municipal Code to reflect the new Classification and Salary Range Schedule for said classifications and to provide for a cost-of-living ("COLA") adjustment of 2.0% effective October 4, 2020; AUTHORIZING the appropriation of the sum of \$596,570 from the unappropriated surplus of General Fund 050 to various General Fund personnel operating budget accounts according to the attached Schedule of Transfer for the purpose of restoring merit pay for FY 2021 for non-represented employees and providing for a 2.0% COLA adjustment for non-represented employees effective October 4, 2020; AUTHORIZING the transfer of the sum of \$78,430 from the unappropriated surplus of General Fund 050 to the unappropriated surplus of Cincinnati Health District Fund 416; AUTHORIZING the transfer and appropriation of the sum of \$78,430 from the

unappropriated surplus of Cincinnati Health District Fund 416 to the Cincinnati Health Department's Cincinnati Health District Fund personnel operating budget accounts according to the attached Schedule of Transfer for the purpose of restoring merit pay for FY 2021 for non-represented employees and providing for a 2.0% COLA adjustment for non-represented employees effective October 4, 2020; and further AUTHORIZING the appropriation of the sum of \$278,050 from the unappropriated surplus of the various Restricted Funds to personnel operating budget accounts of the various Restricted Funds according to the attached Schedule of Transfer for the purpose of restoring merit pay for non-represented employees and providing for a 2.0% COLA adjustment for non-represented employees effective October 4, 2020.

This Emergency Ordinance would authorize the various transfers and appropriations as recommended in the FY 2020 Carryover to FY 2021 Report Item #202001445 which includes the following transfers and appropriations:

**Application of FY 2020 Carryover Balance**

<b>Cash Basis Carryover Balance FY 2020</b>		\$ 20,310,440
<b>Uses of Carryover Balance</b>		
<b>Application of Stabilization Funds Policy:</b>		
Less General Fund Carryover Balance (1.5% of operating revenue)		\$ 6,363,217
Less Transfers to Reserve Accounts:		
General Fund Contingency Account (2.00% of operating revenue)		\$ 5,676,785
Economic Downturn Reserve (pledged for short-term note)	\$ 2,500,000	
Economic Downturn Reserve (additional waterfall amount)	<u>\$ 311,948</u>	
Economic Downturn Reserve Total (1.43% of operating revenue)		\$ 2,811,948
Working Capital Reserve (8.36% of operating revenue)		<u>\$ 2,729,245</u>
Total Reserve Transfer from Stabilization Funds Policy		\$ 11,217,978
<b>Carryover Balance Less Total Applied to Stabilization Funds Policy</b>		<u>\$ 2,729,245</u>
Less One-Time Uses:		
Police Violence Reduction Initiatives		\$ 1,000,000
Tuition Reimbursement		\$ 430,000
Merits and COLAs		\$ 675,000
Short Term Rental Contract		\$ 40,000
Housing Court Startup		\$ 100,000
COVID-19 Costs Health		\$ 339,245
COVID-19 Costs Recreation		\$ 95,000
CitiCable Video Playback System		<u>\$ 50,000</u>
<b>Balance Available</b>		<u>\$ -</u>

Additional information regarding the overview of the City of Cincinnati's financial condition for the fiscal year (FY) ending June 30, 2020 can be found in the Department of Finance Reports for the Fiscal Year Ended June 30, 2020 (unaudited) Item #202001447.

The reason for the emergency is the immediate need to accomplish the authorized transfers and appropriations so that the funding described herein is in place immediately and so that the necessary expenditures described herein may be made as soon as possible.

The Administration recommends passage of this Emergency Ordinance.

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

Attachments

## EMERGENCY

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- 2020

**AUTHORIZING** the transfer of the sum of \$2,729,245 from the unappropriated surplus of General Fund 050 to the unappropriated surplus of Working Capital Reserve Fund 754 for the purpose of increasing the City's working capital reserve; **AUTHORIZING** the transfer of the sum of \$2,811,948 from the unappropriated surplus of General Fund 050 to balance sheet reserve account no. 050x2585, "Economic Downturn Reserve," for the purpose of increasing the City's emergency reserve to 5.0% of FY 2020 General Fund revenues; **AUTHORIZING** the transfer of the sum of \$5,676,785 from the unappropriated surplus of General Fund 050 to balance sheet reserve account no. 050x2580, "Reserve for Weather Events, Other Emergency and One-Time Needs," for the purpose of providing resources for unanticipated emergencies including those caused by unusual weather events, in order to increase the City's reserve for this purpose to 2.0% of FY 2020 General Fund revenues; **AUTHORIZING** the appropriation of the sum of \$700,000 from the unappropriated surplus of the General Fund 050 to the Cincinnati Police Department's General Fund personnel operating budget account no. 050x222x7100 for the purpose of funding police visibility overtime as part of the City's violence reduction initiatives; **AUTHORIZING** the appropriation of the sum of \$100,000 from the unappropriated surplus of the General Fund 050 to the Law Department's General Fund personnel operating budget account no. 050x111x7100 for the purpose of funding an additional prosecuting attorney as part of the City's violence reduction initiatives; **AUTHORIZING** the appropriation of the sum of \$200,000 from the unappropriated surplus of the General Fund 050 to the City Manager's Office's General Fund non-personnel operating budget account no. 050x101x7200 for the purpose of funding a Safety Coordinators/Organizers Program as part of the City's violence reduction initiatives; **AUTHORIZING** the appropriation of the sum of \$330,000 from the unappropriated surplus of the General Fund 050 to the Cincinnati Police Department's General Fund non-personnel operating budget account no. 050x222x7400 for the purpose of funding tuition reimbursement expenses for sworn officers; **AUTHORIZING** the appropriation of the sum of \$100,000 from the unappropriated surplus of the General Fund 050 to the Tuition Reimbursement General Fund Non-Departmental non-personnel operating budget account no. 050x928x7400 for the purpose of funding tuition reimbursement expenses for General Fund employees; **AUTHORIZING** the appropriation of the sum of \$100,000 from the unappropriated surplus of General Fund 050 to the Law Department's non-personnel operating budget account no. 050x111x7200, for the purpose of providing funding for costs associated with the creation of the Housing Court; **AUTHORIZING** the appropriation of the sum of \$40,000 from the unappropriated surplus of the General Fund 050 to the Department of Finance's General Fund non-personnel operating budget account no. 050x131x7200 for the purpose of providing funding for contractual services related to increasing compliance with the City's Short-Term Rental Excise Tax; **AUTHORIZING** the transfer of the sum of \$339,245 from the unappropriated surplus of the General Fund 050 to the unappropriated surplus of Cincinnati Health District Fund 416; **AUTHORIZING** the appropriation of the sum of \$339,245 from the unappropriated surplus of Cincinnati Health District Fund 416 to the Cincinnati Health Department's Cincinnati Health District Fund non-personnel operating budget account no. 416x263x7200 for the purpose of providing funding for COVID-19 related expenses including the

cost of contact tracers and testing; AUTHORIZING the appropriation of the sum of \$95,000 from the unappropriated surplus of General Fund 050 to the Department of Recreation's General Fund non-personnel operating budget account no. 050x199x7200 for the purpose of providing funding to upgrade WIFI access at Recreation Centers to allow students to attend school virtually; AUTHORIZING the appropriation of the sum of \$50,000 from the unappropriated surplus of General Fund 050 to the City Manager's Office's General Fund non-personnel operating budget account no. 050x101x7200 for the purpose of replacing CitiCable's Video Playback System; REVISING the Classification and Salary Range Schedule for all employment classifications in Divisions 0, 5, 7 (LAW), 8, and 9 of Chapter 307 of the Cincinnati Municipal Code to reflect the new Classification and Salary Range Schedule for said classifications and to provide for a cost-of-living ("COLA") adjustment of 2.0% effective October 4, 2020; AUTHORIZING the appropriation of the sum of \$596,570 from the unappropriated surplus of General Fund 050 to various General Fund personnel operating budget accounts according to the attached Schedule of Transfer for the purpose of restoring merit pay for FY 2021 for non-represented employees and providing for a 2.0% COLA adjustment for non-represented employees effective October 4, 2020; AUTHORIZING the transfer of the sum of \$78,430 from the unappropriated surplus of General Fund 050 to the unappropriated surplus of Cincinnati Health District Fund 416; AUTHORIZING the transfer and appropriation of the sum of \$78,430 from the unappropriated surplus of Cincinnati Health District Fund 416 to the Cincinnati Health Department's Cincinnati Health District Fund personnel operating budget accounts according to the attached Schedule of Transfer for the purpose of restoring merit pay for FY 2021 for non-represented employees and providing for a 2.0% COLA adjustment for non-represented employees effective October 4, 2020; and further AUTHORIZING the appropriation of the sum of \$278,050 from the unappropriated surplus of the various Restricted Funds to personnel operating budget accounts of the various Restricted Funds according to the attached Schedule of Transfer for the purpose of restoring merit pay for non-represented employees and providing for a 2.0% COLA adjustment for non-represented employees effective October 4, 2020.

WHEREAS, in 2015, the City Council adopted a Stabilization Funds Policy to define appropriate funding for the City's various reserve funds; and

WHEREAS, in accordance with the terms of the Stabilization Funds Policy, the Administration recommends transferring funds into the Working Capital Reserve Fund and into two separate balance sheet reserve accounts: "Economic Downturn Reserve," and "Reserve for Weather Events, Other Emergency and One-Time Needs"; and

WHEREAS, Council wishes to authorize an appropriation to the Cincinnati Police Department in the amount of \$700,000 to provide funding for police visibility overtime as part of the City's violence reduction initiatives; and

WHEREAS, Council wishes to authorize an appropriation to the Law Department in the amount of \$100,000 to provide funding for an additional prosecuting attorney as part of the City's violence reduction initiatives; and

WHEREAS, Council wishes to authorize an appropriation to the City Manager's Office in the amount of \$200,000 to provide funding for a Safety Coordinators/Organizers Program as part of the City's violence reduction initiatives; and

WHEREAS, Council wishes to authorize an appropriation to the Cincinnati Police Department in the amount of \$330,000 to provide funding for tuition reimbursement expenses for sworn officers for both FY 2020 and FY 2021, as a result of a successful arbitration by the Fraternal Order of Police (FOP); and

WHEREAS, Council wishes to authorize an appropriation to the General Fund Tuition Reimbursement Non-Departmental Account in the amount of \$100,000 to provide funding for tuition reimbursement expenses for General Fund employees; and

WHEREAS, Council wishes to authorize an appropriation to the Law Department in the amount of \$100,000 to provide funding for costs associated with the creation of the Housing Court; and

WHEREAS, Council wishes to authorize an appropriation to the Finance Department in the amount of \$40,000 for contractual services related to increasing compliance with the City's Short-Term Rental Excise Tax; and

WHEREAS, Council wishes to authorize an appropriation to the Cincinnati Health Department in the amount of \$339,245 for COVID-19 related expenses which include the cost of contact tracers and testing; and

WHEREAS, Council wishes to authorize an appropriation to the Department of Recreation in the amount of \$95,000 to upgrade WIFI access at Recreation Centers to allow students to attend school virtually; and

WHEREAS, Council wishes to authorize an appropriation to the Office of Communications in the City Manager's Office in the amount of \$50,000 to provide funding to replace CitiCable's Video Playback System; and

WHEREAS, the FY 2021 Operating Budget Update did not include funding for merit pay or a cost-of-living adjustment ("COLA") for non-represented employees, and Council wishes to restore merit pay for FY 2021 and provide a 2.0% COLA adjustment to non-represented employees effective October 4, 2020; and

WHEREAS, the Classification and Salary Range Schedule for all employment classifications in Divisions 0, 5, 7 (LAW), 8, and 9 of Chapter 307 of the Cincinnati Municipal Code need to be revised to reflect the new Classification and Salary Range Schedule for said classifications in order to provide for a COLA adjustment of 2.0% effective October 4, 2020; now, therefore,

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

Section 1. That the sum of \$2,729,245 is hereby transferred from the unappropriated surplus of General Fund 050 to the unappropriated surplus of Working Capital Reserve Fund 754 for the purpose of increasing the City's working capital reserve.

Section 2. That the sum of \$2,811,948 is hereby transferred from the unappropriated surplus of General Fund 050 to the balance sheet reserve account no. 050x2585, "Economic Downturn Reserve," for the purpose of increasing the City's emergency reserve to 5.0% of FY 2020 General Fund Revenues.

Section 3. That the sum of \$5,676,785 is hereby transferred from the unappropriated surplus of General Fund 050 to the balance sheet reserve account no. 050x2580, "Reserve for Weather Events, Other Emergency and One-Time Needs," for the purpose of providing resources for unanticipated emergencies including those caused by unusual weather events, in order to increase the City's reserve for this purpose to 2.0% of FY 2020 General Fund revenues.

Section 4. That the sum of \$700,000 is hereby appropriated from the unappropriated surplus of General Fund 050 to the Cincinnati Police Department's General Fund personnel operating budget account no. 050x222x7100 for the purpose of providing funding for police visibility overtime as part of the City's Violence Reduction Initiatives.

Section 5. That the sum of \$100,000 is hereby appropriated from the unappropriated surplus of General Fund 050 to the Law Department's General Fund personnel operating budget account no. 050x111x7100 for the purpose of providing funding for an additional prosecuting attorney as part of the City's Violence Reduction Initiatives.

Section 6. That the sum of \$200,000 is hereby appropriated from the unappropriated surplus of General Fund 050 to the City Manager's Office's General Fund non-personnel operating

budget account no. 050x101x7200 for the purpose of providing funding for a Safety Coordinators/Organizers Program as part of the City's Violence Reduction Initiatives.

Section 7. That the sum of \$330,000 is hereby appropriated from the unappropriated surplus of General Fund 050 to the Cincinnati Police Department's General Fund non-personnel operating budget account no. 050x222x7400 for the purpose of providing funding for tuition reimbursement expenses for sworn officers.

Section 8. That the sum of \$100,000 is hereby appropriated from the unappropriated surplus of General Fund 050 to the Tuition Reimbursement General Fund Non-Departmental non-personnel operating budget account no. 050x928x7400 for the purpose of providing funding for tuition reimbursement expenses for General Fund employees.

Section 9. That the sum of \$100,000 is hereby appropriated from the unappropriated surplus of General Fund 050 to the Law Department's non-personnel account no. 050x111x7200 for the purpose of providing funding for costs associated with the creation of the Housing Court.

Section 10. That the sum of \$40,000 is hereby appropriated from the unappropriated surplus of General Fund 050 to the Department of Finance's General Fund non-personnel operating budget account no. 050x131x7200 for the purpose of providing funding for contractual services related to increasing compliance with the City's Short-Term Rental Excise Tax.

Section 11. That the sum of \$339,245 is hereby transferred from the unappropriated surplus of General Fund 050 to the unappropriated surplus of Cincinnati Health District Fund 416.

Section 12. That the sum of \$339,245 is hereby appropriated from the unappropriated surplus of Cincinnati Health District Fund 416 to the Cincinnati Health Department's Cincinnati Health District Fund non-personnel operating budget account no. 416x263x7200 for the purpose



of providing funding for COVID-19 related expenses which include the cost of contact tracers and testing.

Section 13. That the sum of \$95,000 is hereby appropriated from the unappropriated surplus of General Fund 050 to the Department of Recreation's General Fund non-personnel operating budget account no. 050x199x7200, for the purpose of providing funding to upgrade WIFI access at Recreation Centers to allow students to attend school virtually.

Section 14. That the sum of \$50,000 is hereby appropriated from the unappropriated surplus of General Fund 050 to the City Manager's Office's General Fund non-personnel operating budget account no. 050x101x7200 for the purpose of replacing CitiCable's Video Playback System.

Section 15. That all existing sections of Chapter 307 of the Cincinnati Municipal Code regarding the compensation schedules of employees in Divisions 0, 5, 7 (LAW), 8, and 9 are hereby repealed.

Section 16. That in place of the sections of Chapter 307 of the Cincinnati Municipal Code repealed in Section 15 hereof, new compensation schedules are hereby ordained for employees in Divisions 0, 5, 7 (LAW), 8, and 9, as indicated on the Non-Represented Salary Schedule attached hereto as Exhibit A, and by this reference made a part hereof. The new compensation schedules for each classification in Divisions 0, 5, 7 (LAW), 8, and 9 have been determined by increasing current rates by 2.0%.

Section 17. That the sum of \$596,570 is hereby appropriated from the unappropriated surplus of General Fund 050 to various General Fund personnel operating budget accounts according to the attached Schedule of Transfer for the purpose of restoring merit pay for FY 2021

for non-represented employees and providing for a 2.0% cost-of-living adjustment (COLA) for non-represented employees effective October 4, 2020.

Section 18. That the sum of \$78,430 is hereby transferred from the unappropriated surplus of General Fund 050 to the unappropriated surplus of Cincinnati Health District Fund 416.

Section 19. That the sum of \$78,430 is hereby appropriated from the unappropriated surplus of Cincinnati Health District Fund 416 to the Cincinnati Health Department's Cincinnati Health District Fund personnel operating budget accounts according to the attached Schedule of Transfer for the purpose of restoring merit pay for FY 2021 for non-represented employees and providing for a 2.0% cost-of-living adjustment (COLA) for non-represented employees effective October 4, 2020.

Section 20. That the sum of \$278,050 is hereby appropriated from the unappropriated surplus of the various Restricted Funds to personnel operating budget accounts of the various Restricted Funds according to the attached Schedule of Transfer for the purpose of restoring merit pay for non-represented employees and providing for a 2.0% cost-of-living-adjustment (COLA) for non-represented employees effective October 4, 2020.

Section 21. That the appropriate City officers are hereby authorized to do all things necessary and proper to implement the provisions of Sections 1 through 20 herein.

Section 22. 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 accomplish the authorized transfers and appropriations so that the funding

described herein is in place immediately and so that the necessary expenditures described herein may be made as soon as possible.

Passed: \_\_\_\_\_, 2020

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John Cranley, Mayor

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

Exhibit A: Non-Represented Salary Schedule with 2.0% Cost-of-Living Adjustment (COLA)

CMC Section	Division	Grade	Title	Existing Minimum	Existing Maximum	New Minimum	New Maximum
				Hourly Rate	Hourly Rate	Hourly Rate	Hourly Rate
307-001	D0	001	Administrative Specialist	24.339729	37.004064	24.826524	37.744145
307-008	D0	008	Administrative Technician	18.434735	28.026612	18.803430	28.587144
307-009	D0	009	Investigator	28.98452	43.897437	29.564210	44.775386
307-013	D0	013	Senior Administrative Spclst	28.873474	43.897437	29.450943	44.775386
307-042	D0	042	Computer Programmer/Analyst	19.156605	26.378648	19.539737	26.906221
307-043	D0	043	Senior Comptr Programmer/Anlys	28.873474	43.897437	29.450943	44.775386
307-058	D0	058	Community Dvlpmnt & Plan Anal-EXM	24.339729	37.004064	24.826524	37.744145
307-066	D0	066	Development Officer	24.339729	33.515798	24.826524	34.186114
307-080	D0	080	Graphic Designer	24.339729	37.004064	24.826524	37.744145
307-089	D0	089	Human Resources Analyst	24.339729	37.004064	24.826524	37.744145
307-092	D0	092	Internal Auditor	24.339729	37.004064	24.826524	37.744145
307-094	D0	094	Management Analyst	24.339729	37.004064	24.826524	37.744145
307-146	D0	146	Comm Econ Development Analyst	19.093719	37.004064	19.475593	37.744145
307-148	D0	148	Comm Econ Develop Sr Analyst	23.629433	43.897437	24.102022	44.775386
307-149	D0	149	Senior Human Resources Analyst	28.873899	43.897437	29.451377	44.775386
307-150	D0	150	Senior Internal Auditor	28.873899	43.897437	29.451377	44.775386
307-151	D0	151	Supvr of Prk/Rec Maint & Const	28.873899	43.897437	29.451377	44.775386
307-152	D0	152	Senior City Planner	28.873899	43.897437	29.451377	44.775386
307-154	D0	154	Senior CommDev & Plan Anl-EXM	28.873899	43.897437	29.451377	44.775386
307-156	D0	156	Senior Development Officer	28.873899	43.897437	29.451377	44.775386
307-177	D0	177	Senior Management Analyst	28.873899	43.897437	29.451377	44.775386
307-190	D0	190	Zoning Hearing Examiner	42.84844	57.8454	43.705409	59.002308
307-200	D0	200	Dietitian	21.67947	29.852629	22.113059	30.449682
307-219	D0	219	PEAP Coordinator	29.252272	43.897437	29.837317	44.775386
307-220	D0	220	Psychologist	29.252272	40.280381	29.837317	41.085989
307-228	D0	228	Assistant Dental Director	28.873899	39.759353	29.451377	40.554540
307-248	D0	248	Physician Assistant	30.562959	41.074051	31.174218	41.895532
307-258	D0	258	Accountant	24.339729	37.004064	24.826524	37.744145
307-265	D0	265	City Planner	24.339729	37.004064	24.826524	37.744145
307-271	D0	271	Physical Therapist	22.81882	31.42152	23.275196	32.049950
307-299	D0	299	Asst Health Laboratory Mgr	28.873899	39.759353	29.451377	40.554540
307-323	D0	323	Training Coordinator	28.873899	43.897437	29.451377	44.775386
307-438	D0	438	Supervisor of Building Permits	23.959235	32.991864	24.438420	33.651701
307-443	D0	443	Zoning Supervisor	27.362501	37.678166	27.909751	38.431729
307-575	D0	575	Development Officer 4	31.137815	43.897437	31.760571	44.775386
307-763	D0	763	Security Supervisor	18.434735	25.384631	18.803430	25.892324
307-824	D0	824	Information Technology Coor	19.156605	26.378648	19.539737	26.906221
307-826	D0	826	Emergency Comm Asst Mgr	28.873473	43.897437	29.450942	44.775386
307-864	D0	864	Landscape Architect	24.719157	34.038279	25.213540	34.719045
307-963	D0	963	Park Planner	31.137815	42.876764	31.760571	43.734299
307-004	D5	004	ETS Director	52.28534	78.85433	53.331047	80.431417
307-012	D5	012	Director of Communications	43.589907	62.040231	44.461705	63.281036
307-014	D5	014	Executive Mgr of Police Relatns	43.311199	58.470241	44.177423	59.639646
307-016	D5	016	Assistant to the City Manger	40.17095	58.132183	40.974369	59.294827
307-019	D5	019	Assistant Safety Director	43.31121	58.47013	44.177434	59.639533
307-020	D5	020	City Manager	119.0166	151.282614	121.396932	154.308266
307-022	D5	022	CommDev & Planning Director	52.28534	70.585213	53.331047	71.996917
307-032	D5	032	Deputy City Manager	61.090774	82.472546	62.312589	84.121997
307-033	D5	033	Environmental Programs Manager	45.611021	62.040231	46.523241	63.281036
307-040	D5	040	Budget Director	52.285342	72.702747	53.331049	74.156802
307-059	D5	059	Dir of Perform & Data Analytic	52.28534	78.85433	53.331047	80.431417
307-074	D5	074	CCA Director	52.28534	72.702747	53.331047	74.156802
307-075	D5	075	Cntrct Cmp & Adm Hrng Off	40.17095	54.230777	40.974369	55.315393
307-108	D5	108	Assistant Finance Director	48.009405	66.436782	48.969593	67.765518
307-114	D5	114	Director of Economic Inclusion	57.77801	72.702747	58.933570	74.156802
307-115	D5	115	Finance Director	52.28534	78.85433	53.331047	80.431417
307-120	D5	120	Retirement Director	52.28534	72.702747	53.331047	74.156802
307-153	D5	153	Dep Dir Perf & Data Analytics	45.159345	61.42597	46.062532	62.654489
307-155	D5	155	Human Resources Director	52.28534	72.702747	53.331047	74.156802

Exhibit A: Non-Represented Salary Schedule with 2.0% Cost-of-Living Adjustment (COLA)

CMC Section	Division	Grade	Title	Existing Minimum	Existing Maximum	New Minimum	New Maximum
				Hourly Rate	Hourly Rate	Hourly Rate	Hourly Rate
307-158	D5	158	Asst Human Resources Director	43.31121	58.47013	44.177434	59.639533
307-170	D5	170	City Solicitor	61.090774	94.464881	62.312589	96.354179
307-204	D5	204	Assistant Health Commissioner	45.611021	61.574874	46.523241	62.806371
307-205	D5	205	Health Commissioner	61.09086	94.464881	62.312677	96.354179
307-365	D5	365	Fire Chief	61.090776	83.36522	62.312592	85.032524
307-389	D5	389	Police Chief	61.090776	83.36522	62.312592	85.032524
307-446	D5	446	Buildings & Inspections Dir	62.701761	78.85433	63.955796	80.431417
307-450	D5	450	Asst Building & Insp Director	37.713618	50.913385	38.467890	51.931653
307-490	D5	490	City Planning Director	52.28534	72.702747	53.331047	74.156802
307-525	D5	525	Deputy Public Works Director	45.611021	66.436782	46.523241	67.765518
307-527	D5	527	Deputy Sewers Director	45.611021	61.574873	46.523241	62.806370
307-530	D5	530	Sewers Director	52.28534	78.85433	53.331047	80.431417
307-534	D5	534	Dep Dir of Economic Inclusion	45.610938	62.040231	46.523157	63.281036
307-535	D5	535	Deputy Director	45.610836	66.436782	46.523053	67.765518
307-554	D5	554	Asst Neighborhood Svcs Directr	37.713618	50.913385	38.467890	51.931653
307-556	D5	556	Deputy CommDev & Planning Dir	45.611021	61.574875	46.523241	62.806373
307-559	D5	559	Assistant Recreation Director	42.051036	62.040231	42.892057	63.281036
307-560	D5	560	Recreation Director	52.28534	78.85433	53.331047	80.431417
307-735	D5	735	Water Works Director	63.642287	78.85433	64.915133	80.431417
307-828	D5	828	Emergency Comm Center Director	52.285341	78.854332	53.331048	80.431419
307-865	D5	865	Parks Director	55.81599	78.85433	56.932310	80.431417
307-888	D5	888	Public Services Director	52.28534	78.85433	53.331047	80.431417
307-891	D5	891	Assistant City Manager	61.090775	94.464881	62.312591	96.354179
307-970	D5	970	Transportation & Eng Director	52.28534	78.85433	53.331047	80.431417
307-981	D5	981	Employment & Training Manager	45.611021	61.574873	46.523241	62.806370
307-982	D5	982	Director of Water and Sewers	66.397175	99.838837	67.725119	101.835614
307-984	D5	984	Director of Trade & Development	57.77801	72.702747	58.933570	74.156802
307-985	D5	985	Deputy Dir of Trade & Developm	45.611021	66.436718	46.523241	67.765452
307-989	D5	989	Deputy Director Water & Sewers	49.986935	66.436782	50.986674	67.765518
307-991	D5	991	Executive Project Director	53.967482	96.504204	55.046832	98.434288
307-997	D5	997	Economic Development Director	52.28534	70.585213	53.331047	71.996917
307-157	LAW	157	Chief Counsel	42.28584	75.71839	43.131557	77.232758
307-166	LAW	166	Assistant City Solicitor	24.33973	43.965516	24.826525	44.844826
307-167	LAW	167	Senior Asst City Solicitor	28.6875	68.653846	29.261250	70.026923
307-169	LAW	169	Deputy City Solicitor	52.795079	83.045977	53.850981	84.706897
307-186	LAW	186	Support Services Manager	28.873472	39.75935	29.450941	40.554537
307-187	LAW	187	Law Chief of Staff	52.795079	83.045977	53.850981	84.706897
307-188	LAW	188	Real Estate Manager	39.22216	58.132183	40.006603	59.294827
307-191	LAW	191	Asst to the City Solicitor	28.307326	43.965516	28.873473	44.844826
307-193	LAW	193	Support Services Specialist	18.073267	37.004066	18.434732	37.744147
307-217	LAW	217	Legal Assistant	18.073267	37.004066	18.434732	37.744147
307-223	LAW	223	Chief Appraiser	34.601325	50.316092	35.293352	51.322414
307-224	LAW	224	Real Estate Specialist	24.33973	33.515795	24.826525	34.186111
307-225	LAW	225	Senior Real Estate Specialist	31.137816	43.965516	31.760572	44.844826
307-930	LAW	930	Law Clerk	11.038727	18.466475	11.259502	18.835805
307-931	LAW	931	Administrative Hearing Officer	29.318182	68.653846	29.904546	70.026923
307-998	LAW	998	Spvg Real Estate Specialist	34.601324	46.711782	35.293350	47.646018
307-015	D8	015	Regional Computer Center Mgr	52.795077	71.273359	53.850979	72.698826
307-041	D8	041	Supervising Management Analyst	34.601323	50.316092	35.293349	51.322414
307-045	D8	045	Info Technology Asst Manager	37.077678	54.224138	37.819232	55.308621
307-046	D8	046	Information Technology Manager	41.888761	58.132183	42.726536	59.294827
307-078	D8	078	Chief Investigator	34.601323	50.316092	35.293349	51.322414
307-109	D8	109	Airport Manager	37.077678	54.224138	37.819232	55.308621
307-110	D8	110	Division Manager	41.888393	58.132183	42.726161	59.294827
307-113	D8	113	Risk Manager	37.077678	50.054868	37.819232	51.055965
307-131	D8	131	Supvg Environ/Safety Spec	34.601323	50.316092	35.293349	51.322414
307-134	D8	134	Asst Commercial Svcs Supt	32.745383	44.206266	33.400291	45.090391
307-135	D8	135	Commercial Services Supt	41.888761	58.132183	42.726536	59.294827
307-141	D8	141	Supervising Buyer	34.601323	50.316092	35.293349	51.322414

Exhibit A: Non-Represented Salary Schedule with 2.0% Cost-of-Living Adjustment (COLA)

CMC Section	Division	Grade	Title	Existing Minimum	Existing Maximum	New Minimum	New Maximum
				Hourly Rate	Hourly Rate	Hourly Rate	Hourly Rate
307-145	D8	145	City Purchasing Agent	37.077678	50.054868	37.819232	51.055965
307-159	D8	159	Supvg Human Resources Analyst	34.601323	50.316092	35.293349	51.322414
307-160	D8	160	Police Academy Manager	39.221963	52.949919	40.006402	54.008917
307-168	D8	168	Asst Treatment Superintendent	37.077678	54.224138	37.819232	55.308621
307-178	D8	178	Medical Director	73.174139	103.467051	74.637622	105.536392
307-185	D8	185	Supvg Comm Dev & Plang Anl-EXM	34.601323	50.316092	35.293349	51.322414
307-201	D8	201	Occupational/Safety Hlth Coord	41.777787	58.132183	42.613343	59.294827
307-202	D8	202	Public Wks Opr Asst Supt	37.077678	50.054868	37.819232	51.055965
307-208	D8	208	City Architect	42.848441	62.040231	43.705410	63.281036
307-216	D8	216	Principal Engineer	39.392324	54.224138	40.180170	55.308621
307-218	D8	218	Envrnmntl/Solid Wst Prgrams Crd	39.222163	54.224138	40.006606	55.308621
307-227	D8	227	Dental Director	81.494078	97.701149	83.123960	99.655172
307-231	D8	231	Parks/Rec Superintendent	40.669085	58.132183	41.482467	59.294827
307-233	D8	233	Pharmacy Director	55.828365	66.883485	56.944932	68.221155
307-236	D8	236	Supervising Real Property Spec	34.601323	50.316092	35.293349	51.322414
307-237	D8	237	Public Information Officer	30.836381	47.799111	31.453109	48.755093
307-242	D8	242	Health Programs Manager	34.601323	50.316092	35.293349	51.322414
307-249	D8	249	Public Health Practitioner	65.381899	88.265564	66.689537	90.030875
307-252	D8	252	Dentist	67.847163	86.954022	69.204106	88.693102
307-253	D8	253	Public Wks Opr Superintendent	41.888761	58.132183	42.726536	59.294827
307-254	D8	254	Supervising Accountant	34.601323	50.316092	35.293349	51.322414
307-255	D8	255	Supervising Architect	34.601323	50.316092	35.293349	51.322414
307-256	D8	256	Treatment Superintendent	41.888761	58.132183	42.726536	59.294827
307-257	D8	257	Public Wrks/Utilities Supt	41.888761	58.132183	42.726536	59.294827
307-259	D8	259	Environmental Services Directr	32.745383	46.896551	33.400291	47.834482
307-260	D8	260	Regional Comp Ctr Asst Mgr	45.043656	60.808933	45.944529	62.025112
307-261	D8	261	Public Health Internist	65.381899	88.265564	66.689537	90.030875
307-262	D8	262	Public Health Pediatrician	65.381899	88.265564	66.689537	90.030875
307-263	D8	263	Public Health Physician	65.381899	88.265564	66.689537	90.030875
307-282	D8	282	Nursing Director	41.888761	58.132183	42.726536	59.294827
307-286	D8	286	Supervising Chemist	34.601323	50.316092	35.293349	51.322414
307-300	D8	300	Health Laboratory Director	32.745383	44.206266	33.400291	45.090391
307-304	D8	304	Treatment Supervisor	34.601323	50.316092	35.293349	51.322414
307-307	D8	307	Supervising Epidemiologist	34.734406	50.316092	35.429094	51.322414
307-308	D8	308	Pension Fund Manager	50.121925	67.664886	51.124364	69.018184
307-321	D8	321	Finance Manager	45.043656	62.040231	45.944529	63.281036
307-435	D8	435	Supervising Inspector	34.106137	46.896551	34.788260	47.834482
307-486	D8	486	Supervising City Planner	34.601323	50.316092	35.293349	51.322414
307-487	D8	487	Urban Conservator	34.601323	50.316092	35.293349	51.322414
307-509	D8	509	Geotechnical Engineer	34.601323	50.316092	35.293349	51.322414
307-515	D8	515	Supervising Engineer	34.601323	50.316092	35.293349	51.322414
307-518	D8	518	Principal Architect	39.392324	54.224138	40.180170	55.308621
307-519	D8	519	City Engineer	46.723098	62.040231	47.657560	63.281036
307-529	D8	529	Supvg Bldg Plans Exam Code Anl	34.601323	50.316092	35.293349	51.322414
307-531	D8	531	City Traffic Engineer	42.848441	62.040231	43.705410	63.281036
307-539	D8	539	Water Works Chief Engineer	42.848441	58.132183	43.705410	59.294827
307-540	D8	540	Facilities Maintenance Manager	37.077678	50.054868	37.819232	51.055965
307-541	D8	541	Asst Facilities Mntnce Manager	32.745383	46.896551	33.400291	47.834482
307-542	D8	542	Facilities Manager	41.888761	58.132183	42.726536	59.294827
307-544	D8	544	Sewers Chief Engineer	42.848441	58.132183	43.705410	59.294827
307-551	D8	551	Supvg Parks/Recreation Cordntr	34.601323	50.316092	35.293349	51.322414
307-558	D8	558	Supervisor of Golf	34.601323	50.316092	35.293349	51.322414
307-576	D8	576	Development Manager	34.601323	50.316092	35.293349	51.322414
307-646	D8	646	Traffic Services Manager	34.601323	46.711785	35.293349	47.646021
307-683	D8	683	City Stormwater Management Eng	42.848441	58.132183	43.705410	59.294827
307-685	D8	685	Asst Fleet Services Manager	32.745383	46.896551	33.400291	47.834482
307-686	D8	686	Fleet Services Manager	39.222163	52.949919	40.006606	54.008917
307-692	D8	692	Parking Superintendent	39.222163	54.224138	40.006606	55.308621
307-710	D8	710	Wastewater Collection Supt	41.888761	56.549827	42.726536	57.680824

Exhibit A: Non-Represented Salary Schedule with 2.0% Cost-of-Living Adjustment (COLA)

CMC Section	Division	Grade	Title	Existing Minimum	Existing Maximum	New Minimum	New Maximum
				Hourly Rate	Hourly Rate	Hourly Rate	Hourly Rate
307-729	D8	729	Industrial Waste Superintendent	41.888761	56.549827	42.726536	57.680824
307-764	D8	764	Asst Water Distribution Supt	32.745383	44.206266	33.400291	45.090391
307-765	D8	765	Water Distribution Supt	41.888761	56.549827	42.726536	57.680824
307-822	D8	822	Emergency Response Coordinator	34.601323	46.711785	35.293349	47.646021
307-827	D8	827	Emergency Communications Mgr	40.006399	54.008917	40.806527	55.089095
307-880	D8	880	Printing Services & Stores Mgr	32.745383	46.896551	33.400291	47.834482
307-948	D8	948	Asst Convention Center Manager	32.745383	44.206266	33.400291	45.090391
307-950	D8	950	Convention Center Manager	39.222163	52.949919	40.006606	54.008917
307-983	D8	983	Employment & Training Supv.	34.601323	50.316092	35.293349	51.322414
307-986	D8	986	Optometrist	58.039411	74.622012	59.200199	76.114452
307-999	D8	999	Internal Audit Manager	37.077679	54.224138	37.819233	55.308621
307-023	D9	023	Council Assistant	11.038727	53.84397	11.259502	54.920849
307-024	D9	024	Chief Deputy Clerk of Council	31.200644	46.701119	31.824657	47.635141
307-025	D9	025	Clerk of Council	39.87153	52.853814	40.668961	53.910890
307-035	D9	035	Deputy Clerk	16.39415	28.422457	16.722033	28.990906
307-036	D9	036	Assistant Chief Deputy Clerk	24.875478	34.390564	25.372988	35.078375

**SCHEDULE OF TRANSFER**

**FY 2020 CLOSEOUT GENERAL FUND SCHEDULE OF APPROPRIATIONS**

Fund 050 General Fund

<i>REDUCTIONS</i>				<i>INCREASES</i>			
	Fund	Agency	Appropriation Unit \$ Amount		Fund	Agency	Appropriation Unit \$ Amount
<b>SUPPLEMENTAL APPROPRIATIONS</b>				<b>SUPPLEMENTAL APPROPRIATIONS</b>			
<b>SOURCE ACCOUNTS</b>				<b>USE ACCOUNTS</b>			
<b>UNAPPROPRIATED SURPLUS</b>				<b>OFFICE OF THE MAYOR</b>			
GENERAL FUND	050		596,570	OFFICE OF THE MAYOR	050	031	7100 12,210
				<b>Total</b>			<b>12,210</b>
				<b>CLERK OF COUNCIL</b>			
				OFFICE OF THE CLERK OF COUNCIL	050	041	7100 10,360
				<b>Total</b>			<b>10,360</b>
				<b>ENTERPRISE TECHNOLOGY SOLUTIONS</b>			
				ENTERPRISE TECHNOLOGY SOLUTIONS	050	091	7100 23,158
				<b>Total</b>			<b>23,158</b>
				<b>CITY MANAGER'S OFFICE</b>			
				CITY MANAGER'S OFFICE	050	101	7100 31,002
				OFFICE OF BUDGET AND EVALUATION	050	102	7100 20,932
				EMERGENCY COMMUNICATIONS CENTER	050	103	7100 9,963
				OFFICE OF ENVIRONMENT AND SUSTAINABILITY	050	104	7100 6,105
				OFFICE OF PERFORMANCE AND DATA ANALYTICS	050	108	7100 21,274
				INTERNAL AUDIT	050	109	7100 10,443
				<b>Total</b>			<b>99,719</b>
				<b>DEPARTMENT OF LAW</b>			
				LAW - CIVIL	050	111	7100 90,320
				LAW - ADMINISTRATIVE HEARINGS & PROSECUTION	050	112	7100 64,624
				<b>Total</b>			<b>154,944</b>
				<b>DEPARTMENT OF HUMAN RESOURCES</b>			
				HUMAN RESOURCES	050	121	7100 29,271
				<b>Total</b>			<b>29,271</b>
				<b>DEPARTMENT OF FINANCE</b>			
				OFFICE OF THE DIRECTOR	050	131	7100 4,803
				ACCOUNTS AND AUDITS	050	133	7100 11,710
				TREASURY	050	134	7100 1,941
				INCOME TAX	050	136	7100 8,670
				PURCHASING	050	137	7100 8,223
				<b>Total</b>			<b>35,347</b>
				<b>DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT</b>			
				DIRECTOR'S OFFICE AND ADMINISTRATION	050	161	7100 12,667
				HOUSING DIVISION	050	162	7100 1,620
				ECONOMIC DEVELOPMENT AND MAJOR/SPECIAL PROJECTS DIVISION	050	164	7100 23,240
				<b>Total</b>			<b>37,527</b>
				<b>DEPARTMENT OF CITY PLANNING</b>			
				CITY PLANNING	050	171	7100 15,258
				<b>Total</b>			<b>15,258</b>



**SCHEDULE OF TRANSFER**

**FY 2020 CLOSEOUT GENERAL FUND SCHEDULE OF APPROPRIATIONS**

Fund 050 General Fund

<b>REDUCTIONS</b>				<b>INCREASES</b>			
	Fund Agency	Appropriation Unit	\$ Amount		Fund Agency	Appropriation Unit	\$ Amount
				CITIZEN COMPLAINT AUTHORITY			
				CITIZEN COMPLAINT AUTHORITY	050	181	7100
					<b>Total</b>		<b>9,689</b>
				DEPARTMENT OF RECREATION			
				WEST REGION	050	191	7100
				MAINTENANCE	050	194	7100
				SUPPORT SERVICES	050	199	7100
					<b>Total</b>		<b>28,772</b>
				CINCINNATI PARKS DEPARTMENT			
				OFFICE OF THE DIRECTOR	050	201	7100
				OPERATIONS AND FACILITY MANAGEMENT	050	202	7100
				ADMINISTRATION AND PROGRAM SERVICES	050	203	7100
					<b>Total</b>		<b>31,087</b>
				DEPARTMENT OF BUILDINGS AND INSPECTIONS			
				BUILDINGS & INSPECTIONS, LICENSES & PERMITS	050	211	7100
				PROPERTY MAINTENANCE CODE ENFORCEMENT	050	212	7100
					<b>Total</b>		<b>32,777</b>
				CINCINNATI POLICE DEPARTMENT			
				INVESTIGATIONS BUREAU	050	225	7100
				SUPPORT BUREAU	050	226	7100
				ADMINISTRATION BUREAU	050	227	7100
					<b>Total</b>		<b>15,166</b>
				DEPARTMENT OF TRANSPORTATION AND ENGINEERING			
				OFFICE OF THE DIRECTOR	050	231	7100
					<b>Total</b>		<b>14,247</b>
				DEPARTMENT OF PUBLIC SERVICES			
				OFFICE OF THE DIRECTOR	050	251	7100
				NEIGHBORHOOD OPERATIONS	050	253	7100
					<b>Total</b>		<b>17,835</b>
				CINCINNATI FIRE DEPARTMENT			
				SUPPORT SERVICES	050	272	7100
					<b>Total</b>		<b>11,200</b>
				DEPARTMENT OF ECONOMIC INCLUSION			
				ECONOMIC INCLUSION	050	281	7100
					<b>Total</b>		<b>18,003</b>
<b>TOTAL FUND REDUCTIONS</b>			<b>596,570</b>	<b>TOTAL FUND INCREASES</b>			<b>596,570</b>

**FY 2020 CLOSEOUT RESTRICTED FUNDS SCHEDULE OF APPROPRIATIONS**

Fund 101 Water Works

<i>REDUCTIONS</i>				<i>INCREASES</i>			
	Fund Agency	Appropriation Unit	\$ Amount		Fund Agency	Appropriation Unit	\$ Amount
<b>SUPPLEMENTAL APPROPRIATIONS</b>				<b>SUPPLEMENTAL APPROPRIATIONS</b>			
<b>SOURCE ACCOUNTS</b>				<b>USE ACCOUNTS</b>			
UNAPPROPRIATED SURPLUS	101		111,646	DEPARTMENT OF WATER WORKS			
				DEPARTMENTAL SUPPORT SERVICES	101	301	7100 58,203
				COMMERCIAL SERVICES	101	302	7100 13,251
				DIVISION OF SUPPLY	101	303	7100 12,590
				DIVISION OF DISTRIBUTION	101	304	7100 1,628
				WATER QUALITY DIVISION	101	305	7100 9,062
				ENGINEERING	101	306	7100 9,679
				INFORMATION TECHNOLOGY	101	307	7100 7,233
<b>Subtotal Supplemental Appropriations</b>			<b>111,646</b>	<b>Subtotal Supplemental Appropriations</b>			<b>111,646</b>
<b>TOTAL FUND REDUCTIONS</b>			<b>111,646</b>	<b>TOTAL FUND INCREASES</b>			<b>111,646</b>

**FY 2020 CLOSEOUT RESTRICTED FUNDS SCHEDULE OF APPROPRIATIONS**

Fund 102 Parking System Facilities

<i>REDUCTIONS</i>				<i>INCREASES</i>			
	Fund Agency	Appropriation Unit	\$ Amount		Fund Agency	Appropriation Unit	\$ Amount
<b>SUPPLEMENTAL APPROPRIATIONS</b>				<b>SUPPLEMENTAL APPROPRIATIONS</b>			
<b>SOURCE ACCOUNTS</b>				<b>USE ACCOUNTS</b>			
UNAPPROPRIATED SURPLUS	102		1,954	DIVISION OF PARKING FACILITIES			
				DIVISION OF PARKING SYSTEM FACILITIES	102	248	7100
				Subtotal Supplemental Appropriations			1,954
			<u>1,954</u>				<u>1,954</u>
<b>TOTAL FUND REDUCTIONS</b>			<b>1,954</b>	<b>TOTAL FUND INCREASES</b>			<b>1,954</b>

**FY 2020 CLOSEOUT RESTRICTED FUNDS SCHEDULE OF APPROPRIATIONS**

Fund 104 General Aviation

<i>REDUCTIONS</i>				<i>INCREASES</i>			
	Fund	Agency	Appropriation Unit \$ Amount		Fund	Agency	Appropriation Unit \$ Amount
<b>SUPPLEMENTAL APPROPRIATIONS</b>				<b>SUPPLEMENTAL APPROPRIATIONS</b>			
SOURCE ACCOUNTS				USE ACCOUNTS			
UNAPPROPRIATED SURPLUS		104	3,664	DEPARTMENT OF TRANSPORTATION & ENGINEERING			
				GENERAL AVIATION	104	234	7100
			<u>3,664</u>	Subtotal Supplemental Appropriations			<u>3,664</u>
<b>TOTAL FUND REDUCTIONS</b>			<b>3,664</b>	<b>TOTAL FUND INCREASES</b>			<b>3,664</b>

**FY 2020 CLOSEOUT RESTRICTED FUNDS SCHEDULE OF APPROPRIATIONS**

Fund 107 Stormwater Management

<i>REDUCTIONS</i>				<i>INCREASES</i>					
	Fund	Agency	Appropriation Unit	\$ Amount		Fund	Agency	Appropriation Unit	\$ Amount
<b>SUPPLEMENTAL APPROPRIATIONS</b>					<b>SUPPLEMENTAL APPROPRIATIONS</b>				
<b>SOURCE ACCOUNTS</b>					<b>USE ACCOUNTS</b>				
UNAPPROPRIATED SURPLUS		107		6,261	STORMWATER MANAGEMENT UTILITY				
					STORMWATER MANAGEMENT UTILITY	107	311	7100	6,261
				<u>6,261</u>	Subtotal Supplemental Appropriations				<u>6,261</u>
<b>TOTAL FUND REDUCTIONS</b>				<b>6,261</b>	<b>TOTAL FUND INCREASES</b>				<b>6,261</b>

**FY 2020 CLOSEOUT RESTRICTED FUNDS SCHEDULE OF APPROPRIATIONS**

Fund 151 Bond Retirement

<i>REDUCTIONS</i>				<i>INCREASES</i>					
	Fund	Agency	Appropriation Unit	\$ Amount		Fund	Agency	Appropriation Unit	\$ Amount
<b>SUPPLEMENTAL APPROPRIATIONS</b>					<b>SUPPLEMENTAL APPROPRIATIONS</b>				
SOURCE ACCOUNTS					USE ACCOUNTS				
UNAPPROPRIATED SURPLUS				2,936	DEPARTMENT OF FINANCE				
	151					151	134	7100	2,936
				<u>2,936</u>					<u>2,936</u>
Subtotal Supplemental Appropriations				2,936	Subtotal Supplemental Appropriations				2,936
<b>TOTAL FUND REDUCTIONS</b>				<b>2,936</b>	<b>TOTAL FUND INCREASES</b>				<b>2,936</b>

**FY 2020 CLOSEOUT RESTRICTED FUNDS SCHEDULE OF APPROPRIATIONS**

Fund 301 Street Construction, Maintenance and Repair

<i>REDUCTIONS</i>				<i>INCREASES</i>					
	Fund	Agency	Appropriation Unit	\$ Amount		Fund	Agency	Appropriation Unit	\$ Amount
<b>SUPPLEMENTAL APPROPRIATIONS</b>					<b>SUPPLEMENTAL APPROPRIATIONS</b>				
<b>SOURCE ACCOUNTS</b>					<b>USE ACCOUNTS</b>				
UNAPPROPRIATED SURPLUS		301		4,821	DEPARTMENT OF PUBLIC SERVICES				
					TRANSPORTATION AND ROAD OPERATIONS	301	252	7100	4,821
					Subtotal Supplemental Appropriations				4,821
				<u>4,821</u>					<u>4,821</u>
<b>TOTAL FUND REDUCTIONS</b>				<b>4,821</b>	<b>TOTAL FUND INCREASES</b>				<b>4,821</b>

**FY 2020 CLOSEOUT RESTRICTED FUNDS SCHEDULE OF APPROPRIATIONS**

Fund 302 Income Tax-Infrastructure

<i>REDUCTIONS</i>				<i>INCREASES</i>			
	Fund Agency	Appropriation Unit	\$ Amount		Fund Agency	Appropriation Unit	\$ Amount
<b>SUPPLEMENTAL APPROPRIATIONS</b>				<b>SUPPLEMENTAL APPROPRIATIONS</b>			
<b>SOURCE ACCOUNTS</b>				<b>USE ACCOUNTS</b>			
UNAPPROPRIATED SURPLUS	302		62,466	DEPARTMENT OF LAW			
				LAW - CIVIL	302	111	7100 6,663
				DEPARTMENT OF HUMAN RESOURCES			
				HUMAN RESOURCES	302	121	7100 4,542
				DEPARTMENT OF TRANSPORTATION AND ENGINEERING			
				DIRECTOR'S OFFICE	302	231	7100 2,645
				TRANSPORTATION PLANNING AND URBAN DESIGN	302	232	7100 7,112
				ENGINEERING	302	233	7100 19,775
				TRAFFIC SERVICES	302	238	7100 5,449
				TRAFFIC ENGINEERING	302	239	7100 9,111
				DEPARTMENT OF PUBLIC SERVICES			
				CITY FACILITY MANAGEMENT	302	255	7100 7,169
				<b>Subtotal Supplemental Appropriations</b>			<b>62,466</b>
				<b>Subtotal Supplemental Appropriations</b>			<b>62,466</b>
<b>TOTAL FUND REDUCTIONS</b>			<b>62,466</b>	<b>TOTAL FUND INCREASES</b>			<b>62,466</b>



**FY 2020 CLOSEOUT RESTRICTED FUNDS SCHEDULE OF APPROPRIATIONS**

Fund 395 Community Health Center Activities

<i>REDUCTIONS</i>					<i>INCREASES</i>				
	Fund	Agency	Appropriation Unit	\$ Amount		Fund	Agency	Appropriation Unit	\$ Amount
<b>SUPPLEMENTAL APPROPRIATIONS</b>					<b>SUPPLEMENTAL APPROPRIATIONS</b>				
<b>SOURCE ACCOUNTS</b>					<b>USE ACCOUNTS</b>				
UNAPPROPRIATED SURPLUS	395			54,995	CINCINNATI HEALTH DEPARTMENT				
					PRIMARY HEALTH CARE - PROGRAMS	395	264	7100	3,378
					PRIMARY HEALTH CARE - CENTERS	395	265	7100	20,571
					SCHOOL AND ADOLESCENT HEALTH	395	266	7100	31,046
					<b>Subtotal Supplemental Appropriations</b>				<b>54,995</b>
					<b>Subtotal Supplemental Appropriations</b>				<b>54,995</b>
<b>TOTAL FUND REDUCTIONS</b>				<b>54,995</b>	<b>TOTAL FUND INCREASES</b>				<b>54,995</b>

**FY 2020 CLOSEOUT RESTRICTED FUNDS SCHEDULE OF APPROPRIATIONS**

Fund 416 Cincinnati Health District Fund

<i>REDUCTIONS</i>					<i>INCREASES</i>				
	Fund	Agency	Appropriation Unit	\$ Amount		Fund	Agency	Appropriation Unit	\$ Amount
<b>SUPPLEMENTAL APPROPRIATIONS</b>					<b>SUPPLEMENTAL APPROPRIATIONS</b>				
<b>SOURCE ACCOUNTS</b>					<b>USE ACCOUNTS</b>				
UNAPPROPRIATED SURPLUS	416			78,430	CINCINNATI HEALTH DEPARTMENT				
					OFFICE OF THE COMMISSIONER	416	261	7100	21,998
					TECHNICAL RESOURCES	416	262	7100	4,741
					COMMUNITY HEALTH SERVICES	416	263	7100	4,403
					PRIMARY HEALTH CARE - PROGRAMS	416	264	7100	4,325
					PRIMARY HEALTH CARE - CENTERS	416	265	7100	42,963
					<b>Subtotal Supplemental Appropriations</b>				<b>78,430</b>
<b>Subtotal Supplemental Appropriations</b>				<b>78,430</b>					
<b>TOTAL FUND REDUCTIONS</b>				<b>78,430</b>	<b>TOTAL FUND INCREASES</b>				<b>78,430</b>

**FY 2020 CLOSEOUT RESTRICTED FUNDS SCHEDULE OF APPROPRIATIONS**

Fund 449 Cincinnati Area Geographic Information System (CAGIS)

<i>REDUCTIONS</i>				<i>INCREASES</i>					
	Fund	Agency	Appropriation Unit	\$ Amount		Fund	Agency	Appropriation Unit	\$ Amount
<b>SUPPLEMENTAL APPROPRIATIONS</b>					<b>SUPPLEMENTAL APPROPRIATIONS</b>				
<b>SOURCE ACCOUNTS</b>					<b>USE ACCOUNTS</b>				
UNAPPROPRIATED SURPLUS		449		13,180	ENTERPRISE TECHNOLOGY SOLUTIONS				
					CINCINNATI AREA GEOGRAPHIC INFORMATION SYSTEM (CAGIS)	449	92	7100	13,180
Subtotal Supplemental Appropriations				<u>13,180</u>	Subtotal Supplemental Appropriations				<u>13,180</u>
<b>TOTAL FUND REDUCTIONS</b>				<b>13,180</b>	<b>TOTAL FUND INCREASES</b>				<b>13,180</b>

**FY 2020 CLOSEOUT RESTRICTED FUNDS SCHEDULE OF APPROPRIATIONS**

Fund 455 Streetcar Operations

<i>REDUCTIONS</i>					<i>INCREASES</i>				
	Fund	Agency	Appropriation Unit	\$ Amount		Fund	Agency	Appropriation Unit	\$ Amount
<b>SUPPLEMENTAL APPROPRIATIONS</b>					<b>SUPPLEMENTAL APPROPRIATIONS</b>				
<b>SOURCE ACCOUNTS</b>					<b>USE ACCOUNTS</b>				
UNAPPROPRIATED SURPLUS	455			6,467	DEPARTMENT OF LAW				
					LAW - CIVIL	455	111	7100	1,736
					DEPARTMENT OF TRANSPORTATION AND ENGINEERING				
					STREETCAR OPERATIONS	455	236	7100	4,731
					Subtotal Supplemental Appropriations				6,467
Subtotal Supplemental Appropriations				6,467					
<b>TOTAL FUND REDUCTIONS</b>				<b>6,467</b>	<b>TOTAL FUND INCREASES</b>				<b>6,467</b>

**FY 2020 CLOSEOUT RESTRICTED FUNDS SCHEDULE OF APPROPRIATIONS**

Fund 457 County Law Enforcement Applied Regionally (CLEAR)

<i>REDUCTIONS</i>				<i>INCREASES</i>					
	Fund	Agency	Appropriation Unit	\$ Amount		Fund	Agency	Appropriation Unit	\$ Amount
<b>SUPPLEMENTAL APPROPRIATIONS</b>					<b>SUPPLEMENTAL APPROPRIATIONS</b>				
<b>SOURCE ACCOUNTS</b>					<b>USE ACCOUNTS</b>				
UNAPPROPRIATED SURPLUS		457		7,260	ENTERPRISE TECHNOLOGY SOLUTIONS				
					COUNTY LAW ENFORCEMENT APPLIED REGIONALLY (CLEAR)	457	092	7100	7,260
				<u>7,260</u>	Subtotal Supplemental Appropriations				<u>7,260</u>
<b>TOTAL FUND REDUCTIONS</b>				<b>7,260</b>	<b>TOTAL FUND INCREASES</b>				<b>7,260</b>

**FY 2020 CLOSEOUT RESTRICTED FUNDS SCHEDULE OF APPROPRIATIONS**

Fund 759 Income Tax-Transit

<i>REDUCTIONS</i>				<i>INCREASES</i>					
	Fund	Agency	Appropriation Unit	\$ Amount		Fund	Agency	Appropriation Unit	\$ Amount
<b>SUPPLEMENTAL APPROPRIATIONS</b>					<b>SUPPLEMENTAL APPROPRIATIONS</b>				
<b>SOURCE ACCOUNTS</b>					<b>USE ACCOUNTS</b>				
UNAPPROPRIATED SURPLUS	759			2,400	DEPARTMENT OF LAW				
					LAW - CIVIL	759	111	7100	2,400
Subtotal Supplemental Appropriations				2,400	Subtotal Supplemental Appropriations				2,400
<b>TOTAL FUND REDUCTIONS</b>				<b>2,400</b>	<b>TOTAL FUND INCREASES</b>				<b>2,400</b>

**FY 2020 CLOSEOUT TRANSFER SCHEDULE**

<i>REDUCTIONS</i>					<i>INCREASES</i>				
	Fund	Agency	Appropriation Unit	\$ Amount		Fund	Agency	Appropriation Unit	\$ Amount
<b>SOURCE ACCOUNTS</b>					<b>USE ACCOUNTS</b>				
UNAPPROPRIATED SURPLUS					UNAPPROPRIATED SURPLUS				
GENERAL FUND 050 78,430					CINCINNATI HEALTH DISTRICT FUND 416 78,430				
<b>TOTAL FUND REDUCTIONS</b>				<b>78,430</b>	<b>TOTAL FUND INCREASES</b>				<b>78,430</b>

September 28, 2020

To: Mayor and Members of City Council **202001599**

From: Paula Boggs Muething, Interim City Manager

Subject: **FUNDING AGREEMENT FOR FOUNTAIN PLACE, LLC - THE  
FOUNDRY REDEVELOPMENT AT 505 VINE STREET**

---

Attached is an Emergency Ordinance captioned as follows:

**AUTHORIZING** the City Manager to execute a Funding Agreement with Fountain Place, LLC, a subsidiary of Cincinnati Center City Development Corporation (3CDC), providing for a forgivable loan of \$2,929,750 to fund redevelopment of 505 Vine Street (formerly known as Fountain Place) and proximate public infrastructure, located in the Central Business District of Cincinnati; **ESTABLISHING** new capital improvement program project account no. 980x164x211636, “Fountain Place Redevelopment – TIF” to provide resources for the redevelopment of 505 Vine Street and proximate public infrastructure; **AUTHORIZING** the transfer and appropriation of the sum of \$2,093,071.13 from unappropriated surplus of Downtown/OTR West Equivalent Fund 482 (Downtown/OTR West TIF District) to the newly-established capital improvement program account no. 980x164x211636, “Fountain Place Redevelopment – TIF,” to provide resources for the redevelopment of 505 Vine Street and proximate public infrastructure; **AUTHORIZING** the transfer and appropriation of the sum of \$836,678.87 from the unappropriated surplus of Fountain Square West Trust Fund 156 to the newly-established capital improvement program project account no.980x164x211636, “Fountain Place Redevelopment – TIF,” to provide resources for the redevelopment of 505 Vine Street and proximate public infrastructure; and further **DECLARING** expenditures from such project account serve a public purpose.

### **BACKGROUND/CURRENT CONDITIONS**

Fountain Place, LLC is the current property owner of the project referred to as the Foundry, which is located at 505 Vine Street in the Central Business District. This building is commonly known as Fountain Place and is the former home to a Macy’s Department store. On December 18, 2019, City Council approved the execution of a Property Sale and Development Agreement between Fountain Place, LLC and the



City. The execution of this PSDA resulted in the sale of the underlying land at 505 Vine Street to 3CDC and the creation of a 30-year, 5709.40(B) TIF on the property. However, upon further review, Fountain Place, LLC determined there need of additional subsidy to complete the project and submitted a Financial Assistance application for the redevelopment of this building. These applications were received and reviewed by DCED.

### **DEVELOPER INFORMATION**

Fountain Place, LLC is a subsidiary of Cincinnati Center City Development Corporation (3CDC). 3CDC is a non-profit organization that has invested over \$1.47 billion dollars in development in Downtown and Over-the-Rhine over the past 15 years. This investment has resulted in 300 apartment units, 534 condominiums, 156 hotel rooms, 320 shelter beds, 1,070,500 square feet of commercial space, and 4,925 parking spaces. 3CDC has completed large office projects similar to the Foundry, including a project across Race Street which is home to the company 84.51°.

### **PROJECT DESCRIPTION**

The Foundry Project is the redevelopment of the building known as Fountain Place into a mixed-use office building with ground-floor commercial space. Once completed, this project will consist of 205,000 square feet of office space, 20,000 square feet of commercial space, and the rehabilitation of an existing 164-parking space garage.

The estimated total project cost for this portion of the redevelopment is \$2,929,750, which includes a full streetscape on Vine Street, Race Street, and 5<sup>th</sup> Street, the demolition of the skywalk that connects Fountain Place to Carew Tower and repairing of Carew Tower, and exterior demolition of Fountain Place. This project will create 29 temporary construction jobs at an annual payroll of \$1,063,680. This project is in line with the Compete Initiative of Plan Cincinnati. 3CDC received the support of the Downtown Residence Council on August 10<sup>th</sup> and presented to the Over the Rhine Community Council's Board on September 14<sup>th</sup>.

### **PROPOSED INCENTIVE**

DCED is recommending a 5-year, forgivable loan of \$2,929,750 for this portion of the project. \$2,093,071.13 of the forgivable loan will come from the Downtown/OTR West TIF District, and the remaining \$836,678.87 will come from the expired Project TIF associated with the original Macy's project in the early 1990s. This incentive is in addition to the previously approved sale of the underlying land at 505 Vine Street to 3CDC and the creation of a 30-year, 5709.40(B) TIF on the property. The streetscape work and the skywalk demolition are considered public improvement projects, and will be primarily funded with TIF district funds, while the exterior demolition, considered a private improvement, will be completely funded by the project TIF money that is associated with this property.

Because of its location off Fountain Square, 505 Vine Street is one of Cincinnati's most important properties. Improving the street-level vibrancy surrounding this property by improving the streetscape is essential to the success of Cincinnati's premier public square. Moreover, the Foundry project in its totality will bring hundreds of office workers to our urban center, improving the long-term sustainability as Cincinnati's urban core as the economic core of our region.

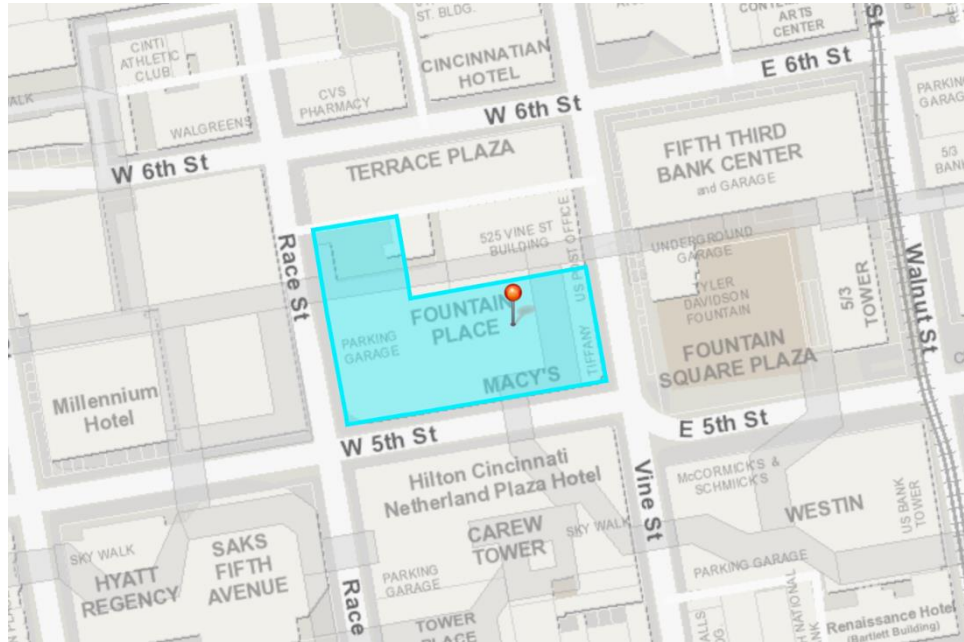
**RECOMMENDATION**

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



## EMERGENCY

SSB

- 2020

**AUTHORIZING** the City Manager to execute a *Funding Agreement* with Fountain Place, LLC, a subsidiary of Cincinnati Center City Development Corporation (3CDC), providing for a forgivable loan of \$2,929,750 to fund redevelopment of 505 Vine Street (formerly known as Fountain Place) and proximate public infrastructure, located in the Central Business District of Cincinnati; **ESTABLISHING** new capital improvement program project account no. 980x164x211636, “Fountain Place Redevelopment - TIF” to provide resources for the redevelopment of 505 Vine Street and proximate public infrastructure; **AUTHORIZING** the transfer and appropriation of the sum of \$2,093,071.13 from the unappropriated surplus of Downtown/OTR West Equivalent Fund 482 (Downtown/OTR West TIF District) to the newly-established capital improvement program project account no. 980x164x211636, “Fountain Place Redevelopment - TIF,” to provide resources for the redevelopment of 505 Vine Street and proximate public infrastructure; **AUTHORIZING** the transfer and appropriation of the sum of \$836,678.87 from the unappropriated surplus of Fountain Square West Trust Fund 156 to the newly-established capital improvement program project account no. 980x164x211636, “Fountain Place Redevelopment - TIF,” to provide resources for the redevelopment of 505 Vine Street and proximate public infrastructure; and further **DECLARING** expenditures from such project account serve a public purpose.

WHEREAS, Fountain Place, LLC (the “Developer”), a subsidiary of Cincinnati Center City Development Corporation (3CDC), and the City entered into a certain *Property Sale and Development Agreement*, dated December 23, 2019 (the “Sale Agreement”), which provided for the sale of the City’s interest in 505 Vine Street, formerly known as Fountain Place (the “Property”), to Developer and redevelopment by Developer of the existing structure on the site into an office building, retail and commercial space, and rehabilitation of an existing 165-space parking garage (the “Redevelopment Project”); and

WHEREAS, the City seeks to further support the Redevelopment Project by undertaking a rehabilitation of the streetscape proximate to the Property and removal of the existing skywalk bridge that is attached to the Property (the “Public Infrastructure Project”); and

WHEREAS, under the proposed *Funding Agreement*, a copy of which is attached to this ordinance as Attachment A (the “Funding Agreement”), the City will provide a \$2,929,750 forgivable loan to Developer to fund the Public Infrastructure Project and, in-part, the Redevelopment Project; and

WHEREAS, this Council, by Ordinance No. 413-2002 passed on December 18, 2002, created the District 3-Downtown/OTR West TIF District Incentive District (the “TIF District”) to, in part, fund “Public Infrastructure Improvement[s]” (as defined in Section 5709.40 of the Ohio Revised Code) that benefit or serve the TIF District, including demolition on private property when determined to be necessary for economic development purposes; and

WHEREAS, the Property and the Public Infrastructure Project are located within the boundaries of the TIF District; and

WHEREAS, this Council, by Ordinance No. 153-1994 passed on May 11, 1994, exempted all “Improvement” (as defined in Section 5709.41 of the Ohio Revised Code) to the Property, from real property taxation for a period of thirty years (the “Project TIF”) and under Ordinance No. 315-1995 passed on September 27, 1995, established an urban redevelopment tax increment equivalent fund, establishing the permitted uses of any service payments collected pursuant to the Project TIF; and

WHEREAS, the proposed expenditures set forth in the Funding Agreement are valid public improvements as they will serve the public purpose of creating jobs and other beneficial economic impacts, supporting the redevelopment of the City’s central business district; and

WHEREAS, Section 13 of Article VIII of the Ohio Constitution provides that, in order to create or preserve jobs and employment opportunities, and to improve the economic welfare of the people of the state, it is in the public interest and a proper public purpose for the state or its political subdivisions, or not-for-profit corporations designated by them, to acquire, construct, enlarge, improve, or equip; and to sell, lease, exchange, or otherwise dispose of, property, structures, equipment, and facilities for industry commerce, distribution, and research; and to make loans and to provide moneys for the acquisition, construction, enlargement, improvement, or equipment of such property, structures, equipment, and facilities; and

WHEREAS, the City believes that the economic benefits of the Project will benefit or serve the TIF District; is in the vital and best interests of the City and health, safety, and welfare of its residents; and is in accordance with the public purposes and provisions of applicable federal, state, and local laws and requirements; 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 *Funding Agreement* with Fountain Place, LLC, a subsidiary of Cincinnati Center City Development Corporation (3CDC) (“Developer”), in substantially the form attached to this ordinance as Attachment A (the “Agreement”), pursuant to which: (a) Developer will complete a redevelopment of 505 Vine Street (the “Property”) in accordance with the *Property Sale and Development Agreement*, dated December 23, 2019, between the parties and will also complete a rehabilitation of the proximate streetscape and removal of the existing skywalk bridge that is attached to the Property (the “Project”), and (b) the City will make a \$2,929,750 forgivable loan to support the Project.

Section 2. That the Director of Finance is authorized to establish new capital improvement program project account no. 980x164x211636, “Fountain Place Redevelopment - TIF,” for the purpose of providing resources for the redevelopment of 505 Vine Street and proximate public infrastructure associated with the Project.

Section 3. That the Director of Finance is hereby authorized to transfer and appropriate the sum of \$2,093,071.13 from the unappropriated surplus of Downtown/OTR West Equivalent Fund 482 to newly-established capital improvement program project account no. 980x164x211636, “Fountain Place Redevelopment - TIF,” to provide resources for the redevelopment of 505 Vine Street and proximate public infrastructure, as allowable by Ohio law and as further described in Exhibit C of the Agreement (the “Public Infrastructure Improvements”).

Section 4. That Council hereby declares that the Public Infrastructure Improvements constitute a “Public Infrastructure Improvement” (as defined in Section 5709.40(A)(8) of the Ohio Revised Code), that will benefit and/or serve the District 3-Downtown/OTR West TIF District Incentive District, subject to compliance with ORC Sections 5709.40 through 5709.43.

Section 5. That the Public Infrastructure Improvements are hereby declared to serve a public purpose.

Section 6. That the Director of Finance is hereby authorized to transfer and appropriate the sum of \$836,678.87 from the unappropriated surplus of Fountain Square West Trust Fund 156 to newly-established capital improvement program project account no. 980x164x211636, “Fountain Place Redevelopment - TIF,” to provide resources for the redevelopment of 505 Vine Street and proximate public infrastructure, as allowable by Ohio law and as further described in Exhibit C of the Agreement (the “Public Improvements”).

Section 7. That Council hereby declares that the Public Improvements constitute a “Public Improvement” (as described in Ordinance No. 315-1995 passed by this Council on September 27, 1995) and serve a valid public purpose, as the Public Improvements will create jobs and economic benefits for the City’s central business district.

Section 8. That Council authorizes the appropriate City officials to take all necessary and proper actions as they deem necessary or appropriate to fulfill the terms of this ordinance and the Agreement, including, without limitation, executing any and all plats, deeds, leases, closing documents, agreements, amendments, and other instruments pertaining to the Project, and including granting and accepting any and all associated easements.

Section 9. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is to enable Developer to move forward with the Project as soon as possible and finalize all necessary financing, which will result in the creation of jobs and the stimulation of economic growth in the Central Business District of Cincinnati at the earliest possible date.

Passed: \_\_\_\_\_, 2020

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

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

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

**FUNDING AGREEMENT**

*between the*

CITY OF CINCINNATI

*and*

FOUNTAIN PLACE, LLC

Project: The Foundry - Redevelopment of Fountain Place  
(Loan in the amount of \$2,929,750)

Date: \_\_\_\_\_, 2020



## FUNDING AGREEMENT

This FUNDING AGREEMENT (the “**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 805 Central Avenue, Suite 700, Cincinnati, OH 45202; Attention: Department of Community and Economic Development (the “**City**”), and **FOUNTAIN PLACE, LLC**, an Ohio limited liability company, the address of which is 1203 Walnut St, 4<sup>th</sup> Floor, Cincinnati, OH 45202 (“**Developer**”).

### Recitals:

A. Pursuant to a certain *Property Sale and Development Agreement* executed between the Developer and the City and dated December 23, 2019 (the “**Sale Agreement**”), the Developer purchased from the City and the City conveyed to the Developer fee title to certain real property located at 505 Vine Street, Cincinnati, Ohio 45202 (Hamilton County Parcel ID: 077-0002-0059-00), as more particularly described on the attached Exhibit A (Property) (the “**Property**”). Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Sale Agreement.

B. Pursuant to the terms of the Sale Agreement, the Developer is obligated to undertake a full redevelopment of the Property, creating approximately 205,000 square feet of office space, 20,000 square feet of commercial retail space, and rehabilitation of an existing 164-space parking garage (the “**Private Improvements**”, which is referred to in the Sale Agreement as the “Project” and as modified in Section 5(A) below). Additionally, Developer seeks to undertake redevelopment of the proximate streetscape and removal of the existing skywalk bridge that crosses over Fifth Street and connects the Property with Carew Tower, as more particularly described in Exhibit B (Scope of Public Improvements & Budget) (the “**Public Improvements**”, the Public Improvements referred to collectively herein with the Private Improvements as the “**Project**”).

C. Section 13 of Article VIII of the Ohio Constitution provides that, in order to create or preserve jobs and employment opportunities, and to improve the economic welfare of the people of the state, it is in the public interest and a proper public purpose for the state or its political subdivisions, or not-for-profit corporations designated by them, to acquire, construct, enlarge, improve or equip, and to sell, lease, exchange or otherwise dispose of, property, structures, equipment and facilities for industry, commerce, distribution and research, and to make loans and to provide moneys for the acquisition, construction, enlargement, improvement or equipment of such property, structures, equipment and facilities.

D. Developer has requested a loan from the City to partially finance construction of the Project. In furtherance of the herein described public purposes and upon the terms and conditions set forth in this Agreement, the City desires to lend to Developer a loan in the principal amount of up to \$2,929,750.00 (the “**Loan**”). The Loan shall be made using (i) \$2,093,071.13 in funds generated from the Central Business District-OTR West Tax Increment Financing District (the “**TIF District**”), a tax increment financing district established pursuant to Ohio Revised Code 5709.40(C) (the “**TIF District Funds**”) and (ii) \$836,678.87 in funds generated from service payments relating to the Property made pursuant to Ordinance 153-1994 passed by City Council on May 11, 1994, as amended by Ordinance No 545-2019, passed by City Council on December 18, 2019, which declared certain improvements on the Property to be a public purpose and exempt from taxation pursuant to Ohio Revised Code 5709.41 (the “**Project TIF Funds**”).

E. The City has determined that providing Developer with the Loan to in-part finance the Project is commercial in nature, that the Project will create employment opportunities, stimulate economic growth and tourism in the area, and help to revitalize the Central Business District and achieve the City’s urban redevelopment goals, and that therefore the Project constitutes a proper public purpose. Further the City has determined that such Project will benefit or serve the TIF District, as the Project will redevelop underutilized real estate and generate economic benefits and employment opportunities that will positively impact such area.

F. Pursuant to Ordinance No. [\_\_\_\_], passed on [\_\_\_\_], Cincinnati City Council declared the Project to serve a public purpose, appropriated the funding for the Loan, and authorized the execution of this Agreement.

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

1. **Term.** The term of this Agreement shall commence on the Effective Date and shall end on the date on which (i) the entire outstanding balance of the Loan has either been repaid by Developer or has been forgiven in accordance with the Note (as defined below) and (ii) Developer has satisfied all obligations to the City under this Agreement (the “**Term**”).

2. **Due Diligence.**

(A) **Due Diligence Materials.** Promptly following the Effective Date, Developer shall deliver the following items to the City for its review and approval, all of which shall be in a form and substance acceptable to the City (collectively, “**Due Diligence Materials**”):

- (i) **Title Commitment:** A commitment of title insurance for the Property, for issuance of both an owner’s policy and a lender’s policy of title insurance, prepared by a reputable national title insurance company and in such form acceptable to the City, evidencing the title company’s commitment to issue an Owner’s Policy of Title Insurance to Developer and a Lender’s Policy of Title Insurance to the City (the “**Title Commitment**”);
- (ii) **Environmental Report:** An environmental assessment report for the Property, starting with a Phase I assessment and including any additional assessments as may be required by the City’s Office of Environment & Sustainability if appropriate, prepared by a qualified environmental professional in a form acceptable to the City;
- (iii) **Insurance:** Evidence that Developer has secured all insurance policies required by the Loan Documents (as defined below);
- (iv) **Financing:** Evidence that Developer has secured or will be able to secure all financing necessary to complete the Project; and
- (v) **Other Information:** Such other information and documents pertaining to Developer or the Project as the City may reasonably require.

Once the Due Diligence Materials have been approved by the City, Developer shall not make or permit any changes thereto without the prior written consent of the Director of the City’s Department of Community and Economic Development (“**DCED**”). The City may, in its sole and absolute discretion, waive the requirement for delivery of any of the Due Diligence Materials or may permit that any of the Due Diligence Materials be delivered at a later date. Developer shall complete all of its due diligence investigations at no cost to the City.

(B) **Right to Terminate Agreement with Respect to Due Diligence Materials.** If prior to the initial disbursement of the Loan, after exercising good faith efforts, the City or the Developer does not approve of the Due Diligence Materials, the City or Developer may terminate this Agreement by giving written notice thereof to the other party, whereupon neither party shall thereafter have any rights or obligations to the other under this Agreement.

(C) **Copies of Due Diligence Materials to be Provided to City.** Without limitation of Developer’s other obligations under this Agreement, Developer, at no cost to the City, shall provide DCED with copies of any inspection, engineering, and environmental reports, title reports, surveys, and other materials prepared by third party professionals obtained by Developer that pertain to the Property or the Project.

### **3. Loan Terms and Disbursement Conditions.**

(A) **Amount of Loan; Eligible Uses.** Subject to the terms and conditions of this Agreement, the City agrees to lend the Loan to Developer, and Developer agrees to borrow the Loan from the City. The Loan will be made with (i) the TIF District Funds (ii) the Project TIF Funds. The Loan shall not exceed \$2,929,750.00. The proceeds of the Loan shall be used solely to finance those items described in Exhibit C (Eligible Uses) to this Agreement, as specified for the TIF District Funds or the Project TIF Funds (collectively, the “**Eligible Uses**”), and for no other purpose. For the avoidance of doubt, Developer shall not use any portion of the Loan to pay for the purchase of inventory, supplies, furniture, trade fixtures, or any other items of personal property, or to establish a working capital fund.

(B) **Note & Mortgage.** Prior to disbursement of the Loan, Developer shall (i) execute a promissory note in the form of Exhibit D (Form of Promissory Note) hereto (the “**Note**”), and (ii) execute and record a mortgage, in the form of Exhibit E (Form of Mortgage) hereto, in favor of the City (the “**Mortgage**”; this Agreement, the Note, the Mortgage, the Guaranty (as defined below), and any other documents executed by Developer to evidence the Loan are referred to herein collectively as the “**Loan Documents**”). Developer shall repay the Loan in accordance with the terms of the Note, and the Note and Mortgage shall be in the full amount of the Loan. If Developer fails to timely complete any obligations with respect to the Project, as and when required under this Agreement or the Note, the City may declare all amounts of the Loan disbursed by the City to be immediately due and payable and may foreclose on the Developer’s interest in the Property by enforcing the Mortgage. Upon the earlier of payment in full or forgiveness of the Loan, upon written request by Developer, the City shall prepare and execute a release of the Mortgage, to be recorded at the sole cost of Developer.

Notwithstanding the forgoing, the City recognizes and accepts that the Developer will request that the City subordinate its interest in the Mortgage to the primary construction financier of the Project, who will require a first-priority mortgage lien interest in the Property. Upon request, the City agrees to execute a subordination agreement substantially in the form of Exhibit F (Form of Subordination Agreement) or in such other form acceptable to the City documenting or confirming such subordination. The City acknowledges that the subject Project will be challenging to finance and therefore agrees to work in good-faith with the Developer on ensuring that the Mortgage does not become an obstacle to securing additional financing for the Project.

(C) **Payment and Completion Guaranty.** Cincinnati Center City Development Corporation, an Ohio non-profit corporation known as 3CDC (the “**Guarantor**”), is the parent company of Developer and will benefit from the Project; therefore, as a condition of the Loan, Guarantor shall have executed a *Payment and Completion Guaranty* substantially in the form of the attached Exhibit G (Form of Payment and Completion Guaranty) (“**Guaranty**”).

(D) **Conditions for Disbursement of Loan.** The City shall disburse the Loan in accordance with Section 3(F) below following satisfaction of all of the following conditions (collectively, the “**Disbursement Conditions**”):

- (i) **Due Diligence Materials Approval:** Approval by the City, in its sole discretion, of all Due Diligence Materials;
- (ii) **Loan Documents:** Delivery to the City of executed copies of all Loan Documents;
- (iii) **Guaranty:** Delivery to the City of the fully executed Guaranty, executed by Guarantor;
- (iv) **Security Interest:** Delivery to the City of evidence satisfactory to the City that Developer has taken all such action, executed and delivered or caused to be executed and delivered all such documents and instruments, including a counterpart of the executed Mortgage, which upon recording in the Hamilton County Recorder’s office will create a valid and perfected security interest for the City in the Property;
- (v) **Community Engagement:** Evidence that Developer has engaged the applicable community council regarding the Project;

- (vi) Title Insurance Policy: Evidence that the title insurance company is ready to issue a Title Insurance Policy pursuant to the Title Commitment, which was approved by the City;
- (vii) No Default: Developer is in full compliance with all requirements under the Loan Documents; and
- (viii) Project Completion: Sufficient evidence that the Developer is prepared and capable of otherwise undertaking and completing all necessary actions to commence the Project promptly following disbursement of the Loan and thereafter to pursue completion of the Project in a timely manner and otherwise in accordance with the terms of this Agreement.

The City may, in its sole and absolute discretion, waive in writing any of the Disbursement Conditions or require that any such condition be satisfied at a later date.

(E) Right to Terminate. Notwithstanding anything to the contrary in this Agreement, if for any reason the Disbursement Conditions have not been satisfied by **June 31, 2021**; then the City may terminate this Agreement by providing written notice to Developer of such termination, and thereafter neither party shall have any rights or obligations to the other; *provided however*, such timeframe for satisfaction of the Disbursement Conditions may be extended by the Director of DCED upon written approval of such extension.

(F) Disbursement Procedure. The City shall disburse the Funds to Developer in accordance with Exhibit H (Disbursement Requirements) hereto. Notwithstanding anything in this Agreement to the contrary, under no circumstances shall the City be obligated to make disbursements of the Loan (i) if any portion of the Project does not meet the requirements of the City; (ii) except to reimburse Developer for actual costs of constructing the Project incurred in accordance with the terms herein; or (iii) in excess of the Loan. If the amount of funds necessary to finance all Eligible Uses is *less than \$2,929,750.00*, the amount of the Loan made available by the City under this Agreement shall be reduced to such lesser amount. In no circumstances shall the City be obligated to disburse proceeds of the Loan in an amount in excess of the proceeds necessary to finance the Eligible Uses.

(G) No Other City Assistance. Except for the City's agreement to provide the Loan as described in this Agreement and other such assistance described in the Sale Agreement, the City shall not be responsible for any costs associated with the completion of the Project.

#### **4. Public Improvements.**

(A) Preliminary Plans. As soon as available, if not already delivered, the Developer shall develop preliminary plans and specifications for the Public Improvements, and the Developer shall submit such plans and specifications to the City's Department of Transportation and Engineering ("**DOT**") and Department of Economic and Community Development ("**DCED**") for review and approval.

(B) Final Plans.

(i) Plan Revisions. Following delivery of the preliminary plans in accordance with Section 4(A), Developer and the City shall work collaboratively to revise the preliminary plans to incorporate all parties' comments and otherwise combine the preliminary plans into a set of comprehensive construction drawings and specifications.

(ii) Final Plans. Following revision of the preliminary plans, Developer shall proceed with preparing final drawings, plans, and specifications for the Public Improvements and upon completion shall submit copies to the City for the City's final review and approval. The parties agree to work diligently and cooperatively with each other in order that the drawings, plans, and specifications can be finalized and approved by the City as expeditiously as possible. The drawings, plans, and specifications (including any and all changes thereto reflected on properly executed Change Orders (as defined below)) for each category of improvements, as approved by the City

are referred to herein as the “**Final Plans.**”

(C) Project Change Orders. Once approved by the City, Developer shall not make any changes to the Public Improvements set forth in the Final Plans without the consent of the City. Any material changes to the Final Plans shall be evidenced by a written change order signed by Developer and DCED (each a “**Change Order**”). The City shall review and either approve or deny each proposed Change Order as expeditiously as possible and such approval shall not to be unreasonably withheld, conditioned, or delayed. The City may deny Change Orders to the Public Improvements in its reasonable discretion. The City shall not require any material changes to the Final Plans without Developer’s consent, which shall not be unreasonably withheld, conditioned, or delayed. Developer shall promptly execute Change Orders to reflect approved changes.

(D) Bidding Phase. Developer shall work cooperatively with the City in soliciting, reviewing, and selecting the bids for the construction of the Public Improvements. All bids shall be solicited in accordance with the City’s competitive bidding requirements, as further described in Exhibit I (Additional Requirements). If there is a public bid opening, Developer shall permit City representatives to be present at the opening of the bids. Developer shall not solicit bids from any contractors or subcontractors who are listed as debarred by the federal or state government or on the City’s Vendor’s Performance list. In reviewing and considering bids, Developer shall bear in mind that all contractors and subcontractors performing any work in connection with the Public Improvements shall be subject to the City’s approval in its sole discretion. Developer and the City shall work cooperatively to select the winning bids. The City shall use reasonable efforts to notify Developer, within ten (10) business days after the opening of the bids, of the City’s approval or disapproval of the bids, as the case may be. If the City does not approve of the bids, Developer shall work cooperatively with the City to resolve the City’s objections, including for example revising the Final Plans and re-bidding all or part of the Project. The City shall, in its sole discretion, have final approval of all bids for the Public Improvements. The final bids, as approved by the parties, and as the same be adjusted from time to time by Change Orders, are hereinafter referred to as the “**Final Bids.**”

Notwithstanding the foregoing, if the City does not approve of the bids proposed by the Developer for the Public Improvements and the Developer cannot resolve all City objections, then either party may terminate this Agreement, and both parties thereafter shall have no obligations or rights under this Agreement. Additionally, if Developer does not approve of the bids it receives for the Public Improvements, Developer may terminate this Agreement, and both parties thereafter shall have no obligations or rights under this Agreement.

(E) Budget. Prior to commencement of construction of the Project, Developer shall present to the City a final itemized budget for the Project, with independent itemized sections detailing expenditures for the Private Improvements and the Public Improvements (as the same may be amended from time to time and approved by the City, the “**Budget**”), generally consistent with the preliminary budget for the Public Improvements in Exhibit B.

(F) Construction Contracts. Upon the City’s receipt and approval of the Due Diligence Materials for the Project and the parties’ approval of the Final Plans, Budget, and Final Bids, and once the parties are otherwise ready to move forward with construction of the Public Improvements, the Developer shall enter into a guaranteed maximum price or stipulated sum construction contract, in such form as approved by the City, with the general contractor for the Project (the “**General Contractor**”) in an amount not to exceed \$1,481,424 or such other amount approved by the City for the Public Improvements. Developer shall be responsible for reviewing and approving all construction contracts and, upon the City’s request, provide a copy of the construction contracts to the City. Developer shall require in all contracts that it enters into relating to the Project, including the construction contract with the General Contractor, compliance with the terms of this Agreement and that all subcontracts incorporate and comply with the terms of this Agreement.

(G) Reserved.

(H) Construction Commencement and Completion. Following execution of the construction contracts described in Section 4(F), Developer shall commence construction of the Public Improvements.

Developer shall cause the Public Improvements to be completed in accordance with the approved Final Plans, in accordance with the City-approved construction schedule, and in a good and workmanlike manner. Developer shall provide all supervision, technical personnel, labor, materials, and services necessary to complete the Public Improvements.

(I) Verification of Construction Costs. During construction of the Public Improvements and upon completion thereof, Developer shall provide the City with verification of actual construction costs for the Public Improvements, including individual and actual construction costs for the Public Improvements and the Private Improvements and such other pertinent information pertaining to the construction of the Project or performance by Developer of its obligations under this Agreement as the City may reasonably request. Developer shall not be responsible for verifying to the City the quantities of materials utilized in the Public Improvements; the City shall assume the responsibility for oversight, inspection, and verification as to the quantity of materials installed and utilized in the Public Improvements. Developer and the City agree to work collaboratively to ensure that the General Contractor and subcontractors provide adequate information to the City in order to assist in tracking of quantities installed and utilized in the Public Improvements.

(J) Inspection of Work. During construction of the Public Improvements, the City, its employees, and its agents shall have the right at all reasonable times to inspect the progress of construction to determine whether Developer is complying with its obligations hereunder. If the City determines that work on the Public Improvements is not in accordance with the Final Plans or other requirements of this Agreement, is not in compliance with all applicable laws, or is not performed in a good and workmanlike manner, then the City shall notify Developer who shall have 30 days to cure such error or if it cannot be cured within 30 days Developer shall initiate and diligently pursue such cure. If Developer fails to cure or initiate and diligently pursue such cure within 30 days, the City shall have the right, in its reasonable judgment, to stop such work and order its replacement at Developer's expense (not to be paid for using the Loan), whether or not such work has been incorporated into the Public Improvements by giving notice of such nonconforming work to Developer.

(K) Mechanics' Liens. Developer shall settle, have released, or obtain a bond related to any mechanics' or other similar liens filed on any City or third-party owned real property related to the Project within 45 days of the filing of any such lien.

(L) Project Information; As-Built Plans. During construction, Developer shall provide the City with such additional pertinent information pertaining to the Project or Public Improvements as the City may reasonably request. Following completion of construction, the Developer shall provide the City with a set of as-built plans of the Public Improvements and shall provide the City such other information pertaining to the Project or Public Improvements as the City may reasonably request.

## **5. Additional Terms.**

(A) Amendment to Description of Project in Sale Agreement; Commencement and Completion of Construction of Private Improvements. The parties acknowledge and agree that the plans for the Private Improvements have been updated to include development of approximately 150,000 square feet of office space, 35,000 square feet of commercial space, and rehabilitation of an existing 164-space parking garage. The description of the "Project" in the Sale Agreement, to the extent inconsistent with this updated description, are hereby amended by the parties, and the term "Private Improvements" in this Agreement shall refer to such updated description of the "Project." Developer shall commence and complete the Project and the Private Improvements in accordance with the terms of the Sale Agreement, as amended by this Section.

(B) Applicable Laws. Developer shall obtain and maintain all necessary City and other governmental permits, licenses and other approvals and shall comply with all applicable federal, state and local laws, codes, ordinances and other governmental requirements applicable to the Project and the Property including without limitation those set forth on Exhibit I (Additional City Requirements) hereto. The City makes no representations or other assurances to Developer that Developer will be able to obtain

whatever variances, permits or other approvals from the City's Department of Buildings and Inspections, the Department of City Planning, City Planning Commission, or City Council that may be required in connection with the Project.

(C) Insurance Requirements. Throughout the Term, Developer shall maintain the following insurance policies:

- (i) special peril (formerly known as "all-risk") full replacement cost property insurance on the Property, naming the City and Developer as their interests may appear;
- (ii) liability insurance covering claims for bodily injury, personal injury or death, and property damage occurring at the Property in an amount of at least \$1,000,000 per occurrence, combined single limit/\$2,000,000 aggregate, naming the City as an additional insured with respect to the Project; and
- (iii) workers' compensation insurance as required by law.

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

(E) Environmental Indemnity. As a material inducement to the City to enter into this Agreement, Developer does hereby agree that, with respect to any environmental condition on or otherwise affecting the Property that exists at or prior to the time of the City's execution of this Agreement (herein, a "**Pre-existing Environmental Condition**"), and regardless of whether or not such Pre-existing Environmental Condition is described in any environmental assessment or any other environmental report that may have been generated in connection with this Agreement, Developer shall: (i) at no expense to the City, promptly take all steps necessary to remediate such Pre-existing Environmental Condition, within a reasonable time after discovery, to the satisfaction of the City's Office of Environmental Quality; and (ii) defend, indemnify, and hold the City harmless from and against any and all actions, suits, claims, losses, costs (including without limitation attorneys' fees), demands, judgments, liability and damages suffered or incurred by or asserted against the City as a result of or arising from any such Pre-existing Environmental Condition. Developer's remediation and indemnity obligations under this paragraph shall survive Developer's completion of the Project.

(F) General Indemnity. Notwithstanding anything in this Agreement to the contrary, as a material inducement to the City to enter into this Agreement, Developer shall defend, indemnify and hold the City, its officers, council members, employees and agents (collectively, the "**Indemnified Parties**") harmless from and against any and all actions, suits, claims, losses, costs (including without limitation attorneys' fees), demands, judgments, liability and damages suffered or incurred by or asserted against the Indemnified Parties as a result of or arising from the acts of Developer, the general contractor, or their respective agents, employees, contractors, subcontractors, licensees, invitees or anyone else acting at the request of Developer or general contractor in connection with the Project.

**6. Casualty; Eminent Domain.** If, during the Term of this Agreement, the improvements on the Property are damaged or destroyed by fire or other casualty, or if any portion of the Property is taken by exercise of eminent domain (federal, state or local), Developer shall cause the Property to be repaired and restored, as expeditiously as possible, and to the extent practicable, to substantially the same condition in which the property was in immediately prior to such occurrence. Developer shall handle all construction in accordance with the applicable requirements set forth herein, including without limitation obtaining the City's approval of the plans and specifications if they deviate from the final plans and specifications as

initially approved by the City hereunder. Developer shall not be relieved of any obligations, financial or otherwise, under this Agreement during any period in which the affected property is being repaired or restored.

## **7. Default; Remedies.**

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

(i) The dissolution of any of the entities comprising Developer or Guarantor (during the term of the Guaranty) or the filing of any bankruptcy or insolvency proceedings by or against any of them, the appointment of a receiver (temporary or permanent) for any of them, the attachment of, levy upon, or seizure by legal process of any property of any of them, or the insolvency of any of them; or

(ii) The failure of Developer or Guarantor (during the term of the Guaranty) to perform or observe any obligation, duty, or responsibility under this Agreement, the Sale Agreement, or any other Loan Document (*provided that* a failure of the Guarantor to perform under the Guaranty shall be deemed a failure of Developer to perform under this Agreement) and (a) if such failure is reasonably susceptible to being cured within thirty (30) days, Developer fails to cure such failure within thirty (30) days of Developer receiving written notice of such failure from the City; or (b) if such failure is not reasonably susceptible to being cured within such 30 day period, Developer fails (i) to commence to cure such failure within such 30 day period or (ii) thereafter fails to diligently pursue such cure to completion and actually complete such cure within ninety (90) days of Developer receiving written notice of such failure from the City; or (c) if the failure creates a dangerous condition or otherwise constitutes an emergency as determined by the City, Developer fails to take corrective action immediately upon discovering such dangerous condition or emergency. The foregoing notwithstanding, if Developer’s failure to perform or observe any obligation, duty, or responsibility under this Agreement creates a dangerous condition or otherwise constitutes an emergency as determined by the City, an event of default shall be deemed to have occurred if Developer fails to take corrective action immediately upon discovering such dangerous condition or emergency.

(B) Remedies. Upon the occurrence of an event of default under this Agreement, the City shall be entitled to: (i) terminate this Agreement by giving Developer written notice thereof; (ii) take such actions in the way of “self help” as the City determines to be reasonably necessary or appropriate to cure or lessen the impact of such default, all at the expense of Developer; (iii) require repayment of any and all of the Loan previously disbursed by the City to Developer under this Agreement; and (iv) exercise any and all other rights and remedies under this Agreement, under the Note or Mortgage, or otherwise available at law or in equity, including without limitation pursuing an action for specific performance, all such rights and remedies being cumulative. Developer shall be liable for all costs and damages, including without limitation attorneys fees, suffered or incurred by the City as a result of a default of Developer under this Agreement or the City’s termination of this Agreement. The failure of the City to insist upon the strict performance of any covenant or duty, or to pursue any remedy, under this Agreement shall not constitute a waiver of the breach of such covenant or of such remedy. Notwithstanding anything in this Agreement to the contrary, under no circumstances shall the City be obligated to disburse the Loan to Developer if Developer is then in default under this Agreement.

(D) 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. registered or certified mail, postage prepaid, return receipt requested, addressed to the parties at their respective addresses set forth in the introductory paragraph of this Agreement. Notices shall be deemed given on the date of receipt. If Developer sends a notice to the City alleging that the City is in default under this Agreement, Developer shall simultaneously send a copy of such notice by U.S. certified mail to: City Solicitor, 801 Plum Street, Suite 214 Cincinnati, OH 45202.

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

(i) Developer is a limited liability company, organized and validly existing under the laws of the State of Ohio, has properly filed all certificates and reports required to be filed by it under the laws of



the State of Ohio, and is not in violation of any laws of the State of Ohio relevant to the transactions contemplated by this Agreement.

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

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

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

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

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

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

(viii) Developer shall fully comply with any and all relevant relocation laws that may be applicable to Developer's activities under the Agreement including, but not limited to, Cincinnati Municipal Code Chapter 740.

## **8. Reporting Requirements.**

(A) Submission of Records and Reports; Records Retention. Developer shall collect, maintain, and furnish to the City upon the City's request such accounting, financial, business, administrative, operational and other reports, records, statements and information as may be reasonably requested by the City pertaining to Developer, the Project, or this Agreement, including without limitation financial statements, bank statements, income tax returns, information pertinent to the determination of finances of the Project, and such reports and information as may be required for compliance with programs and projects funded by the City, Hamilton County, the State of Ohio, or any federal agency (collectively, "**Records and Reports**"). If at any time the City deems it necessary to review audited financial statements, Developer shall furnish the same to the City upon the City's written request (not more than once per year). All Records and Reports compiled by Developer and furnished to the City shall be in such form as the City may from time to time require. Developer shall retain all Records and Reports for a period of three (3) years after completion of the Project.

(B) City's Right to Inspect and Audit. For a period of three (3) years after the Term, Developer shall permit the City and its designees and auditors to have reasonable access to and to inspect and audit Developer's Records and Reports. In the event any such inspection or audit discloses a material discrepancy with information previously provided by Developer to the City, Developer shall reimburse the City for its out-of-pocket costs associated with such inspection or audit.

**9. Recognition of City Funding.** Developer shall acknowledge the financial support of the City with respect to the Project in all printed materials such as informational releases, pamphlets and brochures, construction signs, project and identification signage, and any publicity such as that appearing on the Internet, television, cable television, radio, or in the press or any other printed media. In identifying the City as a funder, Developer shall use either the phrase "Funding provided by the City of Cincinnati" or a City of Cincinnati logotype or other form of acknowledgement that has been approved in advance in writing by the City. Developer's obligations under this section shall commence on the Effective Date and shall terminate on the date of completion of the Project.

**10. General Provisions.**

(A) Assignment; Change of Control.

(i) Assignment. Developer shall not assign its rights or interests under this Agreement to any third party without the prior written consent of the City, which consent may be withheld in the City's sole discretion. The City hereby consents to Developer's collateral assignment of its rights under this Agreement to any construction lender(s) for the Project and to an assignment of Developer's rights under this Agreement to any affiliate of Developer for purposes of completing the Project. Any such permitted assignment shall not act as a release of Developer, unless otherwise agreed to in writing by the City, and any prohibited assignment shall be void.

(ii) Change of Control. Developer shall not permit a Change of Control (as defined below) without the prior written consent of the City, which consent may be withheld in the City's sole discretion. As used herein, "**Change of Control**" means a change in the ownership of Developer such that Guarantor has less than a 51% direct or indirect voting interest in Developer and lack the power to direct or cause the direction of the management and policies of Developer, whether through the ownership of ownership interests in Developer, by contract, or otherwise.

(F) 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.

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

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

(I) 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. Developer shall not assign its rights or obligations under this Agreement without the prior written consent of the City, and any attempt to do so without the City's consent shall, at the City's option, render this Agreement null and void.

(J) 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.

(K) 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.

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

(M) No Brokers. The City and Developer represent to each other that they have not dealt with a real estate broker, salesperson or other person who might claim entitlement to a fee or other compensation as a result of Developer's acquisition of the Property (or, if the seller is represented by a real estate broker or agent, Developer's purchase contract with the seller shall require seller to pay any and all real estate commissions and fees owed to such broker pursuant to the separate agency agreement between them).

(N) 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.

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

(P) 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.

(Q) Exhibits. The following Exhibits are attached hereto and made a part hereof:

- Exhibit A – *Legal Description*
- Exhibit B – *Scope of Public Improvements & Budget*
- Exhibit C – *Eligible Uses*
- Exhibit D – *Form of Promissory Note*
- Exhibit E – *Form of Mortgage*
- Exhibit F – *Form of Subordination Agreement*
- Exhibit G – *Form of Payment and Completion Guaranty*
- Exhibit H – *Disbursement Requirements*
- Exhibit I – *Additional City Requirements*

Remainder of this page intentionally left blank. Signatures to follow.

This Agreement is executed by the parties on the dates indicated below their respective signatures, effective as of the later of such dates (the "**Effective Date**").

**FOUNTAIN PLACE, LLC**

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

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

Date: \_\_\_\_\_, 2020

**[CITY SIGNATURE PAGE ATTACHED]**

**CITY OF CINCINNATI**

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

Date: \_\_\_\_\_, 2020

Recommended by:

\_\_\_\_\_  
Markiea Carter  
Interim Director, Department of Community and Economic Development

Approved By:

\_\_\_\_\_  
Jennifer Mackenzie  
Interim Director, Department of Economic Inclusion

Approved as to Form:

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

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

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

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

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

**EXHIBIT A**  
to Funding Agreement

LEGAL DESCRIPTION

**Parcel ID: 077-0002-0059-00**

**Address: 505 Vine Street, Cincinnati, Ohio 45202**

Situated in Section 18, Fractional Range 1, Town 4, Cincinnati Township, Hamilton County, Ohio, and being located with the following described points and the boundary thereof:

Commencing at the northeast corner of Fifth Street, a 66 foot right-of-way, and Race Street, a 66 foot right-of-way, said point being the Real Point of Beginning of the parcel herein described; thence with the east line of Race Street North 09° 10' 20" West, 299.24 feet to the south right-of-way line of Thorp Alley, a 10 foot right-of-way; thence with said south line North 81° 06' 50" East, 128.76 feet; thence leaving said south line South 09° 07' 10" East, 123.20 feet; thence North 81° 10' 40" East, 270.96 feet to the west line of Vine Street, a 66 foot right-of-way; thence with said west line South 09° 01' 20" East, 175.29 feet to the north line of Fifth Street; thence with said north line South 81° 03' 00" West, 399.14 feet to the Real Point of Beginning, containing 86,031 square feet more or less.

**EXHIBIT B**  
to Funding Agreement

SCOPE OF PUBLIC IMPROVEMENTS AND BUDGET

**I. Scope of Public Improvements**

The following descriptions are preliminary descriptions for informational purposes; such designs describing the Public Improvements set forth in the Final Plans shall control in the event of any conflict.

- Streetscape Rehabilitation
  - Sidewalks – Removal and replacement of all sidewalks bordering the Property on Vine Street, 5<sup>th</sup> Street, and Race Street.
  - Curbs – Granite curbs to be installed with new sidewalks described above.
  - Lighting – New street lights to be installed.
  - Tree Grates and Wells – New street tree wells and tree grates will be installed.
- Removal of Skywalk Bridge – Developer will remove the existing skywalk bridge that connects the Property to the Carew Tower across Fifth Street.
- Restoration of Carew Tower Façade – Developer shall restore the façade and interior of the Carew Tower following removal of the skywalk bridge in accordance with the *Fifth Street (Between Race and Vine) Walkway Agreement* dated December 21, 1995 and Developer’s obligations to the City under that certain *Assignment and Assumption of Fifth Street (Between Race and Vine) Walkway Agreement* dated December 24, 2020.

**II. Public Improvements Budget**

Removal of Skywalk and Carew Tower Restoration	\$186,900
Streetscape Rehabilitation	\$1,246,205
Soft Costs (Engineering, Design, Fees, etc.)	\$48,319
<b>Total</b>	<b>\$1,481,424</b>

**EXHIBIT C**  
to Funding Agreement

ELIGIBLE USES

**I. TIF District Funds**

Streetscape Rehabilitation as described in <u>Exhibit B</u>	\$ 1,246,205
Skywalk Removal and Carew Tower Restoration as described in <u>Exhibit B</u>	\$186,900
Exterior Demolition of Property	\$589,401.13
Soft Costs	\$70,565
<b>Total</b>	<b>\$2,093,071.13</b>

**II. Project TIF Funds**

Exterior Demolition of Property	\$836,678.87
<b>Total</b>	<b>\$836,678.87</b>



**EXHIBIT D**  
to Funding Agreement

**FORM OF PROMISSORY NOTE**

**PROMISSORY NOTE**

(secured by mortgage on real property, 5% interest rate)

**\$2,929,750.00**

Cincinnati, Ohio

\_\_\_\_\_, 2020

**FOR VALUE RECEIVED**, the undersigned, **FOUNTAIN PLACE, LLC** a limited liability company organized under the laws of the State of Ohio, the address of which is 1203 Walnut St, 4<sup>th</sup> Floor, Cincinnati, OH 45202 ("**Borrower**"), hereby promises to pay to the order of the **CITY OF CINCINNATI**, an Ohio municipal corporation, 801 Plum Street, Cincinnati, Ohio 45202 (the "**City**"), the sum of two million nine hundred twenty-nine thousand seven hundred fifty dollars and 00/100 dollars (**\$2,929,750.00**) or so much thereof as the City disburses to Borrower pursuant to that certain *Funding Agreement* between the City and Borrower dated \_\_\_\_\_, 2020, (the "**Agreement**"), as described below (the "**Loan**"). Capitalized terms used herein but not defined herein, if any, shall have the meanings ascribed to them in the Agreement.

This Promissory Note is secured by a mortgage on real property located at 505 Vine Street, Cincinnati, OH 45202 (the "**Property**"). As more particularly described in the Agreement, Borrower is required to use the Loan proceeds exclusively to pay for the Eligible Uses.

**1. Terms.** The terms of the Loan are as follows:

(a) Term. The term of the Loan (the "**Term**") shall be 5 years, beginning upon the date of this Promissory Note (the "**Effective Date**") and ending on the 5-year anniversary of the Effective Date (the "**Maturity Date**").

(b) Interest Rate. Interest shall accrue at a rate of five percent (5.00%) per annum on the outstanding amount of the Loan.

(c) Loan Repayment; Deferral; Forgiveness. The Loan shall be repaid by Borrower in accordance with the following:

[i] Payment Deferral Period: All payments on amounts due under the Loan shall be deferred until the Maturity Date.

[ii] Loan Forgiveness: Upon the completion of the Project (as evidenced by the issuance of a certificate of occupancy for the Property), so long as Borrower is then in and has continually been in compliance with all requirements of the Funding Agreement, Sale Agreement, and Loan Documents, then the City agrees to forgive 100% of the outstanding principal balance, any accrued interest, and all other charges or amounts outstanding on the Loan. Upon request by Borrower, the City will provide written confirmation of such compliance and forgiveness.

[iii] Balloon Payment: On the Maturity Date, the Borrower shall pay a balloon payment equal to all unpaid and unforgiven principal, interest, and other amounts outstanding on the Loan.

(d) Prepayment. Borrower may prepay the Loan at any time, without penalty.

(e) Late Charges & Default Rate of Interest. If any payment due hereunder is not received by the City when due, a late charge equal to five percent (5%) of the past due amount shall automatically become due, and interest on the past due amount shall accrue at the rate of twelve percent (12%) per annum beginning on the due date until the entire past due amount has been paid. The foregoing is in addition to the City's other rights and remedies hereunder and under the Agreement in the event of a default.

2. Authority. The officer or representative of Borrower subscribing below represents that s/he has full power, authority and legal right to execute and deliver this Note and that the debt hereunder constitutes a valid and binding obligation of Borrower.

3. Place of Payment. Payments due under this Note shall be made by check payable to the "City of Cincinnati-Treasurer" and mailed to the City at the address set forth in the introductory paragraph of this Note or such other place as the City may designate in writing from time to time.

4. Due on Sale. If Borrower sells or otherwise transfers title to the Property to a third party without the prior written consent of the City, then the entire principal balance and all accrued interest under this Note shall automatically become due and payable.

5. Default; Remedies. Upon any default in the payment of interest, principal, or any other sum when due under this Note that is not cured within five (5) days after Borrower is given written notice thereof, or upon a default of Borrower under the Agreement that is not cured within the applicable notice and cure period provided for therein, the entire principal sum and any and all late charges and accrued and unpaid interest under this Note may, at the option of the Note holder, be declared to be immediately due and payable, time being of the essence. Failure of the holder of this Note to exercise its rights and remedies in the event of default shall not constitute a waiver of the right of the holder to exercise the same in the event of a subsequent default.

6. General Provisions. This Note and any and all ancillary documents executed by Borrower in connection with the Loan constitute the entire agreement of the parties with respect to the matters described herein and supersede any and all prior communications and agreements between the parties. This Note may be amended only by a written amendment signed by Borrower and the Note holder. This Note shall be governed by the laws of the City of Cincinnati and the State of Ohio. This Note shall be binding upon Borrower and its successors and assigns. If any provision of this Note is determined to be in violation of any applicable local, state or federal law, such provision shall be severed from this Note and the remainder of this Note shall remain in full force and effect. All notices given under this Note shall be sent by regular or certified U.S. mail to Borrower at its address set forth below and to the Note holder at the address where loan payments are made. Any action or proceeding arising under this Note shall be brought only in the Hamilton County Court of Common Pleas. Presentment, notice of dishonor, protest and notice of protest are hereby waived.

[SIGNATURE PAGE FOLLOWS]

Executed by Borrower on the Effective Date.

**BORROWER:**

**FOUNTAIN PLACE, LLC**  
an Ohio limited liability company

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

Printed name: \_\_\_\_\_

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

Approved as to Form:

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

**EXHIBIT E**  
to Funding Agreement  
FORM OF MORTGAGE

[SPACE ABOVE FOR RECORDER'S USE]

Property: 505 Vine Street

**MORTGAGE**

The undersigned, **FOUNTAIN PLACE, LLC**, an Ohio limited liability company ("**Borrower**"), in consideration of a loan in the principal amount of \$2,929,750.00 made by the **CITY OF CINCINNATI**, an Ohio municipal corporation, 801 Plum Street, Cincinnati, Ohio 45202 (the "**City**"), as evidenced by Borrower's *Promissory Note* dated \_\_\_\_\_, 2020, (as the same may be amended, restated or replaced from time to time, the "**Note**"), hereby grants, with mortgage covenants, to the City the real property described pursuant to the legal description set forth below (the "**Property**"):

Parcel Number:           077-0002-0059-00  
Property Address:       505 Vine Street, Cincinnati, OH 4520  
Deed Reference:         OR \_\_\_\_\_, Page \_\_\_\_\_, Hamilton County, Ohio Records.  
Legal Description:       See attached *Exhibit A*

This Mortgage is given, upon the statutory condition, to secure the Borrower's obligations to make payments under the Note.

Executed on the date of acknowledgement indicated below.

[SIGNATURE PAGE FOLLOWS]

**FOUNTAIN PLACE, LLC**

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

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

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

STATE OF OHIO                    )  
  ) ss:  
COUNTY OF HAMILTON         )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2020, by \_\_\_\_\_, the \_\_\_\_\_ of FOUNTAIN PLACE, LLC, a limited liability company organized under the laws of the State of Ohio, on behalf of the company. 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 as to Form:

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

This instrument prepared by:

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

**EXHIBIT A**  
to Mortgage

*Legal Description*

[DESCRIPTION TO BE INSERTED IN EXECUTION VERSION]

**EXHIBIT F**

to Funding Agreement

**FORM OF SUBORDINATION AGREEMENT**

[SPACE ABOVE FOR RECORDER'S USE]  
Property: \_\_\_\_\_

**SUBORDINATION OF MORTGAGE**

This Subordination of Mortgage is executed by the **City of Cincinnati**, an Ohio municipal corporation, 801 Plum Street, Cincinnati, Ohio 45202 (the "**City**"), in favor of \_\_\_\_\_, the address of which is \_\_\_\_\_ ("**Senior Lender**").

Recitals:

A. The City holds a *Mortgage* given by Fountain Place, LLC, an Ohio limited liability company ("**Borrower**"), in the principal amount of \$2,929,750.00, recorded in Official Record \_\_\_\_\_, Page \_\_\_\_\_, Hamilton County, Ohio Records (the "**City's Mortgage**") encumbering the real property described on Exhibit A (*Legal Description*) hereto.

B. Borrower has executed or intends to execute a mortgage in favor of Senior Lender, in the principal amount of \$\_\_\_\_\_ (the "**Senior Mortgage**").

C. Pursuant to a *Funding Agreement* between the City and Borrower, the City has agreed to subordinate the City's Mortgage to the Senior Mortgage.

NOW THEREFORE, the City does hereby subordinate the lien of the City's Mortgage to the lien of the Senior Mortgage but without in any other manner releasing or relinquishing the lien, security interest, operation or effect of the City's Mortgage or any other document or instrument. Nothing in this Subordination of Mortgage is intended to confer any rights or remedies on any person or entity other than Senior Lender and its successors and assigns.

Notwithstanding anything herein to the contrary, this Subordination of Mortgage shall automatically become null and void if the Senior Mortgage is not recorded in the Hamilton County, Ohio Records within thirty (30) days from the date of execution hereof.

[SIGNATURE PAGE ATTACHED]

Executed on the date of acknowledgement indicated below.

**CITY OF CINCINNATI**

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

STATE OF OHIO                    )  
  ) ss:  
COUNTY OF HAMILTON        )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2020 by Paula Boggs Muething, Interim City Manager 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 as to Form:

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

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

Exhibits:  
Exhibit A – *Legal Description*



**EXHIBIT A**  
to  
Subordination of Mortgage  
LEGAL DESCRIPTION

[TO BE ATTACHED TO EXECUTION VERSION]

## EXHIBIT G

### to Funding Agreement

#### FORM OF PAYMENT AND COMPLETION GUARANTY

Project: Court Street Redevelopment

#### PAYMENT AND COMPLETION GUARANTY

This Payment and Completion Guaranty ("**Guaranty**") is made as of the Effective Date (as defined on the signature page hereof) by **CINCINNATI CENTER CITY DEVELOPMENT CORPORATION**, an Ohio nonprofit corporation, the address of which 1203 Walnut St, 4<sup>th</sup> Floor, Cincinnati, OH 45202 ("**Guarantor**") in favor of the **CITY OF CINCINNATI**, an Ohio municipal corporation, the address of which is 801 Plum Street, Cincinnati, Ohio 45202 (the "**City**").

#### Recitals:

A. The City and Fountain Place, LLC, an Ohio limited liability company ("**Obligor**") are parties to a *Funding Agreement* dated \_\_\_\_\_ (the "**Agreement**"). Capitalized terms used, but not defined, herein shall have the meanings ascribed thereto in the Agreement.

B. Pursuant to the Agreement, among other things, Obligor is obligated to complete the Project, which includes the redevelopment of the Property, located at 505 Vine Street, Cincinnati, Ohio 45202. Pursuant to the terms of the Agreement, the City is providing the Loan in the amount of \$2,929,750.00 in order to partially finance the Project, as further described in the Agreement.

C. Guarantor is the parent company of Obligor and will benefit from the provision of the Loan provided by the City in connection with the Project.

D. It is a condition of the Agreement that Guarantor provide this Guaranty to the City with respect to the Project.

NOW, THEREFORE, for and in consideration of the City's execution of the Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Guarantor hereby promises and agrees as follows:

#### A. Guaranty.

(A) Guarantor hereby absolutely, unconditionally, and irrevocably guarantees to the City the full and prompt performance by Obligor of Obligor's obligations under the Agreement to both (i) complete the Project and (ii) repay the Loan, all in accordance with, and subject to, the terms and conditions of the Agreement and the Note, including payment to the City of any and all losses, damages, and expenses (including without limitation attorneys' fees) suffered or incurred by the City and arising out of the failure by Obligor under the Agreement to do so, regardless of whether such losses, damages, or expenses are expressly provided for under the Agreement or are then otherwise allowable by law (collectively, the "**Guaranteed Obligations**").

(B) If Obligor fails to fulfill one or more of the Guaranteed Obligations, resulting in a notice of default from the City to Obligor under the Agreement, the City shall notify Guarantor thereof in writing. If the City provides notice of default, then Guarantor, within ten (10) days after its receipt of such notice, shall take all steps necessary to cure the default (including, for example, providing additional funding for the Project if necessary). All rights and remedies of the City under this Guaranty are cumulative, and nothing

in this Guaranty shall be construed as limiting the City's rights and remedies available under the Agreement or at law or in equity.

(C) From time to time, the City may in the exercise of its sole and absolute discretion and without providing notice to or obtaining the consent of Guarantor, and without in any way releasing, altering, or impairing any of Guarantor's obligations and liabilities to the City under this Guaranty: (i) waive compliance with, or any default occurring under, or grant any other indulgence with respect to, the Agreement; (ii) modify or supplement any of the provisions of the Agreement upon written agreement with Obligor; (iii) grant any extension or renewal of or with respect to the Agreement upon written agreement with Obligor and/or effect any release, compromise, or settlement in connection therewith; and (iv) deal in all respects with Obligor as if this Guaranty were not in effect.

## 2. Liability of Guarantor.

(A) Guarantor's liability under this Guaranty (i) shall be primary, direct, and immediate and is a guaranty of performance and completion and of collection on the Loan; (ii) shall not be conditioned or contingent upon the pursuit by Obligor of any remedy that it may have against its contractors, subcontractors, or any other person with respect to the Project or at law or in equity; and (iii) shall be unconditional, irrespective of the genuineness, validity, regularity, or enforceability of the Agreement, as the case may be, or of the adequacy of any consideration or security given therefor or in connection therewith, or of any other circumstance that might otherwise constitute a legal or equitable discharge of a surety or a guarantor under applicable law. Guarantor hereby waives any and all defenses at law or in equity that may be available to Guarantor by virtue of any such circumstance.

(B) Without limiting the generality of the foregoing provisions of this Section 2, the City shall not be required (i) to make any demand of Obligor or any other person; or (ii) otherwise pursue or exhaust its remedies against Obligor or any other person or entity or against the Project, before, simultaneously with, or after enforcing any of its rights and remedies under this Guaranty against Guarantor. The City may bring one or more successive and/or concurrent actions against Guarantor, either as part of any action brought against Obligor or in one or more separate actions, as often as the City deems advisable in the exercise of its sole and absolute discretion.

(C) Guarantor's liability under this Guaranty shall continue after any assignment or transfer by the City or Obligor of any of their respective rights or interests under the Agreement or with respect to the Project until the satisfaction of all provisions contained in this Guaranty (but the foregoing shall not be deemed to be or constitute the consent by the City to any such assignment by Obligor, which shall continue to be governed by the terms of the Agreement). Guarantor's liability under this Guaranty shall not be affected by any bankruptcy, reorganization or insolvency of Obligor or any successor or assignee thereof or by any disaffirmance or abandonment by a trustee of Obligor.

(D) Waivers. Guarantor hereby expressly waives: (i) presentment and demand for payment of any sum payable under the provisions of the Agreement, and protest of any nonpayment thereof; (ii) notice of acceptance of this Guaranty and of such presentment, demand and protest; (iii) notice of any default under this Guaranty or under the provisions of the Agreement, except as stated herein; (iv) demand for observance or performance, and enforcement, of any of the terms or conditions of this Guaranty, and/or of the Agreement, except as stated herein; (v) any and all other notices and demands that may otherwise be required by law to be given or made; and (vi) any and all rights that Guarantor may have to a trial by jury in any action brought on or with respect to this Guaranty, all rights and remedies accorded by applicable law to Guarantor, including, without limitation, any extension of time conferred by any law now or hereafter in effect, and all rights of redemption, homestead, dower and other rights or exemptions of every kind, whether common law or statutory. In addition, Guarantor hereby expressly agrees that, if this Guaranty is enforced by suit or otherwise, or if the City exercises any of its rights or remedies under the provisions of the Agreement upon any default by Obligor in performing any of Obligor's obligations thereunder, Guarantor shall reimburse the City, upon demand, for any and all expenses, including without limitation attorneys' fees, that the City incurs in connection therewith, payable within ten (10) days after the City's written demand.

3. Subrogation. No payment by Guarantor under this Guaranty shall give Guarantor any right of subrogation to any rights or remedies of the City against Obligor under the Agreement. Until Obligor has paid and performed all of its obligations under the Agreement, Guarantor hereby waives all rights of contribution, indemnity or subrogation with respect to Obligor that might otherwise arise from Guarantor's performance under this Guaranty.

4. Effect of this Guaranty. Guarantor hereby warrants to the City that: (A) Guarantor (i) has a financial interest in the Project; (ii) is duly organized, validly existing, and in good standing under the laws of the State of Ohio; (iii) has full power, authority, and legal right to execute, acknowledge, and deliver this Guaranty; and (iv) there are no actions, suits, or proceedings pending or to the knowledge of Guarantor threatened against Guarantor, at law or in equity, or before any governmental department, commission, board, bureau, agency, or instrumentality which involve the possibility of any judgment or order that may result in any material adverse effect upon Guarantor; and (B) this Guaranty constitutes Guarantor's binding and enforceable legal obligation.

5. Notices. All notices or other written communications hereunder shall be deemed to have been properly given (i) upon delivery, if delivered in person; (ii) upon receipt or refusal if delivered by overnight delivery with any reputable overnight courier service; or (iii) upon receipt or refusal if sent by U.S. registered or certified mail, postage prepaid, return receipt requested, addressed to Guarantor and the City, as the case may be, at the addresses set forth in the introductory paragraph of this Guaranty or such other address as may be designated from time to time by notice given to the other party in the manner prescribed herein. Guarantor shall simultaneously send, by U.S. certified mail, a copy of each notice given by Guarantor to the City hereunder to: City Solicitor, City of Cincinnati, 801 Plum Street, Room 214, Cincinnati, Ohio 45202.

6. General Provisions.

(A) Amendment. This Guaranty may be amended or supplemented by, and only by, an instrument executed by the City and Guarantor.

(B) Waiver. Neither party hereto shall be deemed to have waived the exercise of any right which it holds under this Guaranty unless that waiver is made expressly and in writing (and no delay or omission by any party hereto in exercising any such right shall be deemed a waiver of its future exercise). No such waiver made as to any instance involving the exercise of any such right shall be deemed a waiver as to any other such instance, or any other such right.

(C) Applicable Law. This instrument shall be given effect and construed by application of the laws of the City of Cincinnati and the State of Ohio, and any action or proceeding arising under this Guaranty shall be brought only in the Hamilton County Court of Common Pleas. Guarantor hereto agrees that the City shall have the right to join Obligor in any action or proceeding commenced by the City under this Guaranty.

(D) Time of Essence. Time shall be of the essence of this Guaranty.

(E) Headings. The headings of the paragraphs and subparagraphs of this Guaranty are provided herein for and only for convenience of reference and shall not be considered in construing their contents.

(F) Construction. As used in this Guaranty, (i) the term "person" means a natural person, a trustee, a corporation, a partnership, a limited liability company, and any other form of legal entity; and (ii) all references made (a) in the neuter, masculine, or feminine gender shall be deemed to have been made in all such genders, (b) in the singular or plural number shall be deemed to have been made, respectively, in the plural or singular number as well, (c) to any paragraph or subparagraph shall, unless herein expressly indicated to the contrary, be deemed to have been made to such paragraph or subparagraph of this Guaranty, and (d) to Guarantor, the City, and Obligor shall be deemed to refer to each person hereinabove so named and their respective heirs, executors, personal representatives, successors and assigns.

(G) Severability. No determination by any court or governmental body that any provision of this Guaranty or any amendment hereof is invalid or unenforceable in any instance shall affect the validity or enforceability of (i) any other such provision, or (ii) such provision in any circumstance not controlled by such determination. Each such provision shall be valid and enforceable to the fullest extent allowed by, and shall be construed wherever possible as being consistent with applicable law.

(H) Entire Agreement. This Guaranty represents the complete understanding between or among the parties hereto as to the subject matter hereof, and supersedes all prior negotiations, representations, warranties, statements or agreements, either written or oral, between or among the parties hereto as to the same.

(I) Term. This Guaranty shall be effective upon the execution hereof and shall remain in effect until such time as the Guaranteed Obligations are satisfied and discharged in full. At such time, Guarantor may request, and the City will endeavor to promptly provide, a written statement from the City acknowledging the same and confirming that Guarantor has no further obligations hereunder.

(J) Assignment. Guarantor shall not assign its rights or interests or delegate its duties or obligations under this Guaranty to any third party without the prior written consent of the City, which consent may be withheld in the City's sole and absolute discretion. Any non-permitted assignment shall be void.

*[Signature Page Follows]*

Executed and effective as of \_\_\_\_\_, 2020 (the “**Effective Date**”).

GUARANTOR:

**CINCINNATI CENTER CITY DEVELOPMENT CORPORATION**

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

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

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

Approved as to Form:

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

This instrument prepared by:

Office of the City Solicitor  
801 Plum Street, Room 214  
Cincinnati, Ohio 45202

## EXHIBIT H

### to Funding Agreement

#### DISBURSEMENT REQUIREMENTS

As used herein, the term "Funds" shall refer to the proceeds of the Loan. The term "Improvements" shall refer to the improvements to be funded as Eligible Uses of the Loan.

(A) Conditions to be Satisfied Prior to Disbursement of Funds. The City shall be under no obligation to disburse the Loan to Developer until the following conditions are satisfied:

(i) All Disbursement Conditions have been satisfied;

(ii) Developer shall have provided the City with evidence of insurance required under this Agreement;

(iii) Developer shall have provided the City with evidence that it has obtained all licenses, permits, governmental approvals and the like necessary for the construction work;

(iv) the parties shall have approved the construction budget and construction schedule for the Improvements;

(v) Developer's final plans for the Project (including the Final Plans for the Public Improvements) shall have been submitted in accordance with the Sale Agreement and Agreement, as applicable;

(vi) Developer shall have provided the City with such other documents, reports and information relating to the Project as the City may reasonably request; and

(vii) Developer shall not be in default under this Agreement or the Sale Agreement.

(B) Disbursement of Funds on a Pro Rata Basis. Provided all of the requirements for disbursement of the Funds shall have been satisfied, the City shall disburse the Funds in accordance with the terms herein. The City shall disburse the Funds on a reimbursement basis and on a "pro rata" basis with the other sources of funds for the Improvements; i.e., the City's Funds shall not be "first in". (For example, if the Funds represent one fourth (1/4<sup>th</sup>) of the total funds for the Improvements, at no time shall the amount of the disbursed Funds exceed 1/4<sup>th</sup> of the total amount of the disbursed funds for the Improvements.) Developer shall request the Funds and shall use the Funds solely to reimburse itself for documented hard construction costs paid by Developer to third parties for construction of the Improvements and for no other purpose. Nothing in this Agreement shall permit, or shall be construed to permit, the expenditure of Funds for the acquisition of supplies or inventory, or for the purpose of purchasing materials not used in the construction, or for establishing a working capital fund, or to pay for soft costs, or for any other purpose expressly disapproved by the City. Developer shall not request a disbursement of Funds for any expenditure that is not itemized on or contemplated by the approved budget or if the costs for which the disbursement is being requested exceeds the applicable line item in the budget; however, Developer may request, in writing, that funds be transferred between line items, with the City's approval thereof not to be unreasonably withheld. Disbursements shall be limited to an amount equal to the actual cost of the work, materials and labor incorporated in the work up to the amount of such items as set forth in Developer's request for payment. Anything contained in this Agreement to the contrary notwithstanding, the City shall not be obligated to make or authorize any disbursements if the City determines, in its reasonable discretion, that the amounts remaining from all funding sources with respect to the construction of the Improvements are not sufficient to pay for all the costs to complete construction. Developer acknowledges that the obligation of the City to disburse the Funds to Developer for construction shall be limited to the Funds to be made available by the City under this Agreement. Developer shall provide all additional funds from other resources to complete the Improvements. Notwithstanding anything in this Agreement to the contrary, the City's obligation to make the Funds for construction available to Developer, to the extent such Funds have

not been disbursed, shall terminate ninety (90) days following completion of construction of the Improvements.

(C) Draw Procedure

(i) Frequency. Developer may make disbursement requests no more frequently than once in any thirty (30) day period.

(ii) Documentation. Each disbursement request shall include the following: For construction costs shown on the approved budget, Developer shall submit a draw request form provided by the City, with the following attachments: (i) an AIA G-702-703 Form (AIA) or such other similar form acceptable to the City, (ii) sworn affidavits and/or unconditional lien waivers (together with copies of paid invoices, contracts, or other supporting data) from all contractors, subcontractors and materialmen covering all work, labor and materials for the work through the date of the disbursement and establishing that all such work, labor and materials have been paid for in full, (iii) waivers or disclaimers from suppliers of fixtures or equipment who may claim a security interest therein, and (iv) such other documentation or information requested by the City that a prudent construction lender might request. All affidavits and lien waivers shall be signed, fully-executed originals.

(D) Retainage. After review and approval of a disbursement request, the City shall disburse ninety percent (90%) of the amount requested, less retainage equal to ten percent (10%) thereof. The retained amount shall be disbursed when (i) construction of the Improvements has been completed, (ii) the City has obtained final lien waivers and all other conditions to payment set forth in this Agreement have been satisfied with respect to such payment, (iii) Developer has provided the City with a complete set of "as built" drawings for the Improvements if requested by the City, and (iv) Developer has complied with all of its other obligations under this Agreement as determined by the City in its sole discretion.

(E) Estoppel Certification. A request for the disbursement of Funds shall, unless otherwise indicated in writing at the time Developer makes such request, be deemed as a representation and certification by Developer that (i) that all work done and materials supplied to date are in accordance with the City-approved plans and specifications for the Improvements and in strict compliance with all legal requirements as of the date of the request, (ii) the Improvements are being completed in accordance with the City-approved budget and construction schedule, and (iii) Developer and the City have complied with all of their respective obligations under this Agreement. If Developer alleges that the City has been or is then in default under this Agreement at the time Developer makes such request, and if the City disputes such allegation, the City shall not be obligated to make or authorize such disbursement until the alleged default has been resolved.

\* \* \*



## EXHIBIT I

### to Funding Agreement

#### ADDITIONAL CITY REQUIREMENTS

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

This Exhibit serves two functions:

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

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

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

(A) Construction Workforce.

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

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

(ii) Requirement. In furtherance of the policy enumerated in City Resolutions No. 32-1983 and 21-1998 concerning the inclusion of minorities and women in City construction work, if Developer is performing construction work for the City under a construction contract to which the City is a party, Developer shall use Best Efforts to achieve a standard of no less than 11.8% Minority Persons (as defined below) and 6.9% females (of whom at least one-half shall be Minority Persons) in each craft trade in

Developer and its general contractor's aggregate workforce in Hamilton County, to be achieved at least halfway through the construction contract (or in the case of a construction contract of six months or more, within 60 days of beginning the construction contract) (collectively, the "**Construction Workforce Goals**").

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

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

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

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

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

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

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

(B) Trade Unions; Subcontracts; Competitive Bidding.

(i) Meeting and Confering with Trade Unions.

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

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

(ii) Contracts and Subcontracts; Competitive Bidding.

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

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

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

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

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

- (1) “Bid” means an offer in response to an invitation for bids to provide construction work.
- (2) “Invitation to Bid” means the solicitation for quoted prices on construction specifications and setting a time, date and place for the submission of and public reading of bids. The place for the public reading of bids shall be chosen at the discretion of Developer; however, the place chosen must be accessible to the public on the date and time of the public reading and must have sufficient room capacity to accommodate the number of respondents to the invitation to bid.
- (3) “Trade Craft” means (a) general construction work, (b) electrical equipment, (c) plumbing and gas fitting, (d) steam and hot water heating and air conditioning and ventilating apparatus, and steam power plant, (e) elevator work, and (f) fire protection.
- (4) “Public Notification” means (a) advertisement of an invitation to bid with ACI (Allied Construction Industries) and the Dodge Report, and (b) dissemination of the advertisement (either by mail or electronically) to the South Central Ohio Minority Business Council, Greater Cincinnati Northern Kentucky African-American Chamber of Commerce, and the Hispanic Chamber of Commerce. The advertisement shall include a description of the “scope of work” and any other information reasonably necessary for the preparation of a bid, and it shall be published and disseminated no less than fourteen days prior to the deadline for submission of bids stated in the invitation to bid.

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

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

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

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

(F) Small Business Enterprise Program.<sup>1</sup>

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

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

(1) Including qualified SBEs on solicitation lists.

(2) Assuring that SBEs are solicited whenever they are potential sources. Contractor must advertise, on at least two separate occasions, both in local minority publications and in other local newspapers of general circulation, invitations to SBEs to provide services, to supply materials or to bid on construction contracts for the Project. Contractor is encouraged to use

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<sup>1</sup> Note: DCED is currently evaluating revisions to this SBE section due to recent legislative changes adopted by Council. If DCED implements these policy changes prior to the execution of this Agreement, this section will be revised.

the internet and similar types of advertising to reach a broader audience, but these additional types of advertising cannot be used as substitutes for the above.

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

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

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

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

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

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

(G) Equal Employment Opportunity.

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

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

(H) Prevailing Wage. Developer shall comply, and shall cause all contractors working on the Project to comply, with all any prevailing wage requirements that may be applicable to the Project. In the event that the City is directed by the State of Ohio to make payments to construction workers based on violations of such requirements, Developer shall make such payments or reimburse the City for such payments within twenty (20) days of demand therefor. A copy of the City's prevailing wage determination may be attached to this Exhibit as Addendum I to Additional Requirements Exhibit (City's Prevailing Wage Determination) hereto.

(I) Compliance with the Immigration and Nationality Act. In the performance of its construction obligations under this Agreement, Developer shall comply with the following provisions of the federal

Immigration and Nationality Act: 8 U.S.C.A. 1324a(a)(1)(A) and 8 U.S.C.A. 1324a(a)(2). Compliance or noncompliance with those provisions shall be solely determined by final determinations resulting from the actions by the federal agencies authorized to enforce the Immigration and Nationality Act, or by determinations of the U.S.

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

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

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

(M) Wage Enforcement.

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

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

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

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

(c) If this contract is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this contract is required to authorize, and does hereby specifically authorize, any local, state or federal agency, court, administrative body or other

entity investigating a complaint of Wage Theft or Payroll Fraud against the Person (collectively “investigative bodies”) to release to the City’s Department of Economic Inclusion any and all evidence, findings, complaints and determinations associated with the allegations of Wage Theft or Payroll Fraud upon the City’s request and further authorizes such investigative bodies to keep the City advised regarding the status of the investigation and ultimate determination. If the investigative bodies require the Person to provide additional authorization on a prescribed form or in another manner, the Person shall be required to provide such additional authorization within 14 days of a request by the City.

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

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

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

(N) Americans With Disabilities Act; Accessibility.

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

(ii) Requirement. In furtherance of the policy objectives set forth in the Accessibility Motion, (A) the Project shall comply with the ADA, and (B) if (i) any building(s) within the Project is subject to the accessibility requirements of the ADA (e.g., by constituting a “place of public accommodation” or another category of structure to which the ADA is applicable) and (ii) such building(s) is not already required to meet the Contractual Minimum Accessibility Requirements (as defined below) pursuant to the ADA, applicable building code requirements, or by any other legal requirement, then Developer shall cause such building(s) to comply with the Contractual Minimum Accessibility Requirements in addition to any requirements pursuant to the ADA and the applicable building code or legal requirement. As used herein, “**Contractual Minimum Accessibility Requirements**” means that a building shall, at a minimum, include (1) at least one point of entry (as used in the ADA), accessible from a public right of way, with respect to which all architectural barriers (as used in the ADA) to entry have been eliminated, and (2) if such accessible point of entry is not a building’s primary point of entry, conspicuous signage directing persons to such accessible point of entry.

(O) Electric Vehicle Charging Stations in Garages.

(i) Applicability. Cincinnati City Council passed Ordinance No. 89-2017 on May 10, 2017. This ordinance requires all agreements in which the City provides any amount of “qualifying incentives” for projects involving the construction of a parking garage to include a provision requiring the inclusion of certain features in the garage relating to electric vehicles. The ordinance defines “qualifying incentives” as the provision of incentives or support for the construction of a parking garage in the form of (a) the provision of any City monies or monies controlled by the City including, without limitation, the

provision of funds in the form of loans or grants; (b) the provision of service payments in lieu of taxes in connection with tax increment financing, including rebates of service payments in lieu of taxes; and (c) the provision of the proceeds of bonds issued by the City or with respect to which the City has provided any source of collateral security or repayment, including, but not limited to, the pledge of assessment revenues or service payments in lieu of taxes. For the avoidance of doubt, "qualifying incentives" does not include (1) tax abatements such as Community Reinvestment Area abatements pursuant to Ohio Revised Code 3735.67, et seq., or Job Creation Tax Credits pursuant to Ohio Revised Code 718.15; (2) the conveyance of City-owned real property for less than fair market value; and (3) any other type of City support in which the City provides non-monetary assistance to a project, regardless of value.

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

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



*Addendum I*  
*to*  
*Additional Requirements Exhibit*

City's Prevailing Wage Determination

SEE ATTACHED

REQUEST FOR PROJECT WAGE DETERMINATION

DATE RECEIVED: 9/3/2020

ORIGINAL ASSIGNED NUMBER:  
2019-256

DEI USE ONLY

Fillout and Circle all that Apply Below:

REQUESTING AGENCY OR DEPT:  
Community and Economic Development

FUNDING GUIDELINES:  
(State or Federal)

CONTACT PERSON AND PHONE  
NUMBER:  
Giovanni Rocco; 513-352-1960

RATES THAT APPLY:  
(Building, Heavy, Highway, Residential)  
State building rates will apply.

Requested Date: 09/02/2020  
Estimated Advertising Date: 09/14/2020  
Estimated Bid Opening Date: 09/21/2020  
Estimated Starting Date: 11/01/2020

DECISION NUMBER: N/A

MODIFICATIONS: N/A

SOURCE AND FUND NUMBER

DECISION DATE: 9/4/2020

CITY	X	FUND	980
STATE		FUND	
COUNTY		FUND	
FEDERAL		FUND	

EXPIRATION DATE: 12/4/2020

SUPERSEDES DECISION NUMBER: N/A

DETERMINATION BY:

Name: Dionne Cherry

PROJECT ACCOUNT NUMBER:

Title: Contract Compliance Specialist

AMT. OF PUB. FUNDING \$: 2,929,750

Date: 9/4/2020

TOTAL PROJECT DOLLARS: 2,929,750

APPROVED BY:

  
Jennifer B. Mackenzie, Interim Director

NAME OF PROJECT

Fountain Place

DEPARTMENT OF ECONOMIC INCLUSION

COMMENTS:

As described, project exceeds the State Prevailing Wage threshold for building alterations under 4115.03(B)(2)(c), which is \$75,000.

Note: Any changes to the scope, funding or developer(s) on the project or the failure of the project to start within 90 days of the determination will require revisions to this wage determination.

**TYPE OF WORK**

- |               |   |                |
|---------------|---|----------------|
| 1. Building   | X | 2. Heavy       |
| 3. Highway    |   | 4. Residential |
| 5. Demolition |   |                |
| 6. Other      |   |                |

**PROJECT LOCATION**

This project is located at 505 Vine Street, also known as Fountain Place, Fountain Square West, and/or the Foundry. This building is a 3.5 story building that when renovated will become a 150,000 sf office building with 30,000 sf of commercial space. This project includes streetscape work surrounding the 505 Vine property on Vine, 5th, and Race Streets, which will include installing new sidewalks, new lighting, and new tree grates and wells. This project will also include the exterior demolition of the 505 Vine property. Moreover, there is a sky walk that connects 505 Vine to the Carew Tower at 441 Vine Street (a 49 story building). Fountain Place LLC, a wholly owned subsidiary of 3CDC, will be repairing the portion of the facade of the Carew tower that is damaged by the removal of the sky walk.

**PROJECT FUNDING SOURCE**

The City is completely funding this project from the Downtown/OTR West TIF district and the Fountain Place West 41 TIF. On December 23, 2019, the City entered into a Property Sale and Development Agreement for this project which included a 30-year, 5709.40(B) TIF.

**PROJECT SCOPE OF WORK AND BUDGET**

When renovated, this building will become a 150,000 sf office building with 30,000 sf of commercial space. This project includes streetscape work surrounding the 505 Vine property on Vine, 5th, and Race Streets, which will include installing new sidewalks, new lighting, and new tree grates and wells. This project will also include the exterior demolition of the 505 Vine property. Moreover, there is a sky walk that connects 505 Vine to the Carew Tower at 441 Vine Street (a 49 story building). Fountain Place LLC, a wholly owned subsidiary of 3CDC, will be repairing the portion of the facade of the Carew tower that is damaged by the removal of the sky walk.

**DEI 217 Form  
REV: 6/12/2017**

September 28, 2020

To: Mayor and Members of City Council **202001689**  
From: Paula Boggs Muething, Interim City Manager  
Subject: **CRA TAX EXEMPTION FOR 2330 VP APARTMENTS, 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 (LEED or Living Building Challenge) with 2330 VP Apartments, LLC, thereby authorizing a 15-year tax exemption for 100% of the value of improvements made to real property located at 2332 Victory Parkway in the Walnut Hills neighborhood of Cincinnati, in connection with the remodeling of an existing building into approximately 35,173 square feet of residential space, approximately 6,400 square feet of office space, and approximately 1,240 square feet of commercial space, which remodeling shall be completed in compliance with Leadership in Energy and Environmental Design Silver, Gold or Platinum standards or Living Building Challenge standards, at a total remodeling cost of approximately \$2,100,000.

### **BACKGROUND/CURRENT CONDITIONS**

The project is located at 2330 Victory Parkway in the East Walnut Hills neighborhood. The property includes an eight-story office building that the applicant reports as mostly vacant. The building also includes structured parking below the ground level.

### **DEVELOPER INFORMATION**

2330 VP Apartments, LLC is a subsidiary of Alaya Properties, a property management and development company based in Cincinnati. They manage multi-family properties in Cincinnati and Northern Kentucky and have renovated multi-family properties in Clifton and Northside. Sandesh Samdaria is the company manager.

**PROJECT DESCRIPTION**

This project will result in the rehabilitation of an approximately 43,000 square foot mixed-use building. The first floor will include two small storefronts as well as approximately 6,000 SF of office space. The remaining floors will include 37 residential rental units. There are projected to be 12 one-bedroom units and 25 two-bedroom units, with monthly rent ranging from \$1,156 to \$1,388. The cost of construction is estimated to be \$2.1 million and the total project cost is estimated be \$2.8 million. The project is projected to take 9 months to complete.

As a result of the project, *the* developer commits to the creation of 15 temporary construction jobs with \$500,000 in one-time payroll and 24 permanent, full-time jobs with \$720,000 in annual payroll.

The project is in accordance with the “Live” goal to “Create a more livable community” and strategy to “Support and stabilize our neighborhoods” as described on pages 156-163 of Plan Cincinnati.

**PROPOSED INCENTIVE**

DCED recommends a 15 year, 52% net rate CRA tax exemption. This incentive would be pursuant to the Commercial CRA policy established by City Council. The project scores 14 points as indicated below:

“But For” Analysis (0-3 points) *	3
LEED (0-6 points)	3
Neighborhood VTICA (1 point for contributions over 1% but less than 15% and 8 points for contributions of 15% or more)	8
<b>TOTAL</b>	<b>14</b>

- \* “But For” Analysis Explanation: 3 points were awarded for the following reasons:
- Even with an abatement, projected return on equity is below 10% for the first 15 years following renovation.
  - The new residential development in this mostly vacant building would be in close proximity to both the Walnut Hills and East Walnut Hills Neighborhood Business Districts, supporting the vibrancy of two neighborhood centers.

<b>SUMMARY</b>	
<b>Forgone Public Benefit if Project Does not Proceed</b>	
CPS PILOT (Forgone New Revenue)	(\$193,032)
VTICA (Forgone New Revenue)	(\$87,742)
Income Tax (Forgone New Revenue)	(\$233,800)
<b>Total Public Benefit Lost</b>	<b>(\$514,574)</b>

<b>Incentive Value</b>	
Annual Net Incentive to Developer	\$20,278
<b>Total Term Incentive to Developer</b>	<b>\$304,171</b>
<b>City's Portion of Property Taxes Forgone</b>	<b>\$75,494</b>
<b>Public Benefit</b>	
CPS PILOT	
Annual CPS Pilot	\$12,869
<b>Total Term CPS PILOT</b>	<b>\$193,032</b>
VTICA	
Annual VTICA	\$5,849
<b>Total Term VTICA</b>	<b>\$87,742</b>
Income Tax (Max)	<b>\$233,800</b>
<b>Total Public Benefit (CPS PILOT/VTICA /Income Tax)</b>	<b>\$514,574</b>
Total Public Benefit ROI*	\$1.69
City's ROI*	\$6.82

\*If the project were going to happen regardless of incentive, this is the return of real dollars for public benefits as potential future dollars are forgone

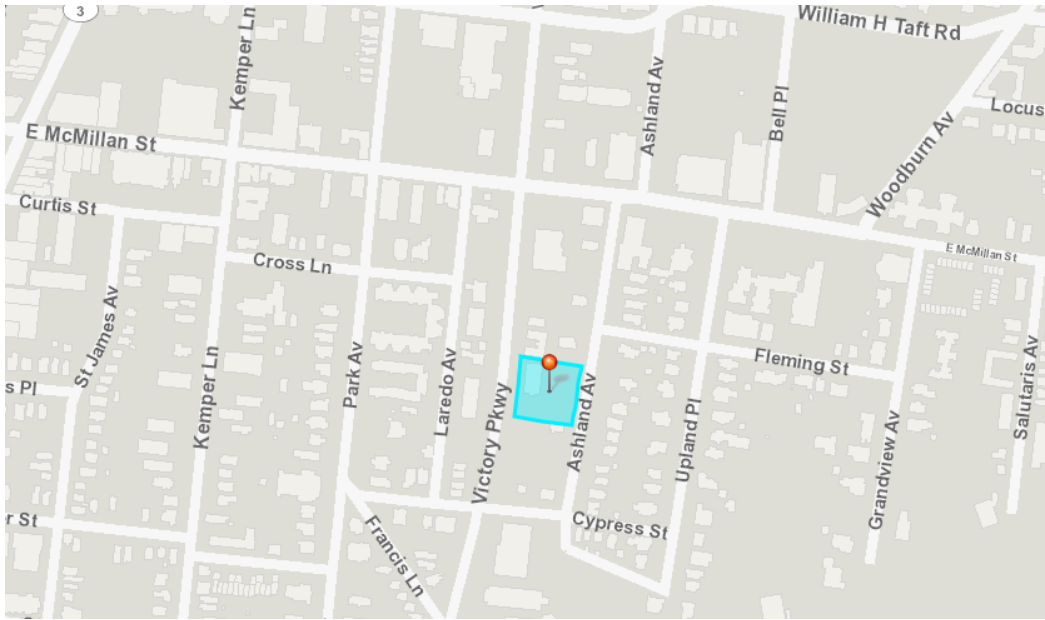
**RECOMMENDATION**

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 *MLC*

**Attachment A: Location and Photographs**



*Property Location*



*2330 Victory Parkway*

EMERGENCY

City of Cincinnati

TJL

AWB

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

- 2020

**APPROVING AND AUTHORIZING** the City Manager to execute a *Community Reinvestment Area Tax Exemption Agreement (LEED or Living Building Challenge)* with 2330 VP Apartments, LLC, thereby authorizing a 15-year tax exemption for 100% of the value of improvements made to real property located at 2332 Victory Parkway in the Walnut Hills neighborhood of Cincinnati, in connection with the remodeling of an existing building into approximately 35,173 square feet of residential space, approximately 6,400 square feet of office space, and approximately 1,240 square feet of commercial space, which remodeling shall be completed in compliance with Leadership in Energy and Environmental Design Silver, Gold or Platinum standards or Living Building Challenge standards, at a total remodeling cost of approximately \$2,100,000.

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 Sections 3735.65 through 3735.70 (the “Statute”); and

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

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

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

WHEREAS, 2330 VP Apartments, LLC (the “Company”) desires to remodel an existing building located on real property at 2332 Victory Parkway located within the corporate boundaries of the City of Cincinnati into approximately 35,173 square feet of residential space, consisting of



37 rental units, approximately 6,400 square feet of office space, and approximately 1,240 square feet of commercial space consistent with LEED or LBC standards (the “Improvements”), provided that the appropriate development incentives are available to support the economic viability of the Improvements; and

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

WHEREAS, the property is located within the Cincinnati City School District of the City of Cincinnati; 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 facilitate permanent improvements and neighborhood services furthering redevelopment in the neighborhood of the Improvements and to support affordable housing on a City-wide basis; and

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

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

Section 1. That Council approves a *Community Reinvestment Area Tax Exemption Agreement (LEED or Living Building Challenge)* 2330 VP Apartments, LLC (the “Agreement”), thereby authorizing a 15-year tax exemption for 100% of the assessed value of improvements to be made to real property located at 2332 Victory Parkway in Cincinnati, as calculated by the

Hamilton County Auditor, in connection with the remodeling of an existing building into approximately 35,173 square feet of residential space, consisting of 37 residential rental units, approximately 6,400 square feet of office space, and approximately 1,240 square feet of commercial space to be constructed in compliance with Leadership in Energy and Environmental Design Silver, Gold or Platinum standards (as defined by the U.S. Green Building Council) or Living Building Challenge standards (as described in the Agreement and as determined by the International Living Future Institute and the Cascadia Green Building Council, as applicable) at a total remodeling cost of approximately \$2,100,000.

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 of the City of Cincinnati, 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: \_\_\_\_\_, 2020

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John Cranley, Mayor

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

ATTACHMENT A

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

This Community Reinvestment Area Tax Exemption Agreement (this "Agreement") is made and entered into as of the Effective Date (as defined on the signature page hereof) by and between the CITY OF CINCINNATI, an Ohio municipal corporation (the "City"), and 2330 VP APARTMENTS, 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. Pursuant to the Commercial Policy Ordinance, a project that is constructed or remodeled to (1) Leadership in Energy and Environmental Design ("LEED") Silver, Gold or Platinum standards (as defined by the U.S. Green Building Council), or (2) receives a (a) Living Building Challenge Net Zero certification, (b) Living Building Challenge Full certification, or (c) solely in circumstances where the construction or remodeling complies with the requirements of the "Energy Petal" of the Living Building Challenge, Living Building Challenge Petal certification, in each case as defined by the International Living Future Institute and the Cascadia Green Building Council (such qualifying remodeling or construction is referred to, collectively, as "LBC" remodeling or construction), may qualify for a longer term and/or greater abatement.
- E. The Company is the sole owner of certain real property within the City, located at 2332 Victory Parkway, Cincinnati, Ohio 45206 (the "Property"), as further described in Exhibit A (Legal Description of Property) hereto. Notwithstanding the foregoing, the Property shall not include any residential condominiums being developed in connection with the Project (as defined below) (the "Excluded Property"), and the Company acknowledges and agrees that the City's Community Reinvestment Area program entails separate applications by the owner of any residential condominium units included within the Project. For the avoidance of doubt, the Excluded Property shall not be exempt under this Agreement; however, this provision shall not be deemed to prohibit any owners from time to time of any Excluded Property from separately applying for a tax abatement in accordance with applicable law.
- F. The Company has proposed the remodeling of a building located on the Property to LEED Silver standards, within the boundaries of the City of Cincinnati, as more fully described in Section 1 herein (the "Project"); provided that the appropriate development incentives are available to support the economic viability of the Project.
- G. The Statute provides that if any part of a project is to be used for commercial or industrial purposes, including projects containing four or more dwelling units, in order to be eligible for tax exemption

the City and the Company must enter into an agreement pursuant to Ohio Revised Code Section 3735.671 prior to commencement of construction or remodeling.

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

"Third-Party Administrator") to contribute to the Third-Party Administrator an amount equal to fifteen percent (15%) of the real property taxes that would have been payable on the abated property but for the City-authorized tax abatement (the "VTICA Contribution"). Half of such VTICA Contribution is to be committed by the Third-Party Administrator to facilitate permanent improvements and neighborhood services furthering urban redevelopment in the East Walnut Hills neighborhood and the other half of such VTICA Contribution is to be committed by the Third-Party Administrator in supporting quality affordable housing on a City-wide basis. The Company hereby represents and warrants that it will pay the VTICA Contribution for the full term of the abatement.

- Q. This Agreement has been authorized by Ordinance No. \_\_\_\_\_-2020, passed by Cincinnati City Council on \_\_\_\_\_, 2020.
- R. 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 into approximately 35,173 square feet of residential space, consisting of 37 rental units, approximately 6,400 square feet of office space, and approximately 1,240 square feet of commercial space on the Property (the "Improvements") at an estimated aggregate cost of \$2,100,000 to commence after the execution of this Agreement and to be completed no later than September 30, 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, as well as complying with the LEED Silver standards. The Company hereby represents that it has registered with the U.S. Green Building Council with intent to certify compliance with LEED Silver. In addition to the foregoing, (A) the Project shall comply with the Americans with Disabilities Act, together with any and all regulations or other binding directives promulgated pursuant thereto (collectively, the "ADA"), and (B) if (i) any building(s) within the Project is subject to the accessibility requirements of the ADA (e.g., by constituting a "place of public accommodation" or another category of structure to which the ADA is applicable) and (ii) such building(s) is not already required to meet the Contractual Minimum Accessibility Requirements (as defined below) pursuant to the ADA, applicable building code requirements, or by any other legal requirement, then the Company shall cause such building(s) to comply with the Contractual Minimum Accessibility Requirements in addition to any requirements pursuant to the ADA and the applicable building code or legal requirement. As used herein, "**Contractual Minimum Accessibility Requirements**" means that a building shall, at a minimum, include (1) at least one point of entry (as used in the ADA), accessible from a public right of way, with respect to which all architectural barriers (as used in the ADA) to entry have been eliminated, and (2) if such accessible point of entry is not a building's primary point of entry, conspicuous signage directing persons to such accessible point of entry.

Section 2. Real Property Tax Exemption. Subject to the satisfaction of the conditions set forth in this Agreement, the City approves exemption from real property taxation, pursuant to and to the fullest extent authorized by the Statute, of 100% of the amount by which the Improvements increase the assessed value of the Property as determined by the Hamilton County Auditor, for a period of 15 years, provided that the Company shall have entered into the Board of Education Agreement. Within 120 days after completion

of the Project (unless otherwise extended in writing by the City's Housing Officer), the Company must file the appropriate application for tax exemption with the City's Housing Officer. The Company is solely responsible to take this action. Upon receipt of the application for tax exemption, the City will proceed with the exemption authorized by this Agreement. In accordance with Ohio Revised Code Section 3735.67, the exemption is conditioned on verification by the Housing Officer of (A) the completion of remodeling, (B) the cost of remodeling, (C) the facts asserted in the application for exemption, (D) compliance with LEED standards identified in Section 1, and (E) if a remodeled structure is a structure of historical or architectural significance as designated by the City, state or federal government, that the appropriateness of the remodeling has been certified in writing by the appropriate agency. If the required verification is made, the Housing Officer will forward the exemption application to the Hamilton County Auditor with the necessary certification by the Housing Officer. Subject to the conditions set forth in this Agreement, the exemption commences the first tax year for which the Improvements would first be taxable were the Improvements not exempted from taxation. The dates provided in this paragraph refer to tax years in which the subject property is assessed, as opposed to years in which taxes are billed. No exemption shall commence after tax year 2021 nor extend beyond the earlier of (i) tax year 2035 or (ii) the end of the fifteenth (15<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.<sup>1</sup>

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.

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

(vi) The Company shall periodically document its best efforts and affirmative steps to meet the above 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 or cause to be created (i) 24 full-time permanent jobs and (ii) 15 full-time temporary construction jobs at the Property in connection with the Project. In the case of the construction jobs, the job creation and retention period shall be concurrent with remodeling, and in the case of the other jobs described herein, the job creation period shall begin upon completion of remodeling and shall end three (3) years thereafter.

B. Company's Estimated Payroll Increase. The Company's increase in the number of employees or the number of employees caused to be created by the Company will result in approximately (i) \$720,000 of additional annual payroll with respect to the full-time permanent jobs and (ii) \$500,000 of additional annual payroll prior to the completion of the Project with respect to the full-time temporary construction jobs.

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

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

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

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

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

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

Section 18. Revocation.

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

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

Agreement under division (E) of Ohio Revised Code Section 3735.671 or under Ohio Revised Code Sections 5709.62 or 5709.63 prior to the time prescribed by that division or either of those sections.

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

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

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

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

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

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

member" shall have the meanings set forth in Ohio Revised Code Section 3735.671(E).

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

To the City:

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

To the Company:

2330 VP APARTMENTS, LLC  
Attention: Sandesh Samdaria  
2340 Victory Parkway, Suite #41  
Cincinnati, Ohio 45206

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

2330 VP APARTMENTS, LLC,  
an Ohio limited liability company

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

Date: \_\_\_\_\_, 2020

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

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

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

Date: \_\_\_\_\_, 2020

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

Approved as to Form:

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

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

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

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

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



**Exhibit A to CRA Agreement**

**LEGAL DESCRIPTION OF PROPERTY**

**Property Address: 2332 Victory Parkway, Cincinnati, Ohio 45206**

**Auditor Parcel ID: 063-0003-0314-00**

Situate in Section 7, Town 3, Fractional Range 2, Miami Purchase, City of Cincinnati, Hamilton County, Ohio and being more particularly described as follows:

Commencing at a point at the intersection of the west line of Ashland Avenue with the north line of Cypress Street; Thence N 09°01'36" E for a distance of 285.0 feet to a 5/8" iron pin found at the north east corner of lands of Kelly L. and Stephen E. Carr and being the true place of beginning of the following described real estate;

THENCE, from said true place of beginning, with said Carr's north line, N 80°58'24" W a distance of 195.41 feet to a mag nail found at the north west corner of lands of The Board of Trustees of The University of Cincinnati and in the East right of way of Victory Parkway;

THENCE with said right of way, with a curve deflecting to the left having length of 190.79', and a radius of 2989.90' subtended by a chord bearing N 06°35'47" E, for a distance of 190.76', to a mag nail found;

THENCE continuing with said right of way, N 04°46'06" E for a distance of 9.44 feet to a mag nail found at the south west corner of lands of Nivas Properties, LLC;

THENCE with said Nivas south line S 80°58'24" E for a distance of 204.20 feet to a 5/8" iron pin found at the south east corner of lands of Gather Cincinnati, LLC and in the West right of way of Ashland Avenue;

THENCE with said right of way, S 09°01'36" W for a distance of 200.00 feet to the place of beginning,

Said property contains 0.9123 acres.

The above described real estate is a combination of the premises described as recorded in O.R. Book 14044, Page 426 of the Hamilton County, Ohio, Deed Records and identified as parcels 063-0003-0008, 0120, 0121, 0122, 0136, 0140, and 0144 on the Tax Maps of said County.

Being the result of a field survey and plat dated 06/17/2020 made under the supervision of John C. Hewett registration No. 7550 in the State of Ohio.

**Exhibit B to CRA Agreement**  
**APPLICATION FOR TAX EXEMPTION**

**TO BE ATTACHED**

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

This Community Reinvestment Area Tax Exemption Agreement (this "Agreement") is made and entered into as of the Effective Date (as defined on the signature page hereof) by and between the CITY OF CINCINNATI, an Ohio municipal corporation (the "City"), and 2330 VP APARTMENTS, 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. Pursuant to the Commercial Policy Ordinance, a project that is constructed or remodeled to (1) Leadership in Energy and Environmental Design ("LEED") Silver, Gold or Platinum standards (as defined by the U.S. Green Building Council), or (2) receives a (a) Living Building Challenge Net Zero certification, (b) Living Building Challenge Full certification, or (c) solely in circumstances where the construction or remodeling complies with the requirements of the "Energy Petal" of the Living Building Challenge, Living Building Challenge Petal certification, in each case as defined by the International Living Future Institute and the Cascadia Green Building Council (such qualifying remodeling or construction is referred to, collectively, as "LBC" remodeling or construction), may qualify for a longer term and/or greater abatement.
- E. The Company is the sole owner of certain real property within the City, located at 2332 Victory Parkway, Cincinnati, Ohio 45206 (the "Property"), as further described in Exhibit A (Legal Description of Property) hereto. Notwithstanding the foregoing, the Property shall not include any residential condominiums being developed in connection with the Project (as defined below) (the "Excluded Property"), and the Company acknowledges and agrees that the City's Community Reinvestment Area program entails separate applications by the owner of any residential condominium units included within the Project. For the avoidance of doubt, the Excluded Property shall not be exempt under this Agreement; however, this provision shall not be deemed to prohibit any owners from time to time of any Excluded Property from separately applying for a tax abatement in accordance with applicable law.
- F. The Company has proposed the remodeling of a building located on the Property to LEED Silver standards, within the boundaries of the City of Cincinnati, as more fully described in Section 1 herein (the "Project"); provided that the appropriate development incentives are available to support the economic viability of the Project.
- G. The Statute provides that if any part of a project is to be used for commercial or industrial purposes, including projects containing four or more dwelling units, in order to be eligible for tax exemption

the City and the Company must enter into an agreement pursuant to Ohio Revised Code Section 3735.671 prior to commencement of construction or remodeling.

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

"Third-Party Administrator") to contribute to the Third-Party Administrator an amount equal to fifteen percent (15%) of the real property taxes that would have been payable on the abated property but for the City-authorized tax abatement (the "VTICA Contribution"). Half of such VTICA Contribution is to be committed by the Third-Party Administrator to facilitate permanent improvements and neighborhood services furthering urban redevelopment in the East Walnut Hills neighborhood and the other half of such VTICA Contribution is to be committed by the Third-Party Administrator in supporting quality affordable housing on a City-wide basis. The Company hereby represents and warrants that it will pay the VTICA Contribution for the full term of the abatement.

- Q. This Agreement has been authorized by Ordinance No. \_\_\_\_\_-2020, passed by Cincinnati City Council on \_\_\_\_\_, 2020.
- R. 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 into approximately 35,173 square feet of residential space, consisting of 37 rental units, approximately 6,400 square feet of office space, and approximately 1,240 square feet of commercial space on the Property (the "Improvements") at an estimated aggregate cost of \$2,100,000 to commence after the execution of this Agreement and to be completed no later than September 30, 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, as well as complying with the LEED Silver standards. The Company hereby represents that it has registered with the U.S. Green Building Council with intent to certify compliance with LEED Silver. In addition to the foregoing, (A) the Project shall comply with the Americans with Disabilities Act, together with any and all regulations or other binding directives promulgated pursuant thereto (collectively, the **"ADA"**), and (B) if (i) any building(s) within the Project is subject to the accessibility requirements of the ADA (e.g., by constituting a "place of public accommodation" or another category of structure to which the ADA is applicable) and (ii) such building(s) is not already required to meet the Contractual Minimum Accessibility Requirements (as defined below) pursuant to the ADA, applicable building code requirements, or by any other legal requirement, then the Company shall cause such building(s) to comply with the Contractual Minimum Accessibility Requirements in addition to any requirements pursuant to the ADA and the applicable building code or legal requirement. As used herein, **"Contractual Minimum Accessibility Requirements"** means that a building shall, at a minimum, include (1) at least one point of entry (as used in the ADA), accessible from a public right of way, with respect to which all architectural barriers (as used in the ADA) to entry have been eliminated, and (2) if such accessible point of entry is not a building's primary point of entry, conspicuous signage directing persons to such accessible point of entry.

Section 2. Real Property Tax Exemption. Subject to the satisfaction of the conditions set forth in this Agreement, the City approves exemption from real property taxation, pursuant to and to the fullest extent authorized by the Statute, of 100% of the amount by which the Improvements increase the assessed value of the Property as determined by the Hamilton County Auditor, for a period of 15 years, provided that the Company shall have entered into the Board of Education Agreement. Within 120 days after completion

of the Project (unless otherwise extended in writing by the City's Housing Officer), the Company must file the appropriate application for tax exemption with the City's Housing Officer. The Company is solely responsible to take this action. Upon receipt of the application for tax exemption, the City will proceed with the exemption authorized by this Agreement. In accordance with Ohio Revised Code Section 3735.67, the exemption is conditioned on verification by the Housing Officer of (A) the completion of remodeling, (B) the cost of remodeling, (C) the facts asserted in the application for exemption, (D) compliance with LEED standards identified in Section 1, and (E) if a remodeled structure is a structure of historical or architectural significance as designated by the City, state or federal government, that the appropriateness of the remodeling has been certified in writing by the appropriate agency. If the required verification is made, the Housing Officer will forward the exemption application to the Hamilton County Auditor with the necessary certification by the Housing Officer. Subject to the conditions set forth in this Agreement, the exemption commences the first tax year for which the Improvements would first be taxable were the Improvements not exempted from taxation. The dates provided in this paragraph refer to tax years in which the subject property is assessed, as opposed to years in which taxes are billed. No exemption shall commence after tax year 2021 nor extend beyond the earlier of (i) tax year 2035 or (ii) the end of the fifteenth (15<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.<sup>1</sup>

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.

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

(vi) The Company shall periodically document its best efforts and affirmative steps to meet the above 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 or cause to be created (i) 24 full-time permanent jobs and (ii) 15 full-time temporary construction jobs at the Property in connection with the Project. In the case of the construction jobs, the job creation and retention period shall be concurrent with remodeling, and in the case of the other jobs described herein, the job creation period shall begin upon completion of remodeling and shall end three (3) years thereafter.

B. Company's Estimated Payroll Increase. The Company's increase in the number of employees or the number of employees caused to be created by the Company will result in approximately (i) \$720,000 of additional annual payroll with respect to the full-time permanent jobs and (ii) \$500,000 of additional annual payroll prior to the completion of the Project with respect to the full-time temporary construction jobs.

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

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

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

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



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

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

Section 18. Revocation.

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

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

Agreement under division (E) of Ohio Revised Code Section 3735.671 or under Ohio Revised Code Sections 5709.62 or 5709.63 prior to the time prescribed by that division or either of those sections.

Section 19. False Statements; Penalties; Material Representations.

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

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

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

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

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

member” shall have the meanings set forth in Ohio Revised Code Section 3735.671(E).

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

To the City:

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

To the Company:

2330 VP APARTMENTS, LLC  
Attention: Sandesh Samdaria  
2340 Victory Parkway, Suite #41  
Cincinnati, Ohio 45206

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

2330 VP APARTMENTS, LLC,  
an Ohio limited liability company

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

Date: \_\_\_\_\_, 2020

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

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

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

Date: \_\_\_\_\_, 2020

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

Approved as to Form:

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

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

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

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

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

**Exhibit A to CRA Agreement**

LEGAL DESCRIPTION OF PROPERTY

**Property Address: 2332 Victory Parkway, Cincinnati, Ohio 45206**

**Auditor Parcel ID: 063-0003-0314-00**

Situate in Section 7, Town 3, Fractional Range 2, Miami Purchase, City of Cincinnati, Hamilton County, Ohio and being more particularly described as follows:

Commencing at a point at the intersection of the west line of Ashland Avenue with the north line of Cypress Street; Thence N 09°01'36" E for a distance of 285.0 feet to a 5/8" iron pin found at the north east corner of lands of Kelly L. and Stephen E. Carr and being the true place of beginning of the following described real estate;

THENCE, from said true place of beginning, with said Carr's north line, N 80°58'24" W a distance of 195.41 feet to a mag nail found at the north west corner of lands of The Board of Trustees of The University of Cincinnati and in the East right of way of Victory Parkway;

THENCE with said right of way, with a curve deflecting to the left having length of 190.79', and a radius of 2989.90' subtended by a chord bearing N 06°35'47" E, for a distance of 190.76', to a mag nail found;

THENCE continuing with said right of way, N 04°46'06" E for a distance of 9.44 feet to a mag nail found at the south west corner of lands of Nivas Properties, LLC;

THENCE with said Nivas south line S 80°58'24" E for a distance of 204.20 feet to a 5/8" iron pin found at the south east corner of lands of Gather Cincinnati, LLC and in the West right of way of Ashland Avenue;

THENCE with said right of way, S 09°01'36" W for a distance of 200.00 feet to the place of beginning,

Said property contains 0.9123 acres.

The above described real estate is a combination of the premises described as recorded in O.R. Book 14044, Page 426 of the Hamilton County, Ohio, Deed Records and identified as parcels 063-0003-0008, 0120, 0121, 0122, 0136, 0140, and 0144 on the Tax Maps of said County.

Being the result of a field survey and plat dated 06/17/2020 made under the supervision of John C. Hewett registration No. 7550 in the State of Ohio.

**Exhibit B to CRA Agreement**  
APPLICATION FOR TAX EXEMPTION

TO BE ATTACHED



September 28, 2020

To: Mayor and Members of City Council  
From: Paula Boggs Muething, Interim City Manager  
Subject: **LEED-CRA COMMERCIAL TAX EXEMPTION FOR TRI-DELTA  
SORORITY HOUSE, LOCATED AT 2605 UNIVERSITY COURT**

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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 (LEED or Living Building Challenge)* with Zeta House Corporation of Delta Delta Delta, thereby authorizing a 14-year tax exemption for 100% of the value of the improvements made to real property located at 2605 University Court in the CUF neighborhood of Cincinnati, in connection with the construction of a new sorority house at the University of Cincinnati, consisting of approximately 15,478 square feet of residential space, which construction shall be completed in compliance with Leadership in Energy and Environmental Design Silver, Gold or Platinum standards or Living Building Challenge standards, at a total construction cost of approximately \$2,250,000.

### **BACKGROUND/CURRENT CONDITIONS**

Zeta House Corporation of Delta Delta Delta (Tri-Delta) is relocating their sorority house from the corner of Straight Street and Clifton Avenue to a new site, a vacant lot at 2605 University Court in the CUF neighborhood. This new construction project supports the redevelopment of the former Deaconess Hospital where Trinitas will build a \$300 Million mixed-use development at Tri-Delta's current site. Tri-Delta submitted a Financial Assistance application for the construction of a new building at 2605 University Court. The application was received and reviewed by DCED.

### **DEVELOPER INFORMATION**

Tri-Delta is a non-profit organization providing housing for university students. Tri-Delta owns and/or operates 60 facilities at colleges and universities across the United States. Their portfolio has invested approximately \$23 Million in the last four years and has an additional \$11 Million in property construction and/or expansion in planning and in progress.

**PROJECT DESCRIPTION**

The project is the construction of a \$2.2 Million new sorority house at the University of Cincinnati. Upon completion, this project will consist of 15,478 square feet of residential space, with three floors and a basement. The new house will accommodate 33 students during each academic school year. The house will also have a live in, on site director year-round and will provide dining and meeting space for 200 collegiate women. The building will be LEED Silver certified once completed.

The project is consistent with several of Plan Cincinnati’s goals including the City’s goal to remain competitive economically, and the City’s goal to be good stewards of its resources-both built and environmental.

**PROPOSED INCENTIVE**

Pursuant to the Commercial CRA policy established by City Council, this project scored 13 points as indicated below which would merit a 14-year net 52% LEED-CRA Tax Exemption:

“But For” Analysis (0-3 points) *	3
LEED (0-6 points)	2
Neighborhood VTICA (1 point for contributions over 1% but less than 15% and 8 points for contributions of 15% or more)	8
<b>TOTAL</b>	<b>13</b>

\* “But For” Analysis Explanation: 3 points were awarded for the following reasons:

- As the first component of the larger Trinitas development, the relocation is not economically feasible without the CRA. The CRA and relocation of the Tri Delta House will unlock Trinitas’ \$300M development.

<b>SUMMARY</b>	
<b>Forgone Public Benefit if Project Does not Proceed</b>	
CPS PILOT (Forgone New Revenue)	(\$193,032)
VTICA (Forgone New Revenue)	(\$87,742)
Income Tax (Forgone New Revenue)	(\$9,240)
<b>Total Public Benefit Lost</b>	<b>(\$290,014)</b>
<b>Incentive Value</b>	
Annual Net Incentive to Developer	\$21,727
<b>Total Term Incentive to Developer</b>	<b>\$304,171</b>
<b>City's Portion of Property Taxes Forgone</b>	<b>\$75,494</b>
<b>Public Benefit</b>	

CPS PILOT	
Annual CPS Pilot	\$13,788
Total Term CPS PILOT	<b>\$193,032</b>
VTICA	
Annual VTICA	\$6,267
Total Term VTICA	<b>\$87,742</b>
Income Tax (Max)	<b>\$9,240</b>
<b>Total Public Benefit (CPS PILOT/VTICA /Income Tax)</b>	<b>\$290,014</b>
Total Public Benefit ROI*	\$0.95
City's ROI*	\$3.84

\*If the project were going to happen regardless of incentive, this is the return of real dollars for public benefits as potential future dollars are forgone

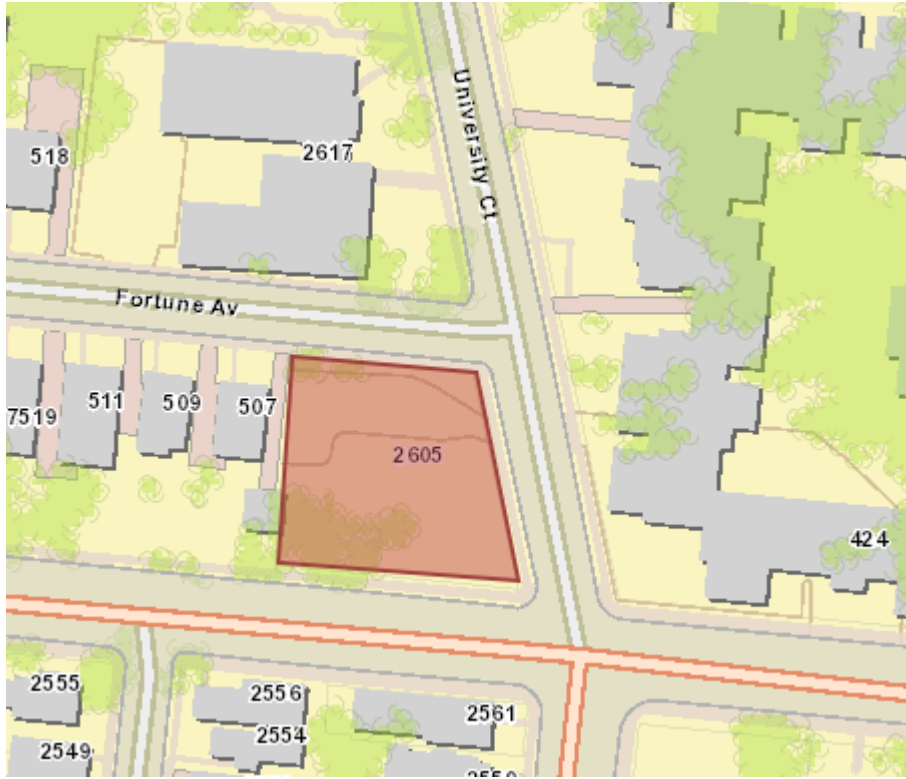
**RECOMMENDATION**

The Administration recommends approval of this Emergency Ordinance. The emergency clause is necessary to allow for the land sale to take place and construction to commence within the month of October for completion of Construction prior to the 2021-2022 academic year.

Attachment: A. Property location and photographs

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

**Attachment A: Location and Photographs**



*Property Location*



*2605 University Court southeast view*



*2605 University Court northwest view*

EMERGENCY

City of Cincinnati

SSB

AWB

An Ordinance No. \_\_\_\_\_ - 2020

**APPROVING AND AUTHORIZING** the City Manager to execute a *Community Reinvestment Area Tax Exemption Agreement (LEED or Living Building Challenge)* with Zeta House Corporation of Delta Delta Delta, thereby authorizing a 14-year tax exemption for 100% of the value of improvements made to real property located at 2605 University Court in the CUF neighborhood of Cincinnati, in connection with the construction of a new sorority house at the University of Cincinnati, consisting of approximately 15,478 square feet of residential space, which construction shall be completed in compliance with Leadership in Energy and Environmental Design Silver, Gold or Platinum standards or Living Building Challenge standards, at a total construction cost of approximately \$2,250,000.

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 Sections 3735.65 through 3735.70 (the “Statute”); and

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

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

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

WHEREAS, Zeta House Corporation of Delta Delta Delta (the “Company”) desires to construct a new sorority house at the University of Cincinnati, consisting of approximately 15,478 square feet of residential space, including 33 residential units and dining and meeting space for 200 collegiate women on real property at 2605 University Court located within the corporate boundaries of the City of Cincinnati, to LEED or LBC standards (the “Improvements”), provided that the appropriate development incentives are available to support the economic viability of the Improvements; and

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

WHEREAS, the property is located within the Cincinnati City School District of the City of Cincinnati; 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 facilitate permanent improvements and neighborhood services furthering redevelopment in the neighborhood of the Improvements and to support affordable housing on a City-wide basis; and

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

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

Section 1. That Council approves a *Community Reinvestment Area Tax Exemption Agreement (LEED or Living Building Challenge)* with Zeta House Corporation of Delta Delta Delta (the “Agreement”), thereby authorizing a 14-year tax exemption for 100% of the assessed value of improvements to be made to real property located at 2605 University Court in Cincinnati, as calculated by the Hamilton County Auditor, in connection with the construction of a new sorority house at the University of Cincinnati, consisting of approximately 15,478 square feet of residential space, to be constructed in compliance with Leadership in Energy and Environmental Design Silver, Gold or Platinum standards (as defined by the U.S. Green Building Council) or Living Building Challenge standards (as described in the Agreement and as determined by the International Living Future Institute and the Cascadia Green Building Council, as applicable) at a total construction cost of approximately \$2,250,000.

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 of the City of Cincinnati, in accordance with Ohio Revised Code Section 3735.672; and
- (iv) to take all necessary and proper actions to fulfill the City’s obligations under the Agreement.

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

revitalization of the City of Cincinnati and the benefits to the City's economic welfare to begin at the earliest possible time.

Passed: \_\_\_\_\_, 2020

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

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



**Attachment A to Ordinance**

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

SEE ATTACHED

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

This Community Reinvestment Area Tax Exemption Agreement (this "Agreement") is made and entered into as of the Effective Date (as defined on the signature page hereof) by and between the CITY OF CINCINNATI, an Ohio municipal corporation (the "City"), and ZETA HOUSE CORPORATION OF DELTA DELTA DELTA, an Ohio nonprofit corporation (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. Pursuant to the Commercial Policy Ordinance, a project that is constructed or remodeled to (1) Leadership in Energy and Environmental Design ("LEED") Silver, Gold or Platinum standards (as defined by the U.S. Green Building Council), or (2) receives a (a) Living Building Challenge Net Zero certification, (b) Living Building Challenge Full certification, or (c) solely in circumstances where the construction or remodeling complies with the requirements of the "Energy Petal" of the Living Building Challenge, Living Building Challenge Petal certification, in each case as defined by the International Living Future Institute and the Cascadia Green Building Council (such qualifying remodeling or construction is referred to, collectively, as "LBC" remodeling or construction), may qualify for a longer term and/or greater abatement.
- E. The Company is the sole owner of certain real property within the City, located at 2605 University Court, Cincinnati, Ohio 45219 (the "Property"), as further described in Exhibit A (Legal Description of Property) hereto. Notwithstanding the foregoing, the Property shall not include any residential condominiums being developed in connection with the Project (as defined below) (the "Excluded Property"), and the Company acknowledges and agrees that the City's Community Reinvestment Area program entails separate applications by the owner of any residential condominium units included within the Project. For the avoidance of doubt, the Excluded Property shall not be exempt under this Agreement; however, this provision shall not be deemed to prohibit any owners from time to time of any Excluded Property from separately applying for a tax abatement in accordance with applicable law.
- F. The Company has proposed the construction of a building located on the Property to LEED Gold standards, within the boundaries of the City of Cincinnati, as more fully described in Section 1 herein (the "Project"); provided that the appropriate development incentives are available to support the economic viability of the Project.
- G. The Statute provides that if any part of a project is to be used for commercial or industrial purposes, including projects containing four or more dwelling units, in order to be eligible for tax

exemption the City and the Company must enter into an agreement pursuant to Ohio Revised Code Section 3735.671 prior to commencement of construction or remodeling.

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

administrative organization (the "Third-Party Administrator") to contribute to the Third-Party Administrator an amount equal to 15% of the real property taxes that would have been payable on the abated property but for the City-authorized tax abatement (the "VTICA Contribution"). Half of such VTICA Contribution is to be committed by the Third-Party Administrator to facilitate permanent improvements and neighborhood services furthering urban redevelopment in the CUF neighborhood and the other half of such VTICA Contribution is to be committed by the Third-Party Administrator in supporting quality affordable housing on a City-wide basis. The Company hereby represents and warrants that it will pay the VTICA Contribution for the full term of the abatement.

- Q. This Agreement has been authorized by Ordinance No. \_\_\_\_\_-2020, passed by Cincinnati City Council on \_\_\_\_\_, 2020.
- R. In determining to recommend and authorize this Agreement, the Department of Community and Economic Development and City Council, respectively, have acted in material reliance on the Company's representations in the Application and herein regarding the Project including, but not limited to, representations relating to the number of jobs to be created and/or retained by the Company, the Board of Education Agreement, the VTICA Contribution, and the Project's effect in promoting the general welfare of the people of Cincinnati by, for example, encouraging the development of real property located in the Community Reinvestment Area and thereby promoting economic growth and vitality in Cincinnati.

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

Section 1. Project. Upon issuance of the necessary zoning and building approvals, the Company agrees to construct a new sorority house to be occupied by the Company at the University of Cincinnati, consisting of approximately 15,478 square feet of residential space, including 33 residential units and dining and meeting space for 200 collegiate women on the Property (the "Improvements") at an estimated aggregate cost of \$2,250,000 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 construction shall be in compliance with applicable building code requirements and zoning regulations, as well as complying with LEED Gold standards. The Company hereby represents that it has registered with the U.S. Green Building Council with intent to certify compliance with LEED Gold standards. In addition to the foregoing, (A) the Project shall comply with the Americans with Disabilities Act, together with any and all regulations or other binding directives promulgated pursuant thereto (collectively, the "ADA"), and (B) if (i) any building(s) within the Project is subject to the accessibility requirements of the ADA (e.g., by constituting a "place of public accommodation" or another category of structure to which the ADA is applicable) and (ii) such building(s) is not already required to meet the Contractual Minimum Accessibility Requirements (as defined below) pursuant to the ADA, applicable building code requirements, or by any other legal requirement, then the Company shall cause such building(s) to comply with the Contractual Minimum Accessibility Requirements in addition to any requirements pursuant to the ADA and the applicable building code or legal requirement. As used herein, "**Contractual Minimum Accessibility Requirements**" means that a building shall, at a minimum, include (1) at least one point of entry (as used in the ADA), accessible from a public right of way, with respect to which all architectural barriers (as used in the ADA) to entry have been eliminated, and (2) if such accessible point of entry is not a building's primary point of entry, conspicuous signage directing persons to such accessible point of entry.

Section 2. Real Property Tax Exemption. Subject to the satisfaction of the conditions set forth in this Agreement, the City approves exemption from real property taxation, pursuant to and to the fullest extent authorized by the Statute, of 100% of the amount by which the Improvements increase the assessed value of the Property as determined by the Hamilton County Auditor, for a period of 14 years,

provided that the Company shall have entered into the Board of Education Agreement. Within 120 days after completion of the Project (unless otherwise extended in writing by the City's Housing Officer), the Company must file the appropriate application for tax exemption with the City's Housing Officer. The Company is solely responsible to take this action. Upon receipt of the application for tax exemption, the City will proceed with the exemption authorized by this Agreement. In accordance with Ohio Revised Code Section 3735.67, the exemption is conditioned on verification by the Housing Officer of (A) the completion of construction, (B) the cost of construction, (C) the facts asserted in the application for exemption, (D) compliance with LBC and/or LEED standards identified in Section 1, and (E) if a remodeled structure is a structure of historical or architectural significance as designated by the City, state or federal government, that the appropriateness of the construction has been certified in writing by the appropriate agency. If the required verification is made, the Housing Officer will forward the exemption application to the Hamilton County Auditor with the necessary certification by the Housing Officer. Subject to the conditions set forth in this Agreement, the exemption commences the first tax year for which the Improvements would first be taxable were the Improvements not exempted from taxation. The dates provided in this paragraph refer to tax years in which the subject property is assessed, as opposed to years in which taxes are billed. No exemption shall commence after tax year 2021 nor extend beyond the earlier of (i) tax year 2034 or (ii) the end of the 14<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.<sup>1</sup>

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

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

to the dollar amount of the subcontracts and such other information as may be requested by the City. The Company shall update the report monthly.

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

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

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

Section 13. Job Creation and Retention.

A. Jobs to be Created by Company. The Company agrees to use its best efforts to create (i) 0 full-time permanent jobs and (ii) 8.5 full-time equivalent temporary construction jobs at the Property in connection with the Project. In the case of the construction jobs, the job creation and retention period shall be concurrent with construction, and in the case of the other jobs described herein, the job creation period shall begin upon completion of construction and shall end three (3) years thereafter.

B. Company's Estimated Payroll Increase. The Company's increase in the number of employees will result in approximately (i) \$0 of additional annual payroll with respect to the full-time permanent jobs and (ii) \$440,000 of additional annual payroll prior to the completion of the Project with respect to the full-time equivalent temporary construction jobs.

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

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

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

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

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

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

Section 18. Revocation.

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

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



successor to the Company or any related member (as those terms are defined in division (E) of Ohio Revised Code Section 3735.671) has violated the prohibition against entering into this Agreement under division (E) of Ohio Revised Code Section 3735.671 or under Ohio Revised Code Sections 5709.62 or 5709.63 prior to the time prescribed by that division or either of those sections.

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

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

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

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

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

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

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

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

To the City:

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

To the Company:

Zeta House Corporation of Delta Delta Delta  
14951 North Dallas Parkway, Suite 500  
Dallas, Texas 75254  
Attention: [ \_\_\_\_\_ ]

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

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

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

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

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

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

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

Section 30. Non-Assignment. As required by Ohio Revised Code Section 3735.671(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

ZETA HOUSE CORPORATION OF DELTA  
DELTA DELTA,  
an Ohio nonprofit corporation

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

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

Date: \_\_\_\_\_, 2020

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

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

Date: \_\_\_\_\_, 2020

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

Approved as to Form:

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

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

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

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

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

Exhibit A to CRA Agreement

LEGAL DESCRIPTION OF PROPERTY

Property Address: 2605 University Court, Cincinnati, Ohio 45219  
Auditor's Parcel No.: 098-0004-0180-00

Date: February 17, 2020  
Description: The District at Clifton Heights  
UC Tri-Delta ~ Consolidation  
Location: City of Cincinnati  
Hamilton County, Ohio



Situated in Section 20, Town 3, Fractional Range 2, Mill Creek Township, The City of Cincinnati, Hamilton County, Ohio and being all of parcel 11 of OH-UC Holdings II LLC as recorded in Official Record 13511, Page 1686 being all of Lots 1, 2 & 3 of Overlook Park Subdivision as recorded in Plat Book 22, Page 11 containing 0.2777 acres and further described as follows:

Begin at a found 5/8" iron pin capped "Kleingers Group" at the northwest intersection of the west right of way of University Court (50') and the north right of way of Straight Street (60'), said pin being the True Point of Beginning:

thence, from the True Point of Beginning, departing the west right of way of said University Court, and with the north right of way of said Straight Street, North 84° 22' 18" West, 127.29 feet to a found 5/8" iron pin capped "Kleingers Group" at the southeast corner of 507 Fortune, LLC as recorded in Official record 14071, Page 322;

thence, departing the north right of way of said Straight Street, and with the east line of said 507 Fortune, LLC, North 05° 37' 42" East, 110.00 feet to a found 5/8 iron pin with a damaged cap on the south right of way of Fortune Avenue (40');

thence, departing said 507 Fortune, LLC and with the south right of way of said Fortune Avenue, South 84° 22' 18" East, 92.61 feet to a found cross notch on the west right of way of said University Court;

thence, departing the south right of way of said Fortune Avenue and with the west right of way of said University Court South 11° 52' 18" East, 115.34 feet to the Point of Beginning containing 0.2777 acres of land.

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

The above description was prepared from a Consolidation Plat made on February 17, 2020 under the direction of Jeffrey O. Lambert, Professional Surveyor #7568 in the State of Ohio.

**Exhibit B to CRA Agreement**  
**APPLICATION FOR TAX EXEMPTION**

[TO BE ATTACHED TO EXECUTION VERSION]

**Attachment A to Ordinance**

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

SEE ATTACHED



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

This Community Reinvestment Area Tax Exemption Agreement (this "Agreement") is made and entered into as of the Effective Date (as defined on the signature page hereof) by and between the CITY OF CINCINNATI, an Ohio municipal corporation (the "City"), and ZETA HOUSE CORPORATION OF DELTA DELTA DELTA, an Ohio nonprofit corporation (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. Pursuant to the Commercial Policy Ordinance, a project that is constructed or remodeled to (1) Leadership in Energy and Environmental Design ("LEED") Silver, Gold or Platinum standards (as defined by the U.S. Green Building Council), or (2) receives a (a) Living Building Challenge Net Zero certification, (b) Living Building Challenge Full certification, or (c) solely in circumstances where the construction or remodeling complies with the requirements of the "Energy Petal" of the Living Building Challenge, Living Building Challenge Petal certification, in each case as defined by the International Living Future Institute and the Cascadia Green Building Council (such qualifying remodeling or construction is referred to, collectively, as "LBC" remodeling or construction), may qualify for a longer term and/or greater abatement.
- E. The Company is the sole owner of certain real property within the City, located at 2605 University Court, Cincinnati, Ohio 45219 (the "Property"), as further described in Exhibit A (Legal Description of Property) hereto. Notwithstanding the foregoing, the Property shall not include any residential condominiums being developed in connection with the Project (as defined below) (the "Excluded Property"), and the Company acknowledges and agrees that the City's Community Reinvestment Area program entails separate applications by the owner of any residential condominium units included within the Project. For the avoidance of doubt, the Excluded Property shall not be exempt under this Agreement; however, this provision shall not be deemed to prohibit any owners from time to time of any Excluded Property from separately applying for a tax abatement in accordance with applicable law.
- F. The Company has proposed the construction of a building located on the Property to LEED Gold standards, within the boundaries of the City of Cincinnati, as more fully described in Section 1 herein (the "Project"); provided that the appropriate development incentives are available to support the economic viability of the Project.
- G. The Statute provides that if any part of a project is to be used for commercial or industrial purposes, including projects containing four or more dwelling units, in order to be eligible for tax

exemption the City and the Company must enter into an agreement pursuant to Ohio Revised Code Section 3735.671 prior to commencement of construction or remodeling.

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

administrative organization (the "Third-Party Administrator") to contribute to the Third-Party Administrator an amount equal to 15% of the real property taxes that would have been payable on the abated property but for the City-authorized tax abatement (the "VTICA Contribution"). Half of such VTICA Contribution is to be committed by the Third-Party Administrator to facilitate permanent improvements and neighborhood services furthering urban redevelopment in the CUF neighborhood and the other half of such VTICA Contribution is to be committed by the Third-Party Administrator in supporting quality affordable housing on a City-wide basis. The Company hereby represents and warrants that it will pay the VTICA Contribution for the full term of the abatement.

- Q. This Agreement has been authorized by Ordinance No. \_\_\_\_\_-2020, passed by Cincinnati City Council on \_\_\_\_\_, 2020.
- R. In determining to recommend and authorize this Agreement, the Department of Community and Economic Development and City Council, respectively, have acted in material reliance on the Company's representations in the Application and herein regarding the Project including, but not limited to, representations relating to the number of jobs to be created and/or retained by the Company, the Board of Education Agreement, the VTICA Contribution, and the Project's effect in promoting the general welfare of the people of Cincinnati by, for example, encouraging the development of real property located in the Community Reinvestment Area and thereby promoting economic growth and vitality in Cincinnati.

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

**Section 1. Project.** Upon issuance of the necessary zoning and building approvals, the Company agrees to construct a new sorority house to be occupied by the Company at the University of Cincinnati, consisting of approximately 15,478 square feet of residential space, including 33 residential units and dining and meeting space for 200 collegiate women on the Property (the "Improvements") at an estimated aggregate cost of \$2,250,000 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 construction shall be in compliance with applicable building code requirements and zoning regulations, as well as complying with LEED Gold standards. The Company hereby represents that it has registered with the U.S. Green Building Council with intent to certify compliance with LEED Gold standards. In addition to the foregoing, (A) the Project shall comply with the Americans with Disabilities Act, together with any and all regulations or other binding directives promulgated pursuant thereto (collectively, the "ADA"), and (B) if (i) any building(s) within the Project is subject to the accessibility requirements of the ADA (e.g., by constituting a "place of public accommodation" or another category of structure to which the ADA is applicable) and (ii) such building(s) is not already required to meet the Contractual Minimum Accessibility Requirements (as defined below) pursuant to the ADA, applicable building code requirements, or by any other legal requirement, then the Company shall cause such building(s) to comply with the Contractual Minimum Accessibility Requirements in addition to any requirements pursuant to the ADA and the applicable building code or legal requirement. As used herein, "**Contractual Minimum Accessibility Requirements**" means that a building shall, at a minimum, include (1) at least one point of entry (as used in the ADA), accessible from a public right of way, with respect to which all architectural barriers (as used in the ADA) to entry have been eliminated, and (2) if such accessible point of entry is not a building's primary point of entry, conspicuous signage directing persons to such accessible point of entry.

**Section 2. Real Property Tax Exemption.** Subject to the satisfaction of the conditions set forth in this Agreement, the City approves exemption from real property taxation, pursuant to and to the fullest extent authorized by the Statute, of 100% of the amount by which the Improvements increase the assessed value of the Property as determined by the Hamilton County Auditor, for a period of 14 years,

provided that the Company shall have entered into the Board of Education Agreement. Within 120 days after completion of the Project (unless otherwise extended in writing by the City's Housing Officer), the Company must file the appropriate application for tax exemption with the City's Housing Officer. The Company is solely responsible to take this action. Upon receipt of the application for tax exemption, the City will proceed with the exemption authorized by this Agreement. In accordance with Ohio Revised Code Section 3735.67, the exemption is conditioned on verification by the Housing Officer of (A) the completion of construction, (B) the cost of construction, (C) the facts asserted in the application for exemption, (D) compliance with LBC and/or LEED standards identified in Section 1, and (E) if a remodeled structure is a structure of historical or architectural significance as designated by the City, state or federal government, that the appropriateness of the construction has been certified in writing by the appropriate agency. If the required verification is made, the Housing Officer will forward the exemption application to the Hamilton County Auditor with the necessary certification by the Housing Officer. Subject to the conditions set forth in this Agreement, the exemption commences the first tax year for which the Improvements would first be taxable were the Improvements not exempted from taxation. The dates provided in this paragraph refer to tax years in which the subject property is assessed, as opposed to years in which taxes are billed. No exemption shall commence after tax year 2021 nor extend beyond the earlier of (i) tax year 2034 or (ii) the end of the 14<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.<sup>1</sup>

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

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

to the dollar amount of the subcontracts and such other information as may be requested by the City. The Company shall update the report monthly.

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

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

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

Section 13. Job Creation and Retention.

A. Jobs to be Created by Company. The Company agrees to use its best efforts to create (i) 0 full-time permanent jobs and (ii) 8.5 full-time equivalent temporary construction jobs at the Property in connection with the Project. In the case of the construction jobs, the job creation and retention period shall be concurrent with construction, and in the case of the other jobs described herein, the job creation period shall begin upon completion of construction and shall end three (3) years thereafter.

B. Company's Estimated Payroll Increase. The Company's increase in the number of employees will result in approximately (i) \$0 of additional annual payroll with respect to the full-time permanent jobs and (ii) \$440,000 of additional annual payroll prior to the completion of the Project with respect to the full-time equivalent temporary construction jobs.

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

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

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

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

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

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

**Section 18. Revocation.**

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

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

successor to the Company or any related member (as those terms are defined in division (E) of Ohio Revised Code Section 3735.671) has violated the prohibition against entering into this Agreement under division (E) of Ohio Revised Code Section 3735.671 or under Ohio Revised Code Sections 5709.62 or 5709.63 prior to the time prescribed by that division or either of those sections.

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

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

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

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

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

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



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

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

To the City:

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

To the Company:

Zeta House Corporation of Delta Delta Delta  
14951 North Dallas Parkway, Suite 500  
Dallas, Texas 75254  
Attention: [\_\_\_\_\_]

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

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

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

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

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

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

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

Section 30. Non-Assignment. As required by Ohio Revised Code Section 3735.671(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

ZETA HOUSE CORPORATION OF DELTA  
DELTA DELTA,  
an Ohio nonprofit corporation

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

Date: \_\_\_\_\_, 2020

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

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

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

Date: \_\_\_\_\_, 2020

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

Approved as to Form:

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

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

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

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

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

Exhibit A to CRA Agreement

LEGAL DESCRIPTION OF PROPERTY

Property Address: 2605 University Court, Cincinnati, Ohio 45219  
Auditor's Parcel No.: 098-0004-0180-00

Date: February 17, 2020  
Description: The District at Clifton Heights  
UC Tri-Delta ~ Consolidation  
Location: City of Cincinnati  
Hamilton County, Ohio



Situated in Section 20, Town 3, Fractional Range 2, Mill Creek Township, The City of Cincinnati, Hamilton County, Ohio and being all of parcel 11 of OH-UC Holdings II LLC as recorded in Official Record 13511, Page 1686 being all of Lots 1, 2 & 3 of Overlook Park Subdivision as recorded in Plat Book 22, Page 11 containing 0.2777 acres and further described as follows:

Begin at a found 5/8" iron pin capped "Kleingers Group" at the northwest intersection of the west right of way of University Court (50') and the north right of way of Straight Street (60'), said pin being the True Point of Beginning:

thence, from the True Point of Beginning, departing the west right of way of said University Court, and with the north right of way of said Straight Street, North 84° 22' 18" West, 127.29 feet to a found 5/8" iron pin capped "Kleingers Group" at the southeast corner of 507 Fortune, LLC as recorded in Official record 14071, Page 322;

thence, departing the north right of way of said Straight Street, and with the east line of said 507 Fortune, LLC, North 05° 37' 42" East, 110.00 feet to a found 5/8 iron pin with a damaged cap on the south right of way of Fortune Avenue (40');

thence, departing said 507 Fortune, LLC and with the south right of way of said Fortune Avenue, South 84° 22' 18" East, 92.61 feet to a found cross notch on the west right of way of said University Court;

thence, departing the south right of way of said Fortune Avenue and with the west right of way of said University Court South 11° 52' 18" East, 115.34 feet to the Point of Beginning containing 0.2777 acres of land.

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

The above description was prepared from a Consolidation Plat made on February 17, 2020 under the direction of Jeffrey O. Lambert, Professional Surveyor #7568 in the State of Ohio.

**Exhibit B to CRA Agreement**

**APPLICATION FOR TAX EXEMPTION**

**[TO BE ATTACHED TO EXECUTION VERSION]**

September 28, 2020

To: Mayor and Members of City Council 202001691

From: Paula Boggs Muething, Interim City Manager

Subject: **LEED COMMUNITY REINVESTMENT AREA TAX EXEMPTION AGREEMENT FOR 602 MAIN STREET LLC, LOCATED AT 602 MAIN STREET**

---

Attached is an Emergency Ordinance captioned as follows:

**APPROVING AND AUTHORIZING** the City Manager to execute a *Community Reinvestment Area Tax Exemption Agreement (LEED or Living Building Challenge)* with 602 Main Street, LLC, thereby authorizing a 15-year tax exemption for 100% of the value of improvements made to real property located at 216 E. Sixth Street and 600-610 Main Street in the Central Business District of Cincinnati, in connection with the remodeling of an existing building into approximately 168,883 square foot hotel with 163 rooms, and approximately 9,500 square feet of commercial space, which remodeling shall be completed in compliance with Leadership in Energy and Environmental Design Silver, Gold or Platinum standards or Living Building Challenge standards, at a total remodeling cost of approximately \$53,718,163.

### **BACKGROUND/CURRENT CONDITIONS**

602 Main Street, LLC is the current property owner of the Gwynne Building located at 602 Main Street in the Central Business District. This historic building is currently mostly vacant. 602 Main Street, LLC submitted a Financial Assistance application for the redevelopment project, which was received and reviewed by DCED.

### **DEVELOPER INFORMATION**

602 Main Street LLC is a subsidiary of NuovoRE. NuovoRE has a track record of historic rehabilitation projects that provide meaningful community impact. Specifically, the developer is interested in completed catalytic developments that have ancillary benefits throughout the community. They have developed hotels projects in Maryland, California, Missouri, New York, Washington D.C., Utah,

Hawaii, South Carolina, and Mexico. Their past success demonstrates an ability to guide this project to completion.

**PROJECT DESCRIPTION**

Upon completion, this project will result in a 163-key, LEED Silver hotel and 9,500 square feet of commercial space, with a total project cost of about \$53,718,163. In connection with this project, it is estimated that 176 temporary construction jobs will be created at a total annual payroll of \$17,600,000 and 267 full-time equivalent employees will be created at a total annual payroll of \$10,000,000. This project is aligned with the Compete and Live initiatives of Plan Cincinnati.

**PROPOSED INCENTIVE**

The Ordinance provides for a 100% (net 52%), 15-year CRA tax exemption for this project. The exemption applies only to the increase in value attributable to the project improvements. Pursuant to the LEED CRA policy established by City Council, this project is eligible for a 15-year net 52% CRA Tax Abatement:

<b>SUMMARY</b>		
<b>Forgone Public Benefit if Project Does not Proceed</b>		
	CPS PILOT (Forgone New Revenue)	(\$4,937,770)
	VTICA (Forgone New Revenue)	(\$2,244,441)
	Income Tax (Forgone New Revenue)	(\$3,889,200)
	<b>Total Public Benefit Lost</b>	<b>(\$11,071,411)</b>
<b>Incentive Value</b>		
	Annual Net Incentive to Developer	\$518,715
	<b>Total Term Incentive to Developer</b>	<b>\$7,780,729</b>
	<b>City's Portion of Property Taxes Forgone</b>	<b>\$1,931,134</b>
<b>Public Benefit</b>		
	CPS PILOT	
	Annual CPS Pilot	\$329,185
	<b>Total Term CPS PILOT</b>	<b>\$4,937,770</b>
	VTICA	
	Annual VTICA	\$149,629
	<b>Total Term VTICA</b>	<b>\$2,244,441</b>
	Income Tax (Max)	<b>\$3,889,200</b>
	<b>Total Public Benefit (CPS PILOT/VTICA /Income Tax)</b>	<b>\$11,071,411</b>
	Total Public Benefit ROI*	\$1.42
	City's ROI*	\$5.73
*If the project were going to happen regardless of incentive, this is the return of real dollars for public benefits as potential future dollars are forgone		



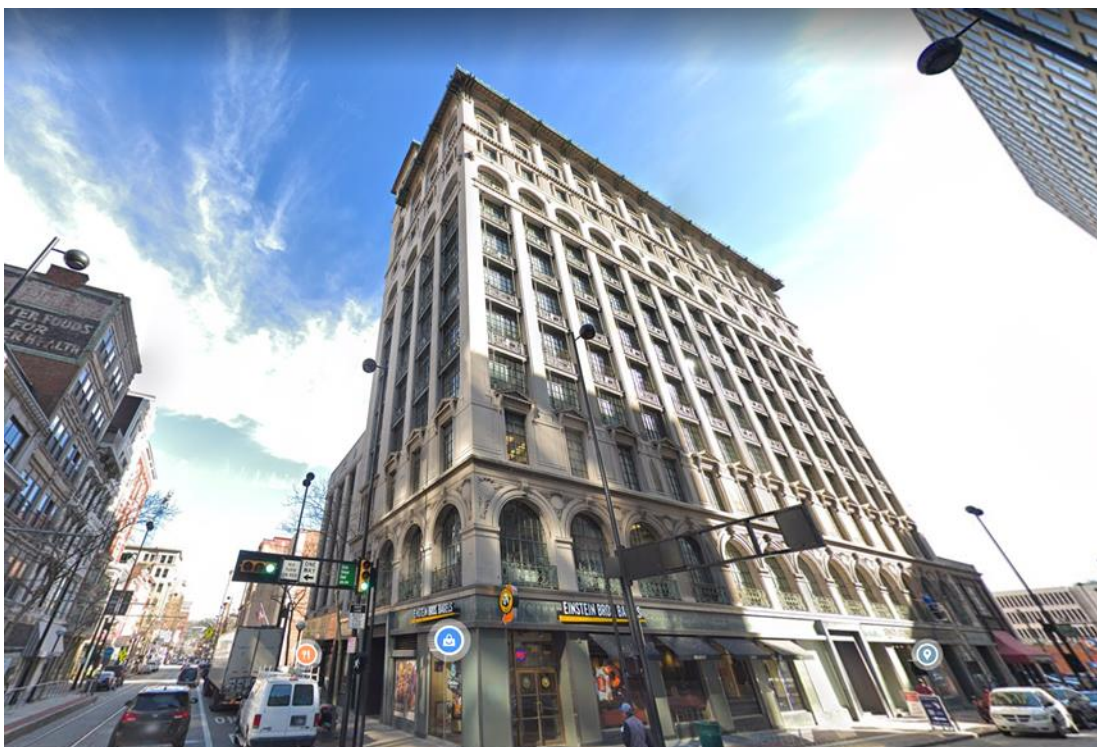
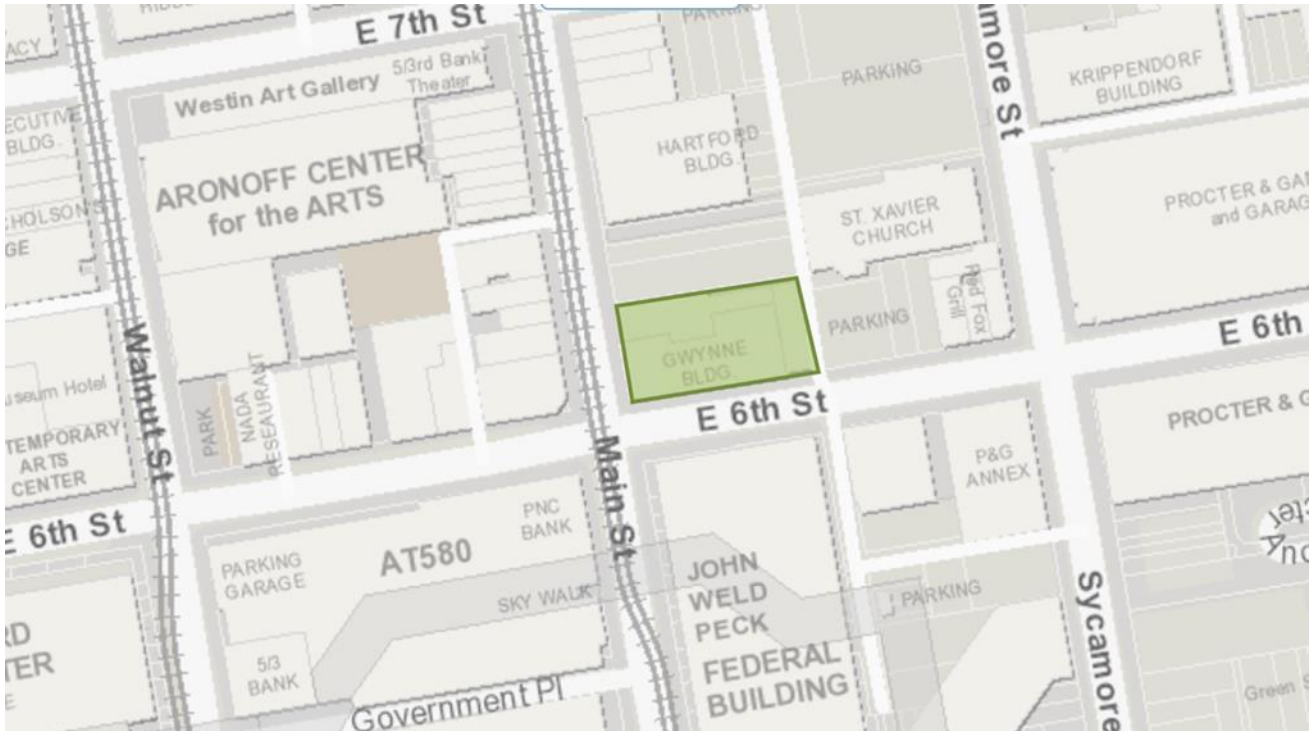
**RECOMMENDATION**

The Administration recommends approval of this Emergency Ordinance. This is an Emergency Ordinance to allow 602 Main Street LLC to complete their financing and start construction at the earliest possible time.

Attachment A: Property location and photographs

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

**Attachment A: Location and Photographs**



EMERGENCY

City of Cincinnati

TJL

AWB

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

- 2020

**APPROVING AND AUTHORIZING** the City Manager to execute a *Community Reinvestment Area Tax Exemption Agreement (LEED or Living Building Challenge)* with 602 Main Street, LLC, thereby authorizing a 15-year tax exemption for 100% of the value of improvements made to real property located at 216 E. Sixth Street and 600-610 Main Street in the Central Business District of Cincinnati, in connection with the remodeling of an existing building into approximately 168,883 square foot hotel with 163 rooms, and approximately 9,500 square feet of commercial space, which remodeling shall be completed in compliance with Leadership in Energy and Environmental Design Silver, Gold or Platinum standards or Living Building Challenge standards, at a total remodeling cost of approximately \$53,718,163.

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 Sections 3735.65 through 3735.70 (the “Statute”); and

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

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

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

WHEREAS, 602 Main Street, LLC (the “Company”) desires to remodel an existing building located on real property at 216 E. Sixth Street and 600-610 Main Street located within the corporate boundaries of the City of Cincinnati into an approximately 168,883 square foot hotel

with 163 rooms, and approximately 9,500 square feet of commercial space consistent with LEED or LBC standards (the “Improvements”), provided that the appropriate development incentives are available to support the economic viability of the Improvements; and

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

WHEREAS, the property is located within the Cincinnati City School District of the City of Cincinnati; 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 Ohio Revised Code Section 3735.673; now, therefore,

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

Section 1. That Council approves a *Community Reinvestment Area Tax Exemption Agreement (LEED or Living Building Challenge)* with 602 Main Street, LLC (the “Agreement”), thereby authorizing a 15-year tax exemption for 100% of the assessed value of improvements to be made to real property located at 216 E. Sixth Street and 600-610 Main Street in Cincinnati, as calculated by the Hamilton County Auditor, in connection with the remodeling of an existing building into an approximately 168,883 square foot hotel with 163 rooms, and approximately

9,500 square feet of commercial space to be constructed in compliance with Leadership in Energy and Environmental Design Silver, Gold or Platinum standards (as defined by the U.S. Green Building Council) or Living Building Challenge standards (as described in the Agreement and as determined by the International Living Future Institute and the Cascadia Green Building Council, as applicable), at a total remodeling cost of approximately \$53,718,163.

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 of the City of Cincinnati, 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: \_\_\_\_\_, 2020

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

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

ATTACHMENT A

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

This Community Reinvestment Area Tax Exemption Agreement (this "Agreement") is made and entered into as of the Effective Date (as defined on the signature page hereof) by and between the CITY OF CINCINNATI, an Ohio municipal corporation (the "City"), and 602 MAIN STREET, LLC, a Delaware 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. Pursuant to the Commercial Policy Ordinance, a project that is constructed or remodeled to (1) Leadership in Energy and Environmental Design ("LEED") Silver, Gold or Platinum standards (as defined by the U.S. Green Building Council), or (2) receives a (a) Living Building Challenge Net Zero certification, (b) Living Building Challenge Full certification, or (c) solely in circumstances where the construction or remodeling complies with the requirements of the "Energy Petal" of the Living Building Challenge, Living Building Challenge Petal certification, in each case as defined by the International Living Future Institute and the Cascadia Green Building Council (such qualifying remodeling or construction is referred to, collectively, as "LBC" remodeling or construction), may qualify for a longer term and/or greater abatement.
- E. The Company is the sole owner of certain real property within the City, located at 216 E. Sixth Street and 600-610 Main Street, Cincinnati, Ohio 45202 (the "Property"), as further described in Exhibit A (Legal Description of Property) hereto. Notwithstanding the foregoing, the Property shall not include any residential condominiums being developed in connection with the Project (as defined below) (the "Excluded Property"), and the Company acknowledges and agrees that the City's Community Reinvestment Area program entails separate applications by the owner of any residential condominium units included within the Project. For the avoidance of doubt, the Excluded Property shall not be exempt under this Agreement; however, this provision shall not be deemed to prohibit any owners from time to time of any Excluded Property from separately applying for a tax abatement in accordance with applicable law.
- F. The Company has proposed the remodeling of a building located on the Property to LBC standards or LEED Silver, Gold or Platinum standards, as defined by the U.S. Green Building Council, within the boundaries of the City of Cincinnati, as more fully described in Section 1 herein (the "Project"); provided that the appropriate development incentives are available to support the economic viability of the Project.

- G. The Statute provides that if any part of a project is to be used for commercial or industrial purposes, including projects containing four or more dwelling units, in order to be eligible for tax exemption the City and the Company must enter into an agreement pursuant to Ohio Revised Code Section 3735.671 prior to commencement of construction or remodeling.
- H. The City, having appropriate authority under the Statute for this type of project, agrees (as provided herein and subject to all conditions herein) to provide the Company with the tax exemption incentives stated herein, available under the Statute, for development of the Project.
- I. The Company has submitted to the City an application for this tax exemption agreement (the "Application"), a copy of which is attached hereto as Exhibit B, has remitted with the Application (i) the City application fee of One Thousand Two Hundred Fifty Dollars (\$1,250) made payable to the City and (ii) in accordance with Ohio Revised Code Section 3735.672(C), the state application fee of Seven Hundred Fifty Dollars (\$750) made payable to the Ohio Development Services Agency ("ODSA"), to be forwarded to the ODSA with an executed copy of this Agreement.
- J. The Director of the City's Department of Community and Economic Development has recommended approval of the Application on the basis that the Company is qualified by financial responsibility and business experience to create and preserve employment opportunities and improve the economic climate of the City.
- K. The Board of Education of the Cincinnati City School District (the "Board of Education"), pursuant to that certain *Tax Incentive Agreement* effective as of April 28, 2020, has approved exemptions of up to one hundred percent (100%) of Community Reinvestment Area projects, waived advance notice and right to review such projects, and waived sharing or allocation of municipal income taxes in connection with such projects.
- L. The Company has entered into (or will enter into) an agreement with the Board of Education requiring the Company to pay the Board of Education amounts equal to thirty-three percent (33%) of the full amount of exempt real property taxes that would have been paid to Hamilton County if this Agreement were not in effect (the "Board of Education Agreement").
- M. The Company represents and warrants to the City that the Company and its major tenants, if any, do not intend to relocate part or all of their operations to the City from another county or municipal corporation in the State of Ohio (the "State").
- N. The Company represents that within the past five (5) years neither the Company, any related member of the Company, nor any entity to which the Company is a successor has discontinued operations at a project site in the State during the term of a property tax exemption agreement (under Ohio Revised Code Section 3735.671, 5709.62, 5709.63 or 5709.632) applicable to that site, and the Company acknowledges that misrepresentation hereunder will result in voiding of this Agreement.
- O. The Company represents and warrants to the City that the Company is not subject to an Enterprise Zone Agreement with the City of Cincinnati for the Property or the Project.
- P. City Council passed (i) Motion No. 201401368 on November 19, 2014, establishing a tax incentive policy that incentivizes each applicant for a real property tax abatement in the neighborhoods of Downtown and OTR to enter into a voluntary tax incentive contribution agreement with a third-party organization ("VTICA") for an amount equal to a percentage of the real property taxes that would have been payable on the abated property but for the City-authorized tax abatement (the "VTICA Contribution"), which funds shall be committed by a third-party organization to 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.

- Q. 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.
- R. The Company represents and warrants to the City that the Company has entered or will enter into a VTICA and shall pay the VTICA Contribution each year for the full term of the abatement.
- S. This Agreement has been authorized by Ordinance No. \_\_\_\_\_-2020, passed by Cincinnati City Council on \_\_\_\_\_, 2020.
- T. In determining to recommend and authorize this Agreement, the Department of Community and Economic Development and City Council, respectively, have acted in material reliance on the Company's representations in the Application and herein regarding the Project including, but not limited to, representations relating to the number of jobs to be created and/or retained by the Company, the Board of Education Agreement, the VTICA Contribution, and the Project's effect in promoting the general welfare of the people of Cincinnati by, for example, encouraging the development of real property located in the Community Reinvestment Area and thereby promoting economic growth and vitality in Cincinnati.

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

Section 1. Project. Upon issuance of the necessary zoning and building approvals, the Company agrees to remodel the existing building on the Property into an approximately 168,883 square foot hotel with 163 rooms, and approximately 9,500 square feet of commercial space (the "Improvements") at an estimated aggregate cost of \$53,718,163 to commence after the execution of this Agreement and to be completed no later than August 31, 2022; *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. **Error! Reference source not found.** shall be in compliance with applicable building code and zoning regulations, as well as complying with LBC standards or LEED Silver, Gold or Platinum standards, as defined by the U.S. Green Building Council. The Company hereby represents that either or both of the following clauses (a) and (b) are true: (a) it has registered with the U.S. Green Building Council with intent to certify compliance with LEED Silver, Gold or Platinum standards, or (b) it has registered with the International Living Future Institute and/or the Cascadia Green Building Council with intent to certify compliance with LBC standards. In addition to the foregoing, (A) the Project shall comply with the Americans with Disabilities Act, together with any and all regulations or other binding directives promulgated pursuant thereto (collectively, the "**ADA**"), and (B) if (i) any building(s) within the Project is subject to the accessibility requirements of the ADA (e.g., by constituting a "place of public accommodation" or another category of structure to which the ADA is applicable) and (ii) such building(s) is not already required to meet the Contractual Minimum Accessibility Requirements (as defined below) pursuant to the ADA, applicable building code requirements, or by any other legal requirement, then the Company shall cause such building(s) to comply with the Contractual Minimum Accessibility Requirements in addition to any requirements pursuant to the ADA and the applicable building code or legal requirement. As used herein, "**Contractual Minimum Accessibility Requirements**" means that a building shall, at a minimum, include (1) at least one point of entry (as used in the ADA), accessible from a public right of way, with respect to which all architectural barriers (as used in the ADA) to entry have been eliminated, and (2) if such accessible point of entry is not a building's primary point of entry, conspicuous signage directing persons to such accessible point of entry.

Section 2. Real Property Tax Exemption. Subject to the satisfaction of the conditions set forth in this Agreement, the City approves exemption from real property taxation, pursuant to and to the fullest extent authorized by the Statute, of 100% of the amount by which the Improvements increase the assessed value of the Property as determined by the Hamilton County Auditor, for a period of 15 years, provided that the Company shall have entered into the Board of Education Agreement. Within 120 days after completion of the Project (unless otherwise extended in writing by the City's Housing Officer), the Company must file the appropriate application for tax exemption with the City's Housing Officer. The Company is solely responsible to take this action. Upon receipt of the application for tax exemption, the City will proceed with the exemption authorized by this Agreement. In accordance with Ohio Revised Code Section 3735.67, the exemption is conditioned on verification by the Housing Officer of (A) the completion of **Error! Reference source not found.**, (B) the cost of **Error! Reference source not found.**, (C) the facts asserted in the application for exemption, (D) compliance with LBC standards or LEED Silver, Gold or Platinum standards, as defined by the U.S. Green Building Council, and (E) if a remodeled structure is a structure of historical or architectural significance as designated by the City, state or federal government, that the appropriateness of the remodeling has been certified in writing by the appropriate agency. If the required verification is made, the Housing Officer will forward the exemption application to the Hamilton County Auditor with the necessary certification by the Housing Officer. Subject to the conditions set forth in this Agreement, the exemption commences the first tax year for which the Improvements would first be taxable were the Improvements not exempted from taxation. The dates provided in this paragraph refer to tax years in which the subject property is assessed, as opposed to years in which taxes are billed. No exemption shall commence after tax year 2022 nor extend beyond the earlier of (i) tax year 2036 or (ii) the end of the fifteenth (15<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.**<sup>1</sup>

**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.

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

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

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

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

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

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

Section 13. Job Creation and Retention.

A. Jobs to be Created by Company. The Company agrees to use its best efforts to create (i) 267 full-time permanent jobs and (ii) 176 full-time temporary construction jobs at the Property in connection with the Project. In the case of the construction jobs, the job creation and retention period shall be concurrent with remodeling, and in the case of the other jobs described herein, the job creation period shall begin upon completion of remodeling and shall end three (3) years thereafter.

B. Company's Estimated Payroll Increase. The Company's increase in the number of employees will result in approximately (i) \$10,000,000 of additional annual payroll with respect to the full-time permanent jobs and (ii) \$17,600,000 of additional annual payroll prior to the completion of the Project with respect to the full-time temporary construction jobs.

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

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

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

Section 15. Compliance with Immigration and Nationality Act. In the performance of its obligations under this Agreement, the Company agrees to comply with the provisions of the Immigration and Nationality Act codified at 8 U.S.C. §§ 1324a(a)(1)(A) and (a)(2). Any noncompliance with such

provisions shall be solely determined by either the federal agencies authorized to enforce the Immigration and Nationality Act or the U.S. Attorney General, in accordance with Executive Order 12989 of the U.S. President dated February 13, 1996, and as amended by Executive Order 13465 of the U.S. President dated June 6, 2008.

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

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

Section 18. Revocation.

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

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

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

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

B. Material Representations – Board of Education Agreement and VTICA. The Parties acknowledge and agree that a material failure by the Company to comply with its representations concerning the Board of Education Agreement or VTICA Contribution shall constitute an event of default for purposes of Section 16 (Default) and the basis for revocation under Section 18 (Revocation). Subject to the terms of the VTICA, if the VTICA is unenforceable for reasons of infeasibility or otherwise, the Company shall enter into alternative arrangements providing for the economic equivalent of the VTICA Contribution in order to support 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:

602 Main Street, LLC  
Attention: Mike Everett  
11711 Princeton Pike, Suite 341, #189  
Cincinnati, Ohio 45246

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

602 MAIN STREET, LLC,  
a Delaware limited liability company

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

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

Date: \_\_\_\_\_, 2020

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

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

Date: \_\_\_\_\_, 2020

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

Approved as to Form:

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

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

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

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

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

**Exhibit A to CRA Agreement**

**LEGAL DESCRIPTION OF PROPERTY**

**Parcel #1**

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

And known as being a part of Inlot No. 97 on the original plan of said city, and being more particularly described as follows:

Beginning at a point in the Easterly line of Main Street, North 16 deg. 0' West, 58.50 feet from the Northeasterly corner of Sixth and Main street;

Thence North 16 deg. 0' West along the Easterly line of Main Street, 41.04 feet to the Southerly line of Registered Land Certificate No. 36703, land registration records of Hamilton County, Ohio;

Thence along the said Southerly line of registered land certificate North 74 deg. 03' 29" East a distance of 99.18 feet to the Westerly line of a lot of land conveyed by Cornelius Vanderbilt to the Procter and Gamble Company by deed recorded in Deed Book 1677, Page 650, Hamilton County, Ohio records;

Thence South 16 deg. 0' East along said Westerly line and parallel with Main Street 37.04 feet to the Northerly line of said Procter and Gamble Company's lot;

Thence South 73 deg. 57' 40" West along said Northerly line 28.53 feet;

Thence South 16 deg. 0' East parallel with main street 3.95 feet to a point in the center line of a 12 inch party wall and also in said Procter and Gamble Company's Northerly line;

Thence South 73 deg. 55' West along said center line of said 12 inch party wall 70.57 feet to the place of beginning. The dimensions are United States standard.

Together with any rights the grantor and/or his predecessors in title may have acquired by reason of encroachments, if any, of the building on the premises herein described upon the lot adjoining on the north as described in the Agreement recorded July 1, 1913 in Deed Book 1079, Page 567, of the Hamilton County Records.

**Parcel Number: 079-0004-0003**

**Parcel #2**

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

And known as being a part of Inlot No. 97 on the original plat of said City of Cincinnati and being more particularly described as follows:

Beginning at a point in the Northeasterly intersection of Sixth and Main Streets;

Thence North 16 deg. 00' West along the Easterly line of Main Street a distance of 58.50 feet;

Thence North 73 deg. 55' East along the center of a 12 inch party wall 70.57 feet;

Thence North 16 deg. 0' West parallel with the Easterly line of Main Street, 3.95 feet;

Thence North 73 deg. 57' 40" East 28.53 feet;

Thence North 16 deg. 00' West parallel with Easterly line of Main Street to the Southerly line of Registered Land Certificate No. 36703 land registration records of Hamilton County, Ohio thence along said Southerly line of registered land certificate North 73 deg. 57' 47" East a distance of 93.22 feet to the Westerly line of Leslie Alley formerly called Langdon Alley;

Thence South 16 deg. 15' East along said Westerly line of Leslie Alley a distance of 99.25 feet to the Northerly line of Sixth Street;

Thence South 74 deg. 00' West along said Northerly line of Sixth Street, a distance of 192.93 feet to the place of beginning. All measurements given in this description are United States standard.

**Parcel Numbers: 079-0004-0001 and 0006**

**Exhibit B to CRA Agreement**  
**APPLICATION FOR TAX EXEMPTION**

**TO BE ATTACHED**

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

This Community Reinvestment Area Tax Exemption Agreement (this "Agreement") is made and entered into as of the Effective Date (as defined on the signature page hereof) by and between the CITY OF CINCINNATI, an Ohio municipal corporation (the "City"), and 602 MAIN STREET, LLC, a Delaware 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. Pursuant to the Commercial Policy Ordinance, a project that is constructed or remodeled to (1) Leadership in Energy and Environmental Design ("LEED") Silver, Gold or Platinum standards (as defined by the U.S. Green Building Council), or (2) receives a (a) Living Building Challenge Net Zero certification, (b) Living Building Challenge Full certification, or (c) solely in circumstances where the construction or remodeling complies with the requirements of the "Energy Petal" of the Living Building Challenge, Living Building Challenge Petal certification, in each case as defined by the International Living Future Institute and the Cascadia Green Building Council (such qualifying remodeling or construction is referred to, collectively, as "LBC" remodeling or construction), may qualify for a longer term and/or greater abatement.
- E. The Company is the sole owner of certain real property within the City, located at 216 E. Sixth Street and 600-610 Main Street, Cincinnati, Ohio 45202 (the "Property"), as further described in Exhibit A (Legal Description of Property) hereto. Notwithstanding the foregoing, the Property shall not include any residential condominiums being developed in connection with the Project (as defined below) (the "Excluded Property"), and the Company acknowledges and agrees that the City's Community Reinvestment Area program entails separate applications by the owner of any residential condominium units included within the Project. For the avoidance of doubt, the Excluded Property shall not be exempt under this Agreement; however, this provision shall not be deemed to prohibit any owners from time to time of any Excluded Property from separately applying for a tax abatement in accordance with applicable law.
- F. The Company has proposed the remodeling of a building located on the Property to LBC standards or LEED Silver, Gold or Platinum standards, as defined by the U.S. Green Building Council, within the boundaries of the City of Cincinnati, as more fully described in Section 1 herein (the "Project"); provided that the appropriate development incentives are available to support the economic viability of the Project.

- G. The Statute provides that if any part of a project is to be used for commercial or industrial purposes, including projects containing four or more dwelling units, in order to be eligible for tax exemption the City and the Company must enter into an agreement pursuant to Ohio Revised Code Section 3735.671 prior to commencement of construction or remodeling.
- H. The City, having appropriate authority under the Statute for this type of project, agrees (as provided herein and subject to all conditions herein) to provide the Company with the tax exemption incentives stated herein, available under the Statute, for development of the Project.
- I. The Company has submitted to the City an application for this tax exemption agreement (the "Application"), a copy of which is attached hereto as Exhibit B, has remitted with the Application (i) the City application fee of One Thousand Two Hundred Fifty Dollars (\$1,250) made payable to the City and (ii) in accordance with Ohio Revised Code Section 3735.672(C), the state application fee of Seven Hundred Fifty Dollars (\$750) made payable to the Ohio Development Services Agency ("ODSA"), to be forwarded to the ODSA with an executed copy of this Agreement.
- J. The Director of the City's Department of Community and Economic Development has recommended approval of the Application on the basis that the Company is qualified by financial responsibility and business experience to create and preserve employment opportunities and improve the economic climate of the City.
- K. The Board of Education of the Cincinnati City School District (the "Board of Education"), pursuant to that certain *Tax Incentive Agreement* effective as of April 28, 2020, has approved exemptions of up to one hundred percent (100%) of Community Reinvestment Area projects, waived advance notice and right to review such projects, and waived sharing or allocation of municipal income taxes in connection with such projects.
- L. The Company has entered into (or will enter into) an agreement with the Board of Education requiring the Company to pay the Board of Education amounts equal to thirty-three percent (33%) of the full amount of exempt real property taxes that would have been paid to Hamilton County if this Agreement were not in effect (the "Board of Education Agreement").
- M. The Company represents and warrants to the City that the Company and its major tenants, if any, do not intend to relocate part or all of their operations to the City from another county or municipal corporation in the State of Ohio (the "State").
- N. The Company represents that within the past five (5) years neither the Company, any related member of the Company, nor any entity to which the Company is a successor has discontinued operations at a project site in the State during the term of a property tax exemption agreement (under Ohio Revised Code Section 3735.671, 5709.62, 5709.63 or 5709.632) applicable to that site, and the Company acknowledges that misrepresentation hereunder will result in voiding of this Agreement.
- O. The Company represents and warrants to the City that the Company is not subject to an Enterprise Zone Agreement with the City of Cincinnati for the Property or the Project.
- P. City Council passed (i) Motion No. 201401368 on November 19, 2014, establishing a tax incentive policy that incentivizes each applicant for a real property tax abatement in the neighborhoods of Downtown and OTR to enter into a voluntary tax incentive contribution agreement with a third-party organization ("VTICA") for an amount equal to a percentage of the real property taxes that would have been payable on the abated property but for the City-authorized tax abatement (the "VTICA Contribution"), which funds shall be committed by a third-party organization to 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.

- Q. 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.
- R. The Company represents and warrants to the City that the Company has entered or will enter into a VTICA and shall pay the VTICA Contribution each year for the full term of the abatement.
- S. This Agreement has been authorized by Ordinance No. \_\_\_\_\_-2020, passed by Cincinnati City Council on \_\_\_\_\_, 2020.
- T. In determining to recommend and authorize this Agreement, the Department of Community and Economic Development and City Council, respectively, have acted in material reliance on the Company's representations in the Application and herein regarding the Project including, but not limited to, representations relating to the number of jobs to be created and/or retained by the Company, the Board of Education Agreement, the VTICA Contribution, and the Project's effect in promoting the general welfare of the people of Cincinnati by, for example, encouraging the development of real property located in the Community Reinvestment Area and thereby promoting economic growth and vitality in Cincinnati.

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

Section 1. Project. Upon issuance of the necessary zoning and building approvals, the Company agrees to remodel the existing building on the Property into an approximately 168,883 square foot hotel with 163 rooms, and approximately 9,500 square feet of commercial space (the "Improvements") at an estimated aggregate cost of \$53,718,163 to commence after the execution of this Agreement and to be completed no later than August 31, 2022; *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 **Error! Reference source not found.** shall be in compliance with applicable building code and zoning regulations, as well as complying with LBC standards or LEED Silver, Gold or Platinum standards, as defined by the U.S. Green Building Council. The Company hereby represents that either or both of the following clauses (a) and (b) are true: (a) it has registered with the U.S. Green Building Council with intent to certify compliance with LEED Silver, Gold or Platinum standards, or (b) it has registered with the International Living Future Institute and/or the Cascadia Green Building Council with intent to certify compliance with LBC standards. In addition to the foregoing, (A) the Project shall comply with the Americans with Disabilities Act, together with any and all regulations or other binding directives promulgated pursuant thereto (collectively, the "**ADA**"), and (B) if (i) any building(s) within the Project is subject to the accessibility requirements of the ADA (e.g., by constituting a "place of public accommodation" or another category of structure to which the ADA is applicable) and (ii) such building(s) is not already required to meet the Contractual Minimum Accessibility Requirements (as defined below) pursuant to the ADA, applicable building code requirements, or by any other legal requirement, then the Company shall cause such building(s) to comply with the Contractual Minimum Accessibility Requirements in addition to any requirements pursuant to the ADA and the applicable building code or legal requirement. As used herein, "**Contractual Minimum Accessibility Requirements**" means that a building shall, at a minimum, include (1) at least one point of entry (as used in the ADA), accessible from a public right of way, with respect to which all architectural barriers (as used in the ADA) to entry have been eliminated, and (2) if such accessible point of entry is not a building's primary point of entry, conspicuous signage directing persons to such accessible point of entry.

Section 2. Real Property Tax Exemption. Subject to the satisfaction of the conditions set forth in this Agreement, the City approves exemption from real property taxation, pursuant to and to the fullest extent authorized by the Statute, of 100% of the amount by which the Improvements increase the assessed value of the Property as determined by the Hamilton County Auditor, for a period of 15 years, provided that the Company shall have entered into the Board of Education Agreement. Within 120 days after completion of the Project (unless otherwise extended in writing by the City's Housing Officer), the Company must file the appropriate application for tax exemption with the City's Housing Officer. The Company is solely responsible to take this action. Upon receipt of the application for tax exemption, the City will proceed with the exemption authorized by this Agreement. In accordance with Ohio Revised Code Section 3735.67, the exemption is conditioned on verification by the Housing Officer of (A) the completion of **Error! Reference source not found.**, (B) the cost of **Error! Reference source not found.**, (C) the facts asserted in the application for exemption, (D) compliance with LBC standards or LEED Silver, Gold or Platinum standards, as defined by the U.S. Green Building Council, and (E) if a remodeled structure is a structure of historical or architectural significance as designated by the City, state or federal government, that the appropriateness of the remodeling has been certified in writing by the appropriate agency. If the required verification is made, the Housing Officer will forward the exemption application to the Hamilton County Auditor with the necessary certification by the Housing Officer. Subject to the conditions set forth in this Agreement, the exemption commences the first tax year for which the Improvements would first be taxable were the Improvements not exempted from taxation. The dates provided in this paragraph refer to tax years in which the subject property is assessed, as opposed to years in which taxes are billed. No exemption shall commence after tax year 2022 nor extend beyond the earlier of (i) tax year 2036 or (ii) the end of the fifteenth (15<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.<sup>1</sup>

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.

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

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

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

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

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

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

Section 13. Job Creation and Retention.

A. Jobs to be Created by Company. The Company agrees to use its best efforts to create (i) 267 full-time permanent jobs and (ii) 176 full-time temporary construction jobs at the Property in connection with the Project. In the case of the construction jobs, the job creation and retention period shall be concurrent with remodeling, and in the case of the other jobs described herein, the job creation period shall begin upon completion of remodeling and shall end three (3) years thereafter.

B. Company's Estimated Payroll Increase. The Company's increase in the number of employees will result in approximately (i) \$10,000,000 of additional annual payroll with respect to the full-time permanent jobs and (ii) \$17,600,000 of additional annual payroll prior to the completion of the Project with respect to the full-time temporary construction jobs.

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

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

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

Section 15. Compliance with Immigration and Nationality Act. In the performance of its obligations under this Agreement, the Company agrees to comply with the provisions of the Immigration and Nationality Act codified at 8 U.S.C. §§ 1324a(a)(1)(A) and (a)(2). Any noncompliance with such

provisions shall be solely determined by either the federal agencies authorized to enforce the Immigration and Nationality Act or the U.S. Attorney General, in accordance with Executive Order 12989 of the U.S. President dated February 13, 1996, and as amended by Executive Order 13465 of the U.S. President dated June 6, 2008.

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

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

Section 18. Revocation.

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

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

Section 19. False Statements; Penalties; Material Representations.

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

B. Material Representations – Board of Education Agreement and VTICA. The Parties acknowledge and agree that a material failure by the Company to comply with its representations concerning the Board of Education Agreement or VTICA Contribution shall constitute an event of default for purposes of Section 16 (Default) and the basis for revocation under Section 18 (Revocation). Subject to the terms of the VTICA, if the VTICA is unenforceable for reasons of infeasibility or otherwise, the Company shall enter into alternative arrangements providing for the economic equivalent of the VTICA Contribution in order to support 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:

602 Main Street, LLC  
Attention: Mike Everett  
11711 Princeton Pike, Suite 341, #189  
Cincinnati, Ohio 45246

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

602 MAIN STREET, LLC,  
a Delaware limited liability company

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

Date: \_\_\_\_\_, 2020

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

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

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

Date: \_\_\_\_\_, 2020

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

Approved as to Form:

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

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

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

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

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

**Exhibit A to CRA Agreement**

LEGAL DESCRIPTION OF PROPERTY

**Parcel #1**

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

And known as being a part of Inlot No. 97 on the original plan of said city, and being more particularly described as follows:

Beginning at a point in the Easterly line of Main Street, North 16 deg. 0' West, 58.50 feet from the Northeasterly corner of Sixth and Main street;

Thence North 16 deg. 0' West along the Easterly line of Main Street, 41.04 feet to the Southerly line of Registered Land Certificate No. 36703, land registration records of Hamilton County, Ohio;

Thence along the said Southerly line of registered land certificate North 74 deg. 03' 29" East a distance of 99.18 feet to the Westerly line of a lot of land conveyed by Cornelius Vanderbilt to the Procter and Gamble Company by deed recorded in Deed Book 1677, Page 650, Hamilton County, Ohio records;

Thence South 16 deg. 0' East along said Westerly line and parallel with Main Street 37.04 feet to the Northerly line of said Procter and Gamble Company's lot;

Thence South 73 deg. 57' 40" West along said Northerly line 28.53 feet;

Thence South 16 deg. 0' East parallel with main street 3.95 feet to a point in the center line of a 12 inch party wall and also in said Procter and Gamble Company's Northerly line;

Thence South 73 deg. 55' West along said center line of said 12 inch party wall 70.57 feet to the place of beginning. The dimensions are United States standard.

Together with any rights the grantor and/or his predecessors in title may have acquired by reason of encroachments, if any, of the building on the premises herein described upon the lot adjoining on the north as described in the Agreement recorded July 1, 1913 in Deed Book 1079, Page 567, of the Hamilton County Records.

**Parcel Number: 079-0004-0003**

**Parcel #2**

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

And known as being a part of Inlot No. 97 on the original plat of said City of Cincinnati and being more particularly described as follows:

Beginning at a point in the Northeasterly intersection of Sixth and Main Streets;

Thence North 16 deg. 00' West along the Easterly line of Main Street a distance of 58.50 feet;

Thence North 73 deg. 55' East along the center of a 12 inch party wall 70.57 feet;

Thence North 16 deg. 0' West parallel with the Easterly line of Main Street, 3.95 feet;

Thence North 73 deg. 57' 40" East 28.53 feet;

Thence North 16 deg. 00' West parallel with Easterly line of Main Street to the Southerly line of Registered Land Certificate No. 36703 land registration records of Hamilton County, Ohio thence along said Southerly line of registered land certificate North 73 deg. 57' 47" East a distance of 93.22 feet to the Westerly line of Leslie Alley formerly called Langdon Alley;

Thence South 16 deg. 15' East along said Westerly line of Leslie Alley a distance of 99.25 feet to the Northerly line of Sixth Street;

Thence South 74 deg. 00' West along said Northerly line of Sixth Street, a distance of 192.93 feet to the place of beginning. All measurements given in this description are United States standard.

**Parcel Numbers: 079-0004-0001 and 0006**

**Exhibit B to CRA Agreement**  
APPLICATION FOR TAX EXEMPTION

TO BE ATTACHED

202001695

**Date:** September 25, 2020

**To:** Councilmember Greg Landsman  
**From:** Andrew W. Garth, Interim City Solicitor *AWG*  
**Subject:** **Emergency Ordinance –Transfers and Appropriations FY 2020  
Closeout**

---

Transmitted herewith is an emergency ordinance captioned as follows:

**AUTHORIZING** the transfer of \$150,000 from the General Fund balance sheet reserve account no. 050x2580, “Reserve for Weather Related Events, Other Emergency and One-Time Needs,” to the unappropriated surplus of General Fund 050; **AUTHORIZING** the transfer of \$150,000 from the unappropriated surplus of General Fund 050 to the Department of Community and Economic Development’s General Fund non-personnel operating budget account no. 050x161x7200 for the purpose of providing for contractual services to conduct an analysis necessary to implement a tiered residential tax abatement program; and **AUTHORIZING** the designation of \$250,000 of the \$1,000,000 included in the Approved FY 2021 Budget Update for the Community Safety Response Program be designated for the Women Helping Women’s Domestic Violence Enhanced Response Team (DVERT) program.

AWG/CMZ/(lnk)  
Attachment  
320951

EMERGENCY

City of Cincinnati

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

CMZ

*AWB*

- 2020

**AUTHORIZING** the transfer of \$150,000 from the General Fund balance sheet reserve account no. 050x2580, "Reserve for Weather Related Events, Other Emergency and One-Time Needs," to the unappropriated surplus of General Fund 050; **AUTHORIZING** the transfer of \$150,000 from the unappropriated surplus of General Fund 050 to the Department of Community and Economic Development's General Fund non-personnel operating budget account no. 050x161x7200 for the purpose of providing for contractual services to conduct an analysis necessary to implement a tiered residential tax abatement program; and **AUTHORIZING** the designation of \$250,000 of the \$1,000,000 included in the Approved FY 2021 Budget Update for the Community Safety Response Program be designated for the Women Helping Women's Domestic Violence Enhanced Response Team (DVERT) program.

WHEREAS, the research and design of a tiered residential tax abatement program would continue to encourage residential development in neighborhoods that are already experiencing growth by further incentivizing residential development in neighborhoods that have lacked similar investment and strengthening the incentive for rehabilitation of existing residential properties in high-investment neighborhoods, thus relieving the unintended economic pressure to tear down and build new versus rehabilitate when appropriate; and

WHEREAS, Council wishes to authorize an appropriation to the Department of Community and Economic Development in the amount of \$150,000 to provide funding for contractual services to conduct an analysis necessary to implement a tiered residential tax abatement program; and

WHEREAS, Women Helping Women (WHW) and the Cincinnati Police Department currently have a partnership by which the Domestic Violence Enhanced Response Team (DVERT) provides advocates who are trauma informed experts to meet officers on scene to support a survivor of domestic violence; and

WHEREAS, these experts use their training to assist survivors by giving them support, resources, vouchers, legal assistance, and options for how to keep themselves and their family safe; and

WHEREAS, due to the fundraising interruption as a result of the COVID-19 pandemic, WHW's DVERT program has a funding gap of \$250,000 needed to sustain this innovative program and increase the number of survivors served by more than 20 percent by providing support to an additional 200 adults and 400 children experiencing trauma; and

WHEREAS, across the city, there has been a spike in domestic violence, with WHW seeing a 53% increase of calls into their crisis hotline; and



WHEREAS, Council wishes to designate \$250,000 of the \$1,000,000 included in the City Manager's Office Approved FY 2021 Operating Budget Update for the Community Safety Response Program for the WHW's DVERT program; now, therefore,

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

Section 1. That Council hereby authorizes the transfer of the sum of \$150,000 from the General Fund balance sheet reserve account no. 050x2580, "Reserve for Weather Related Events, Other Emergency and One-Time Needs," to the unappropriated surplus of General Fund 050.

Section 2. That the sum of \$150,000 is hereby appropriated from the unappropriated surplus of General Fund 050 to the Department of Community and Economic Development's General Fund non-personnel operating budget account no. 050x161x7200 for the purpose of providing for contractual services to conduct an analysis necessary to implement a tiered residential tax abatement program.

Section 3. That Council hereby designates \$250,000 of the \$1,000,000 included in the Approved FY 2021 Budget Update for the Community Safety Response Program be designated for the Women Helping Women's Domestic Violence Enhanced Response Team (DVERT) program.

Section 4. That the appropriate City officers are hereby authorized to do all things necessary and proper to implement the provisions of Sections 1 through 3 herein.

Section 5. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to accomplish the authorized transfers and appropriations so that the funding

described herein is in place immediately and so that the necessary expenditures described herein may be made as soon as possible.

Passed: \_\_\_\_\_, 2020

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

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

**September 28, 2020**

**202001697**

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

**From:** Paula Boggs Muething, Interim City Manager

**Subject:** **Establishing the OTR South SID Assessment Equalization Board**

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Attached is an Emergency Ordinance captioned as follows:

**ESTABLISHING** the Over-the-Rhine South Special Improvement District Assessment Equalization Board, appointing three members thereto, and setting the time and place for hearings in accordance with the applicable provisions of the Ohio Revised Code.

EMERGENCY

City of Cincinnati

JRS

AWB

An Ordinance No. \_\_\_\_\_ - 2020

**ESTABLISHING** the Over-the-Rhine South Special Improvement District Assessment Equalization Board, appointing three members thereto, and setting the time and place for hearings in accordance with the applicable provisions of the Ohio Revised Code.

WHEREAS, Resolution No. 50-2020 (“Resolution”), adopted by City Council on September 2, 2020, pursuant to Ohio Revised Code Section 727.12, declared the necessity of assessing properties in the Over-the-Rhine South Special Improvement District of Cincinnati (“SID”) to implement the 2021-2024 services plan for the district (“Services Plan”); and

WHEREAS, pursuant to Ohio Revised Code Section 727.13, the property owners located in the SID have been timely served with notice of the passage of the Resolution, via certified mail and publication; and

WHEREAS, the estimated assessments necessary for implementing the Services Plan have been on file with the Clerk of Council and have been available for public inspection since the adoption of the Resolution; and

WHEREAS, Ohio Revised Code Section 727.16 requires an assessment equalization board to hear and determine objections by property owners to the amount or apportionment of an estimated assessment, or the estimated assessment against their property, made pursuant to Ohio Revised Code Section 727.15; and

WHEREAS, Council wishes to establish an assessment equalization board to hear and determine objections by property owners to the amount or apportionment of an estimated assessment, or an estimated assessments against their property; now, therefore,

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

Section 1. That City Council hereby establishes the Over-the-Rhine South Special Improvement District Assessment Equalization Board (“Equalization Board”) to hear and determine objections by property owners to the amount or apportionment of an estimated assessment, or the estimated assessment against their property, made in connection with the

proposed levy of assessments to implement the 2021-2024 services plan (“Services Plan”) for the Over-the-Rhine South Special Improvement District of Cincinnati (“SID”).

Section 2. That the following persons, each being disinterested freeholders of the City of Cincinnati as required by Ohio Revised Code Section 727.16, are hereby appointed to the Equalization Board: Jason Barron, Philip Denning, and Anne Sesler.

Section 3. That the Equalization Board shall meet at 9:00 a.m. on October 12, 2020, and continue in session, if necessary, from day to day, until all objections are heard. The meeting shall be held in the hearing room located on the fifth floor of Centennial II, 805 Central Avenue, Cincinnati, Ohio 45202. In accordance with orders issued by state and local officials and applicable guidance concerning COVID-19, board members and those persons whose objections are heard by the Equalization Board may attend the hearing in person or via remote access.

Section 4. That no less than five days before the hearing date set forth above, the Clerk of Council shall send notice of the hearing by certified mail, ordinary mail, and email (if an email address has been provided) to all persons who timely filed proper objections to the estimated assessments to implement the Services Plan for the SID.

Section 5. That the board shall report its recommendations to City Council, including any changes which should be made to the estimated assessments upon completion of all hearings.

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 take the administrative actions necessary to establish and empanel the

Equalization Board to timely hear objections to the estimated assessments necessary to implement the Services Plan for the Over-the-Rhine South Special Improvement District of Cincinnati.

Passed: \_\_\_\_\_, 2020

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

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



202001200

**P.G. Sittenfeld**  
*Councilmember*

August 4, 2020

## MOTION

**WE MOVE** that the City Administration prepare and provide a report regarding the feasibility of installing a stop sign on Heekin Avenue at or near the intersection of Heekin Avenue and Bouton Street in Linwood in order to address speeding and vehicular collisions.

**WE FURTHER MOVE** that the City Administration make a recommendation on a safe, effective mitigation effort, either through the installation of a stop sign, or a different solution that creates a safer environment along Heekin Avenue.

Council Member P.G. Sittenfeld

_____	_____
_____	_____
_____	_____
_____	_____

## STATEMENT

Residents of the Linwood along and near Heekin Avenue have expressed concerns regarding dangerous traffic conditions that have led to numerous vehicular collisions. City Council is committed to policies, as well as infrastructure and engineering techniques, that ensure safe vehicular traffic travel that protects residents, pedestrians, and vehicular drivers and passengers. While stop signs may not be appropriate in all circumstances, it is imperative that the City Administration examine all avenues to addressing dangerous vehicular traffic travel - and City Council is supportive of the use of stop signs in such situations where it is determined to appropriately address these concerns.

## COMMITTEES

*Chair:* Education, Innovation & Growth

*Member:* Budget & Finance • Equity, Inclusion, Youth & The Arts

Cal - Referral  
Neighborhoods Committee

A handwritten signature in blue ink, consisting of several loops and a trailing line.






**P.G. Sittenfeld**  
*Councilmember*

August 4, 2020

## MOTION

**WE MOVE** that the City Administration prepare a report on the feasibility of implementing a Parklet Program utilizing City-controlled right of way for Cincinnati restaurants looking to expand outdoor dining throughout the duration of the pandemic and beyond. Parklets would be procured, owned, and operated by local businesses for enhanced dining operations, and the City would collect revenue associated with the use of the right of way.

  
\_\_\_\_\_  
Council Member P.G. Sittenfeld

  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## STATEMENT

As a result of restrictions required due to the COVID-19 pandemic, the City of Cincinnati and local restaurants have implemented creative solutions to ensure ongoing operations for our city's beloved restaurant scene, mostly recently with the Reignite Cincy: Temporary Outdoor Dining program. As part of an ongoing effort to reimagine the use of the public right of ways for public use, implementing a Parklet Program modeled after those in Portland, Maine and New York City - would assist local restaurants, enhance the streetscape, and dedicate more public space that is currently reserved for vehicular traffic.

## COMMITTEES

*Chair:* Education, Innovation & Growth

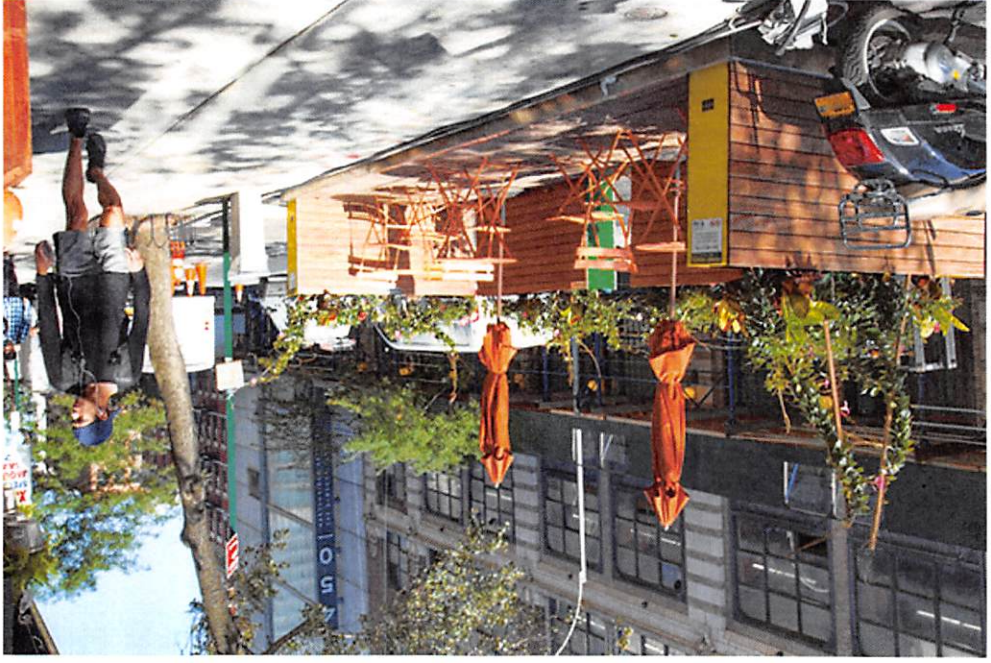
*Member:* Budget & Finance • Equity, Inclusion, Youth & The Arts

Cal - Referral  
Neighborhoods

Committee

A handwritten signature in blue ink, appearing to be 'C. R.', written below the text 'Neighborhoods'.

Examples of Parklets in New York City and Portland, Maine



Cal - Referral

Neighborhoods committee

Cherry



**Betsy Sundermann**  
Cincinnati City Councilmember

**August 31, 2020**

## **MOTION**

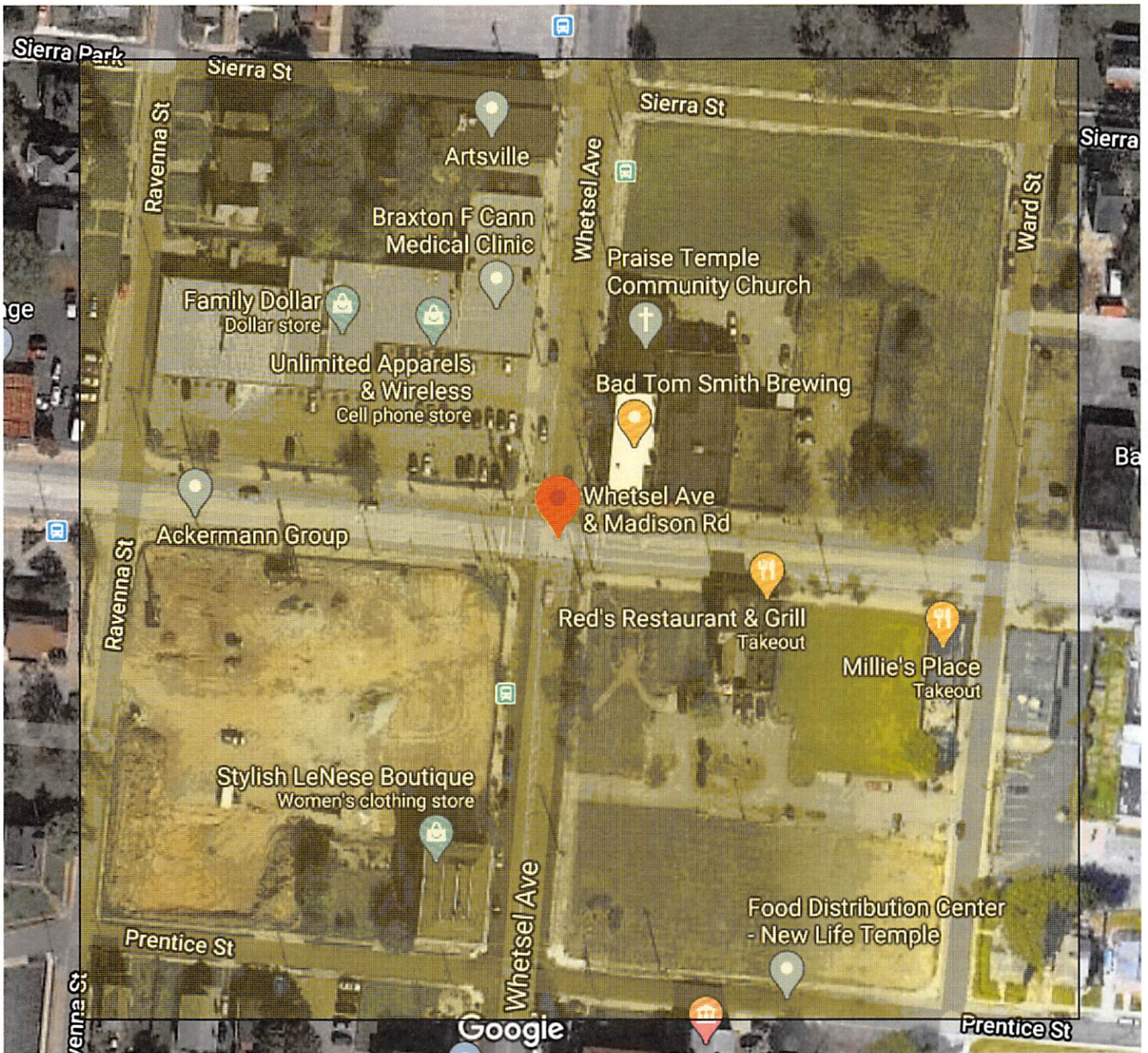
**WE MOVE** the City Administration direct the Department of Transportation and Engineering (DOTE) to conduct a parking analysis of the Madisonville Neighborhood Business District (generally highlighted area of the attached map). The data should include – as closely as possible – the number of public and private parking spots available in the immediate, walkable area after phases I, II, and III of the Ackerman Group’s (developer) project at Madison & Whetsel are completed.

  
Betsy Sundermann

## **STATEMENT**

As this development has progressed, parking has become a primary issue of contention between the developer and the community’s expectations. Many community members have voiced their concerns about a lack of parking in their developing business district upon the completion of the multi-phase project, and how the effected walkability/drivability could impact the ability of the businesses in the area to succeed and flourish. The addition of 306 residential housing units, through all phases, comes with the addition of only 313 private parking spaces and 15 public parking spaces (reference council document #202000373 report – *Madison and Whetsel Development Status*). As such, community members are concerned that residential parking overflow and increased traffic to the area will result in a lack of open parking for local businesses and a lack of parking turnover, as new residents could be using public parking spots.

This analysis should ascertain what constitutes adequate and plentiful parking for the area in order to ensure the local businesses are given the opportunity to succeed and grow, without worrying about the accessibility of their establishments. The parking analysis should also produce estimations of the necessary parking in order to be compared to the final plans of the development to determine if the parking will be sufficient or if more will be needed, based on current and projected parking usage.



# City of Cincinnati



City Hall, Room 346A  
801 Plum Street  
Cincinnati, Ohio 45202

Phone (513) 352-5243  
Email [jeff.pastor@cincinnati-oh.gov](mailto:jeff.pastor@cincinnati-oh.gov)

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## Jeff Pastor

*Cincinnati City Councilmember*

### MOTION

August 3, 2020

**WE MOVE** that the Department of Transportation and Engineering study the feasibility of a "road diet" on Linn Street in the West End from Central Parkway to West Court Street for the purpose of increasing the pedestrian character and walkability of this corridor thereby furthering the safety of the neighborhood and the potential for future development. The Administration shall report on this study by January 1, 2021.

Jeff Pastor

Chris Seelbach

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**Jan-Michele Lemon Kearney**  
*Councilmember*

## **MOTION**

**WE MOVE** for the entire stretch of Reading Road that is located within Cincinnati city limits, specifically from downtown Cincinnati to the edge of Reading, Ohio at Galbraith Road, to be named “President Barack Obama Avenue” in honor of the 44th president of the United States who became the first African-American elected to serve in the highest office in our country when he was inaugurated on January 20, 2009.

**WHEREAS**, President Barack Obama became the first African American elected to the office of United States President in the more than 200-year history of the United States of America, making his election an historic accomplishment for our country, and

**WHEREAS**, the United States was on the brink of economic disaster when President Barack Obama took office in 2009, and under his leadership, the United States avoided a second Great Depression, and

**WHEREAS**, President Barack Obama promoted equal access, opportunity, and respect for all Americans, and stated, “There's not a liberal America and a conservative America ... There's not a black America and white America and Latino America and Asian America. There's a United States of America.”, and

**WHEREAS**, the first bill that President Barack Obama signed into law, on January 29, 2009, was The Lilly Ledbetter Fair Pay Act to make it easier to challenge unequal pay and to help address the wage gap between men and women, and

**WHEREAS**, President Obama signed the Child Care and Development Block Grant of 2014 is signed into law to provide grants to states to allow them to assist low-income families in finding child care for their children, and

**WHEREAS**, President Barack Obama signed The Dodd-Frank Wall Street Reform and Consumer Protection Act to give regulators stronger authority concerning breaking up large companies, and the Act to protect the consumer by restricting practices in consumer loans and credit cards, and

**WHEREAS**, President Barack Obama signed The American Recovery and Reinvestment Act to save and create jobs and to provide relief to those most affected by the economic crisis of 2008-2009, and

**WHEREAS**, President Barack Obama was awarded the Nobel Peace Prize on October 9, 2009 for “his extraordinary efforts to strengthen international diplomacy and cooperation between peoples,” and



**WHEREAS**, President Barack Obama signed into law The Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act becomes to help jurisdictions to investigate and prosecute hate crimes more effectively, and

**WHEREAS**, President Barack Obama's Patient Protection and Affordable Care Act became law on March 20, 2010, to increase quality, affordability, and access to healthcare, and

**WHEREAS**, President Barack Obama supported veteran education reform by putting into practice the post-9/11 GI Bill to help those who have served in the U.S. military to obtain free or less expensive college tuition, and

**WHEREAS**, President Barack Obama signed into law, Rosa's Law, which changes the terminology of federal statutes that use "mental retardation" to "intellectual disability.", and

**WHEREAS**, President Barack Obama signed into law The 21<sup>st</sup> Century Communications and Video Accessibility Act becomes law that established new standards so that Americans who are deaf, blind, or live with a visual impairment have equal access and opportunity to new technological innovations, and

**WHEREAS**, President Barack Obama signed into law the Healthy, Hunger-Free Kids Act of 2010 to fund nutrition and free lunch programs, and set new standards for schools, and

**WHEREAS**, President Barack Obama repealed the "Don't Ask, Don't Tell" policy, thereby allowing individuals to be openly gay, lesbian, and bisexual while serving in the U.S. Armed Forces, and

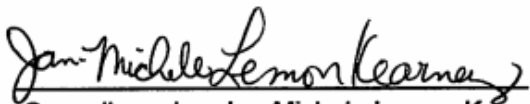
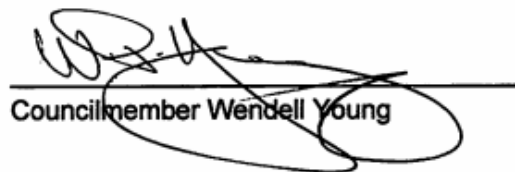
**WHEREAS**, President Barack Obama signed The Violence Against Women Reauthorization Act of 2013 to increase protection for women under the law by improving law enforcement tools to combat violence, improve services for victims of violent crimes, and increase awareness and violence reduction practices, and

**WHEREAS**, President Barack Obama set forth the Climate Action Plan and signed an executive order designed to lower carbon pollution, prepare for the impending effects of climate change, address reversing climate change as a global endeavor, and prepare the United States' readiness for climate change, and

**WHEREAS**, President Barack Obama signed into law the Bipartisan Student Loan Certainty Act of 2013 to help students with crippling debt, and

**WHEREAS**, President Barack Obama signed an executive order to protect the rights of LGBT employees in the workforce, and

**WHEREAS**, President Barack Obama signed into law The Clay Hunt Suicide Prevention for American Veterans Act to raise awareness on veteran suicide, increase opportunity for veterans to receive help, and to require the Pentagon and Veterans Affairs Department to submit reviews of their prevention programs.

 and   
Councilmember Jan-Michele Lemon Kearney      Councilmember Wendell Young

#### STATEMENT

Councilmember Wendell Young and I began discussing renaming Reading Road after President Barack Obama several years ago, when I was publisher of *The Cincinnati Herald*. Our office received a groundswell of public support. Councilmember Young's office began the process, but soon thereafter, Councilmember Young experienced some health issues that required him to recuperate before resuming his duties. When I took a seat on City Council, one of the items on my office's agenda was resuming the process to rename Reading Road after President Obama. The agenda item took a back seat to pressing issues that our City is facing.

However, in July, a young man, Caleb Price, came to City Hall and requested that City Council honor President Barack Obama with the street naming. Mr. Price's enthusiasm and drive, not to mention his work in collecting thousands of signatures, showed us that now is the time to honor our 44th president, and to let his message of "hope and change" for the betterment of all Americans ring across our city.

Given the cost of the renaming, and the urgent needs of our citizens for City funds during this pandemic, our office will work with Mr. Price and other members of our community to raise funds for this project before asking the City to contribute any additional funding.

Our present goal is to immediately gain approval for the renaming project. Such approval not only will help with fundraising efforts, but will give notice to existing and new developments which could reduce their expenditures for the address change. Upon City Council granting approval, our office will keep Council updated on ongoing plans for the renaming.

We are thankful to Mr. Caleb Price for his leadership in being the impetus behind this project and for letting us see the importance of shining a bright light in the middle of a storm.



**Jan-Michele Lemon Kearney**  
Councilmember

**202001615**

## MOTION

**WE MOVE** for the entire stretch of Reading Road that is located within Cincinnati City limits, specifically from downtown Cincinnati to the edge of Reading, Ohio at Galbraith Road, to be named “President Barack Obama Avenue” in honor of the 44th president of the United States who became the first African American elected to serve in the highest office in our country when he was inaugurated on January 20, 2009, \* and we request a report by the City Administration.

**WHEREAS**, President Barack Obama became the first African American elected to the office of United States President in the more than 200-year history of the United States of America, making his election an historic accomplishment for our country, and

**WHEREAS**, the United States was on the brink of economic disaster when President Barack Obama took office in 2009, and under his leadership, the United States avoided a second Great Depression, and

**WHEREAS**, President Barack Obama promoted equal access, opportunity, and respect for all Americans, and stated, “There's not a liberal America and a conservative America ... There's not a black America and white America and Latino America and Asian America. There's a United States of America.”, and

**WHEREAS**, the first bill that President Barack Obama signed into law, on January 29, 2009, was The Lilly Ledbetter Fair Pay Act to make it easier to challenge unequal pay and to help address the wage gap between men and women, and

**WHEREAS**, President Obama signed the Child Care and Development Block Grant of 2014 is signed into law to provide grants to states to allow them to assist low-income families in finding child care for their children, and

**WHEREAS**, President Barack Obama signed The Dodd-Frank Wall Street Reform and Consumer Protection Act to give regulators stronger authority concerning breaking up large companies, and the Act to protect the consumer by restricting practices in consumer loans and credit cards, and

**WHEREAS**, President Barack Obama signed The American Recovery and Reinvestment Act to save and create jobs and to provide relief to those most affected by the economic crisis of 2008-2009, and

**WHEREAS**, President Barack Obama was awarded the Nobel Peace Prize on October 9, 2009 for “his extraordinary efforts to strengthen international diplomacy and cooperation between peoples,” and

As amended on the floor of the NC committee on 9/28/2020

**WHEREAS**, President Barack Obama signed into law The Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act becomes to help jurisdictions to investigate and prosecute hate crimes more effectively, and

**WHEREAS**, President Barack Obama's Patient Protection and Affordable Care Act became law on March 20, 2010, to increase quality, affordability, and access to healthcare, and

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**WHEREAS**, President Barack Obama signed into law the Bipartisan Student Loan Certainty Act of 2013 to help students with crippling debt, and

**WHEREAS**, President Barack Obama signed an executive order to protect the rights of LGBT employees in the workforce, and

**WHEREAS**, President Barack Obama signed into law The Clay Hunt Suicide Prevention for American Veterans Act to raise awareness on veteran suicide, increase opportunity for veterans to receive help, and to require the Pentagon and Veterans Affairs Department to submit reviews of their prevention programs:

**NOW THEREFORE, WE MOVE** that the entire stretch of Reading Road that is located within Cincinnati City limits, specifically from downtown Cincinnati to the edge of Reading, Ohio at Galbraith Road, shall be named “President Barack Obama Avenue” in honor of the 44th president of the United States who became the first African American elected to serve in the highest office in our country when he was inaugurated on January 20, 2009.



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Councilmember Jan-Michele Lemon Kearney

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Councilmember Wendell Young

### **STATEMENT**

Councilmember Wendell Young and I began discussing renaming Reading Road after President Barack Obama several years ago, when I was publisher of *The Cincinnati Herald*. Our office received a groundswell of public support. Councilmember Young’s office began the process, but soon thereafter, Councilmember Young experienced some health issues that required him to recuperate before resuming his duties. When I took a seat on City Council, one of the items on my office’s agenda was resuming the process to rename Reading Road after President Obama. The agenda item took a back seat to pressing issues that our City is facing.

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We are thankful to Mr. Caleb Price for his leadership in being the impetus behind this project and for letting us see the importance of shining a bright light in the middle of a storm.



202001629

**P.G. Sittenfeld**  
*Councilmember*

September 15, 2020

## MOTION

**WE MOVE** that the City Administration work with the Northside Community Council, and the Northside Business Association, to install parking meters along Hamilton Avenue and Hoffner Street.

## STATEMENT

The Northside Community Council and Northside Business Association, working with community partners and residents, are requesting the installation of parking meters along key City right of ways in Northside to address quality of life issues that can be addressed, in part, by having parking meters in areas that currently allow for free parking.

*PG Sittenfeld*

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Council Member P.G. Sittenfeld

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## COMMITTEES

*Chair:* Education, Innovation & Growth    *Member:* Budget & Finance • Equity, Inclusion, Youth & The Arts

EMERGENCY

City of Cincinnati

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

KKF *AWB*

- 2020

**DECLARING** that Dana Avenue between Victory Parkway and Madison Road shall hereby receive the honorary, secondary name of William J. Keating Way in memory of William J. Keating and in recognition of his many contributions and dedication to the City of Cincinnati.

WHEREAS, William J. Keating was born in Cincinnati in 1927 to parents Charles and Adele Keating; and

WHEREAS, William J. Keating attended local St. Xavier High School where he was an All-American swimmer, and he attended the University of Cincinnati for both his undergraduate degree and law school; and

WHEREAS, Mr. Keating served in the United States Navy during World War II; and

WHEREAS, Mr. Keating served as a Cincinnati Councilmember, a United States Congressman for the First District from 1967-1970, and a judge for both the Cincinnati Municipal Court and the Hamilton County Court of Common Pleas; and

WHEREAS, Mr. Keating was a founder of the venerable Keating, Muething & Klekamp law firm; and

WHEREAS, Mr. Keating was the owner and CEO of the Cincinnati Enquirer, the leading newspaper and news outlet in Cincinnati for decades, and he held executive positions with the Associated Press and Gannett Co., Inc.'s newspaper division; and

WHEREAS, in 2001, Mr. Keating was named a Great Living Cincinnati, and in 2009 was inducted into the Greater Cincinnati & Northern Kentucky Business Hall of Fame; and

WHEREAS, Mr. Keating passed away on May 20, 2020; now, therefore,

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

Section 1. That Dana Avenue between Victory Parkway and Madison Road shall hereby receive the honorary, secondary name of William J. Keating Way by legislative action of the Mayor and City Council in memory of William J. Keating and in recognition of his many contributions and dedication to the City of Cincinnati and its citizens.



Section 2. That the appropriate City officials are hereby authorized to do all things necessary and proper to implement the provisions of Section 1 herein, including the generation and installation of appropriate secondary street signage, which shall designate Dana Avenue between Victory Parkway and Madison Road as William J. Keating Way in accordance with the Department of Transportation and Engineering's procedures relating to street designation and related signage.

Section 3. That a copy of this ordinance be sent to the family of William J. Keating via the office of Councilmember Jeff Pastor.

Section 4. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to allow the Department of Transportation and Engineering to move forward with the administrative requirements needed to construct and implement the secondary signage at the designated location.

Passed: \_\_\_\_\_, 2020

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

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



**Date:** August 20, 2020

**To:** Councilmember Jeff Pastor

**From:** Andrew W. Garth, Interim City Solicitor

A handwritten signature in blue ink, appearing to read "AWG".

**Subject:** Emergency Ordinance – Honorary Street Name William J. Keating Way

Transmitted herewith is an ordinance captioned as follows:

**DECLARING** that Dana Avenue between Victory Parkway and Madison Road shall hereby receive the honorary, secondary name of William J. Keating Way in memory of William J. Keating and in recognition of his many contributions and dedication to the City of Cincinnati.

AWG/KKF/(lnk)  
Attachment  
315715



**Date:** August 31, 2020

**To:** Councilmember Jeff Pastor

**From:** Andrew W. Garth, Interim City Solicitor

*AWG*

**Subject:** Resolution – 13<sup>th</sup> Amendment

*20201428*

Transmitted herewith is a resolution captioned as follows:

**RECOGNIZING** that the practice of involuntary servitude of the duly convicted is both heinous and inhumane; and **URGING** the members of the Ohio General Assembly and the United States Congress to take action to remove the phrase from the United States Constitution.

AWG/LES(lnk)  
Attachment  
319442

## RESOLUTION NO. \_\_\_\_\_ – 2020

**RECOGNIZING** that the practice of involuntary servitude of the duly convicted is both heinous and inhumane; and **URGING** the members of the Ohio General Assembly and the United States Congress to take action to remove the phrase from the United States Constitution.

WHEREAS, the Thirteenth Amendment to the United States Constitution states that “Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction”; and

WHEREAS, the phrase “except as a punishment for crime whereof the party shall have been duly convicted” has allowed the practice of involuntary servitude to continue since the passage of the Thirteenth Amendment in 1865; and

WHEREAS, the practice of involuntary servitude of the duly convicted is both heinous and inhumane; now, therefore,

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

Section 1. That the Mayor and Council of the City of Cincinnati expresses their support for the removal of the phrase “except as a punishment for crime whereof the party shall have been duly convicted” from the Thirteenth Amendment to the United States Constitution.

Section 2. That the Mayor and Council urge the members of the Ohio General Assembly and the United States Congress to take action to remove the phrase from the United States Constitution.

Section 3. That this resolution be spread upon the minutes of Council and that copies be sent to Governor Mike DeWine; Lieutenant Governor Jon Husted; Speaker of the Ohio House of Representatives Robert R. Cupp; Senate President Larry Obhof; Senate Minority Leader Kenny Yuko; State Senator Steve Wilson; State Senator Cecil Thomas; State Senator Lou Terhar; House Minority Leader Emilia Sykes; State Representative Bill Seitz; State Representative Catherine Ingram; State Representative Thomas Brinkman; State Representative Brigid Kelly; State

Representative Sedrick Denson; State Representative Jessica Miranda, U.S. Representative Steve Chabot; and U.S. Representative Brad Wenstrup.

Passed \_\_\_\_\_, 2020

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

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

Submitted by Councilmember Jeff Pastor



202001547


**Jan-Michele Lemon Kearney**  
Councilmember


202001547

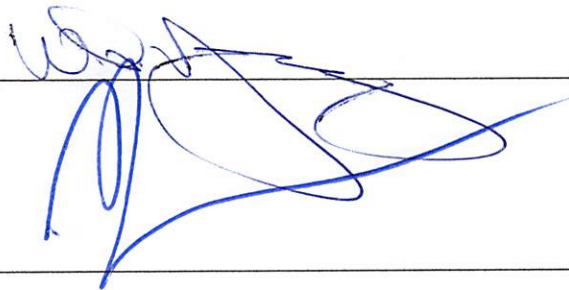
**MOTION**

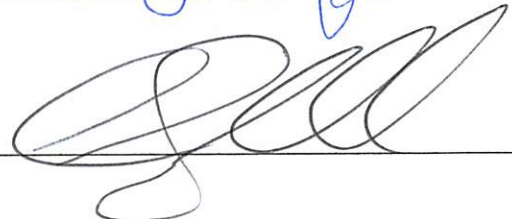
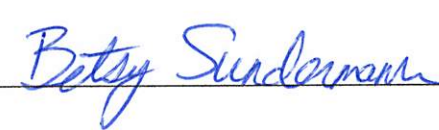
WE MOVE that Cincinnati City Council hold a public hearing to discuss with the Hamilton County Commissioners, Lincoln Heights City Council, the Cincinnati Police Department, and other interested parties Cincinnati's gun range. The focus of the public hearing is to discuss the environmental impact of the gun range, including any available data in addition to hearing from residents, business owners, and others affected by the gun range.

WE FURTHER MOVE that the public meeting to discuss solutions for the gun range issues is held before the end of October 2020.

  
\_\_\_\_\_  
Councilmember Jan-Michele Lemon Kearney

  
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CAL

Law & Public Safety  
or Education, Innovation & Growth

J-MLK

Thank you!