



City of Cincinnati

801 Plum Street
Cincinnati, Ohio 45202

CALENDAR

Cincinnati City Council

Wednesday, September 29, 2021

2:00 PM

Council Chambers, Room 300

ROLL CALL

PRAYER AND PLEDGE OF ALLEGIANCE

FILING OF THE JOURNAL

MAYOR CRANLEY

Housing Advisory Board

1. [202102825](#) **APPOINTMENT**, submitted by Mayor John Cranley, I hereby appoint Jeniece Jones to the Housing Advisory Board for a term of four years. This appointment is submitted to City Council for its advice and consent pursuant to its rules. (Female/AA)

Recommendation CONFIRM

Sponsors: Mayor

2. [202102872](#) **APPOINTMENT**, submitted by Mayor John Cranley, I hereby appoint Susan Thomas to the Housing Advisory Board for a term of four years. This appointment 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: Mayor

Children & Family - 15 Appointments: 7 Male; 8 Female; 2 White; 8 AA; 5 Unknown

3. [202102826](#) **APPOINTMENT**, submitted by Mayor John Cranley, I hereby appoint Greg Landsman to the Children & Families Cabinet for a term concurrent with his term as chair of the Major Projects & Smart Government Committee. This appointment is submitted to City Council for its advice and consent pursuant to its Rules. (Male/White)

Recommendation CONFIRM

Sponsors: Mayor

MS. KEARNEY

4. [202002153](#) **RESOLUTION**, submitted by Councilmember Kearney, from Andrew Garth, Interim City Solicitor, **RECOGNIZING** the Erica J. Holloman Foundation for its service and contributions to the fight against breast cancer, specifically against triple negative breast cancer.

Recommendation PASS

Sponsors: Kearney

5. [202102830](#) **MOTION**, dated 09/22/2021, submitted by Councilmember Kearney, **WE MOVE** for the City Administration to extend the current parking amnesty period for unpaid parking tickets incurred within the City of Cincinnati to December 31, 2021. The amount owed during this amnesty extension will include only the original parking ticket cost and no additional penalties or fees. **WE FURTHER MOVE** for this amnesty period to authorize any person who pays an unpaid parking ticket or tickets by October 31, 2021, to pay half of the full balance of the original ticket cost and no additional penalties or fees. **WE FURTHER MOVE** that all unpaid parking tickets incurred within the City of Cincinnati are eligible for the amnesty described above regardless of when the parking ticket was issued, or the number of parking tickets issued to any individual. **WE FURTHER MOVE** for the City Administration to report to City Council the date collected pertaining to the amnesty period extension and October amnesty program, including amount of funds collected.

Recommendation BUDGET AND FINANCE COMMITTEE

Sponsors: Kearney

6. [202102836](#) **ORDINANCE**, dated 9/24/2021, submitted by Councilmember Kearney, from Andrew Garth, City Solicitor, **DECLARING** that Reinhold Drive shall hereby receive the honorary, secondary name of The Lubavitcher Rebbe Way, honoring the life of Rabbi Menachem Mendel Schneerson, known internationally as The Lubavitcher Rebbe, in recognition of his contributions to the religious, educational, and humanitarian needs of the City of Cincinnati.

Recommendation NEIGHBORHOODS COMMITTEE

Sponsors: Kearney

7. [202102837](#) **ORDINANCE**, dated 9/23/2021, submitted by Councilmember Kearney, from Andrew Garth, City Solicitor, **DECLARING** that Reading Road at Forest Avenue hereby receives the honorary, secondary name of Reverend Clarence S. Wallace Way in memory of Reverend Clarence S. Wallace, recognizing his contributions to the City of Cincinnati through his impactful service to the Avondale community.

Recommendation NEIGHBORHOODS COMMITTEE

Sponsors: Kearney

8. [202102860](#) **MOTION**, dated 9/27/2021, submitted by Councilmember Kearney, **WE MOVE** that the City set aside funds in the Fiscal Year 2021 budget to repair and/or upgrade the following city roadways, including the provision of traffic calming devices and better grading to prevent accidents: Reading Road (From Avondale through Bond Hill and then Roselawn), Glenway, Elberon (near Mt. Echo Park), Erie (by District 2), Sycamore Hill in Mt. Auburn, and Paddock Road between Reading Road and Tennessee Avenue.

Recommendation BUDGET AND FINANCE COMMITTEE

Sponsors: Kearney

CITY MANAGER

9. [202102834](#) **REPORT**, dated 9/29/2021 submitted by Paula Boggs Muething, City Manager,

on a communication from the State of Ohio, Division of Liquor Control, advising of a permit application for CINTRIFUSE LANDLORD LLC, 1313 Vine Street, Cincinnati, Ohio 45202. (#1403569, D5, D6, TRANSFER) [Objections: NONE]

Recommendation FILE

Sponsors: City Manager

10. [202102839](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 9/29/2021, **AUTHORIZING** the payment of \$7,794.92 as a moral obligation to Ernest Industries, doing business as Kelly-Creswell, for outstanding charges incurred for the repair of line-stripping equipment for the Traffic and Road Operations Division; and **AUTHORIZING** the Finance Director to make payment of \$7,794.92 to Ernest Industries from the Street Construction Maintenance and Repair Fund Traffic and Road Operations non-personnel operating budget account no. 301x252x6000x7259.

Recommendation

BUDGET AND FINANCE COMMITTEE

Sponsors: City Manager

11. [202102840](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 9/29/2021, **AUTHORIZING** the payment of \$57,000 as a moral obligation to The Ohio State University, doing business as the Ohio Academic Resources Network, for internet services and connectivity to the remote data center as part of the City's disaster recovery solution, and **AUTHORIZING** the Finance Director to make payment of \$57,000 to the Ohio Academic Resources Network from the General Fund non-departmental Enterprise Software and Licenses non-personnel operating budget account no. 050x952x4500x7212.

Recommendation BUDGET AND FINANCE COMMITTEE

Sponsors: City Manager

12. [202102841](#) **ORDINANCE** submitted by Paula Boggs Muething, City Manager, on 9/29/2021, **AUTHORIZING** the City Manager to accept an in-kind donation from the Candace Bates State Farm Agency of 25 carbon monoxide units valued at up to \$500 for use by the Cincinnati Fire Department.

Recommendation

BUDGET AND FINANCE COMMITTEE

Sponsors: City Manager

13. [202102842](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 9/29/2021, **AUTHORIZING** the City Manager to execute a Lease Agreement with Condor Air, Ltd. pursuant to which the company will renew its leasehold interest at Lunken Airport for up to an additional twenty years.

Recommendation BUDGET AND FINANCE COMMITTEE

Sponsors: City Manager

14. [202102843](#) **ORDINANCE** submitted by Paula Boggs Muething, City Manager, on 9/29/2021, **AUTHORIZING** the City Manager to execute a Lease Agreement

with Brewing Arts, LLC, pursuant to which the City will lease for a five-year term an above grade portion of the excess right of way located north of Blue Rock Street, and between Cherry Street and Turrill Street, in the Northside neighborhood.

Recommendation BUDGET AND FINANCE COMMITTEE

Sponsors: City Manager

15. [202102844](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 9/29/2021, **ESTABLISHING** new capital improvement program project account no. 980x203x222004, "Biochar Replication Bloomberg Grant"; AUTHORIZING the City Manager to apply for, accept, and appropriate grant resources in an amount of up to \$400,000 from Bloomberg Philanthropies into the newly established capital improvement program project account no. 980x203x222004, "Biochar Replication Bloomberg Grant," for the purpose of implementing a biochar production facility; and AUTHORIZING the transfer and appropriation of local matching resources from the unappropriated surplus of Urban Forestry Fund 428 in the amount of \$100,000 to newly established capital improvement program project account no. 980x203x222004, "Biochar Replication Bloomberg Grant."

Recommendation BUDGET AND FINANCE COMMITTEE

Sponsors: City Manager

16. [202102845](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 9/29/2021, **AUTHORIZING** the City Manager to apply for, accept, and appropriate a grant in an amount of up to \$75,000 from the Cincinnati Recreation Foundation, from funds made available through the ESPN RePlay program, for the purpose of renovating underutilized recreation spaces in Avondale as part of the 2021 Community Makeover program; and AUTHORIZING the Finance Director to deposit the grant funds into Recreation Special Activities Fund revenue account no. 323x8571x199Q876, "2021 Community Makeover."

Recommendation BUDGET AND FINANCE COMMITTEE

Sponsors: City Manager

17. [202102848](#) **RESOLUTION (LEGISLATIVE) (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 9/29/2021, DECLARING by legislative resolution the necessity of the special assessment project at 3634-3638 Madison Road in the City of Cincinnati, Ohio involving the City of Cincinnati, Ohio Energy Special Improvement District.

Recommendation BUDGET AND FINANCE COMMITTEE

Sponsors: City Manager

18. [202102850](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 9/29/2021, **DETERMINING** to proceed with the special assessment project at 3634-3638 Madison Road in the City of Cincinnati involving the City of Cincinnati, Ohio Energy Special Improvement District.

Recommendation BUDGET AND FINANCE COMMITTEE

Sponsors: City Manager

19. [202102851](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 9/29/2021, **LEVYING** special assessments for the purpose of the special assessment project at 3634-3638 Madison Road in the City of Cincinnati involving the City of Cincinnati, Ohio Energy Special Improvement District.
- Recommendation** BUDGET AND FINANCE COMMITTEE
- Sponsors:** City Manager
20. [202102853](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 9/29/2021, **AMENDING** Ordinance No. 0388-2020 to correct the designated fund in which the Director of Finance is authorized to deposit proceeds received in connection with the grant of an easement authorized by said ordinance.
- Recommendation** BUDGET AND FINANCE COMMITTEE
- Sponsors:** City Manager
21. [202102854](#) **ORDINANCE** submitted by Paula Boggs Muething, City Manager, on 9/29/2021, **AUTHORIZING** the City Manager to take all necessary and proper actions to cooperate with the Director of the Ohio Department of Transportation to facilitate the resurfacing of certain rights-of-way that include the portion of Interstate 75 located between the Brent Spence Bridge and the Western Hills Viaduct and the Sixth Street Expressway Ramps to Interstate 75 in the City of Cincinnati.
- Recommendation** MAJOR PROJECTS & SMART GOVERNMENT COMMITTEE
- Sponsors:** City Manager

CLERK OF COUNCIL

22. [202102855](#) **REGISTRATION**, submitted by the Clerk of Council from Legislative Agent Zachery McCune, Public Policy, Associate Director of Public Policy, 1105 Schrock Rd., Suite 400, Columbus, Ohio 43229. (EQUITAS HEALTH)
- Recommendation** FILE
- Sponsors:** Clerk of Council

BUDGET AND FINANCE COMMITTEE

23. [202102806](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 9/22/2021, **AUTHORIZING** the payment of \$4,600 from the Recreation Department's non-personnel operating budget account no. 323x197x1760x7289 as a moral obligation to Diamond Pro Umpires Association for services rendered to the City of Cincinnati from March 2021 to July 2021; and **AUTHORIZING** the payment of \$9,700 from the Recreation Department's non-personnel operating budget account no. 308x199x5960x7279 as a moral obligation to Junior Achievement of OKI Partners for platform sharing, user support, and curriculum for the Mayor's Career Expo job fair in April 2021.
- Recommendation** PASS EMERGENCY
- Sponsors:** City Manager

24. [202102807](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 9/22/2021, **AUTHORIZING** the City Manager to accept a donation from Talbert House Services of 500 unexpired Narcan kits to the Cincinnati Police Department valued at a total of \$42,000.
- Recommendation** PASS EMERGENCY
- Sponsors:** City Manager
25. [202102809](#) **ORDINANCE** submitted by Paula Boggs Muething, City Manager, on 9/22/2021, **AUTHORIZING** the City Manager to execute a Property Sale Agreement with Barrow Outlot LLC for the sale of City-owned real property located at the northeast corner of the intersection of Ridge and Alamo Avenues in Oakley.
- Recommendation** PASS
- Sponsors:** City Manager
26. [202102862](#) **ORDINANCE (B VERSION) (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 9/29/2021, **AUTHORIZING** the City Manager to execute a *Property Sale Agreement* with Barrow Outlot LLC for the sale of City-owned real property located at the northeast corner of the intersection of Ridge and Alamo Avenues in Oakley.
- Recommendation** PASS EMERGENCY
- Sponsors:** City Manager
27. [202102824](#) **REPORT**, dated 9/22/2021, submitted by Paula Boggs Muething, City Manager, regarding use of Fleet Replacement budget for West Fork Incinerator. (SEE DOC. #202102306)
- Recommendation** APPROVE & FILE
- Sponsors:** City Manager
28. [202102832](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 9/22/2021, **AUTHORIZING** the transfer and return to source of the sum of \$2,500,000 from American Rescue Plan grant project account no. 469x101xARP052, "FY 2021 Restricted Funds Revenue Replacement," to the unappropriated surplus of Local Fiscal Recovery Fund 469; **AUTHORIZING** the establishment of American Rescue Plan grant project account no. 469x101xARP110, "Villages at Roll Hill Boys & Girls Club," for the purpose of providing resources for the construction of a new facility for the Villages at Roll Hill Boys & Girls Club; **AUTHORIZING** the appropriation of the sum of \$2,250,000 from the unappropriated surplus of Local Fiscal Recovery Fund 469 to newly established American Rescue Plan grant project account no. 469x101xARP110, "Villages at Roll Hill Boys & Girls Club," for the purpose of providing resources for the construction of a new facility for the Villages at Roll Hill Boys & Girls Club; **DECLARING** expenditures from American Rescue Plan grant project account no. 469x101xARP110, "Villages at Roll Hill Boys & Girls Club," to be for a public purpose; **AUTHORIZING** the establishment of American Rescue Plan grant project account no. 469x101xARP111, "Safe and Clean Neighborhoods," for the purpose of providing resources for neighborhood groups and organizations to apply for funding for projects aimed at improving the safety and cleanliness of neighborhoods; **AUTHORIZING** the appropriation of the sum of \$250,000 from the unappropriated surplus of Local

Fiscal Recovery Fund 469 to newly established American Rescue Plan grant project account no. 469x101xARP111, "Safe and Clean Neighborhoods," for the purpose of providing resources for neighborhood groups and organizations to apply for funding for projects aimed at improving the safety and cleanliness of neighborhoods; and DECLARING expenditures from American Rescue Plan grant project account no. 469x101xARP111, "Safe and Clean Neighborhoods," to be for a public purpose.

Recommendation PASS EMERGENCY

Sponsors: City Manager

29. [202102838](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 9/27/2021, **AUTHORIZING** the City Manager and the employees of the Department of Human Resources to solicit and accept in-kind donations from the Cincinnati business community for purposes of awarding prizes in the City's upcoming charitable campaign for the United Way of Greater Cincinnati.

Recommendation PASS EMERGENCY

Sponsors: City Manager

NEIGHBORHOODS COMMITTEE

30. [202102771](#) **MOTION**, dated 09/14/2021, submitted by Vice-Mayor Smitherman, Councilmembers Kearney, Landsman, Goodin, Sundermann, Keating and Young, **WE MOVE** that the administration honor Cincinnati native Lynwood Battle a man who modeled leadership, service and faith, Lynwood Battle was a man of wisdom, integrity, and warmth that connected with people everywhere he went, Lynwood Battle sense of gratitude and thanksgiving resonated with everything that he did whether it pertained to family, service, work, or his many friendships. **WE MOVE** that the administration support honoring Lynwood Battle with a secondary street renaming at Washington Avenue and Rockdale Avenue. (STATEMENT ATTACHED).

Recommendation

ADOPT

Sponsors: Smitherman, Kearney, Landsman, Goodin, Sundermann, Keating and Young

31. [202102823](#) **ORDINANCE**, dated 09/16/2021, submitted by Councilmember Chris Seelbach from Andrew Garth, City Solicitor, **DECLARING** that Sixth Street between Main Street and Walnut Street hereby receive the honorary, secondary name of Jean-Robert de Cavel Way in honor of Jean-Robert de Cavel, in recognition of his decades of influence on Greater Cincinnati's restaurant scene, including a decade as chef as The Maisonette, which was the highest rated restaurant in North America during his tenure.

Recommendation PASS

Sponsors: Seelbach

SUPPLEMENTAL ITEMS

LAW & PUBLIC SAFETY COMMITTEE

32. [202102821](#) **MOTION**, submitted by Councilmember Landsman, **WE MOVE** to formally request accident data on e-scooters in dense areas of Cincinnati and any recommendations the Administration may have in terms of limiting the use of e-scooters in specific areas to improve pedestrian safety, based on that crash data and similar actions taken in other cities. (STATEMENT ATTACHED)

Recommendation ADOPT

Sponsors: Landsman

ECONOMIC GROWTH & ZONING COMMITTEE

33. [202102651](#) **ORDINANCE** submitted by Paula Boggs Muething, City Manager, on 9/1/2021, **AMENDING** the official zoning map of the City of Cincinnati to rezone the real property located at 4325-4329 Red Bank Road in the Madisonville neighborhood from the MG, "Manufacturing General," zoning district to the CG-A, "Commercial General Auto-Oriented," zoning district to provide for the establishment of new commercial uses, including retail sales and daycare uses.

Recommendation PASS

Sponsors: City Manager

34. [202102654](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager on 9/1/2021, **MODIFYING** Title XIV, "Zoning Code of the City of Cincinnati," of the Cincinnati Municipal Code by **AMENDING** the provisions of Chapter 1411, "Downtown Development Districts," to modify the Downtown Use Subdistrict Overlay Map to include certain additional real property within the DD-A, "Downtown Core," Subdistrict.

Recommendation

PASS EMERGENCY

Sponsors: City Manager

35. [202102755](#) **ORDINANCE** submitted by Paula Boggs Muething, City Manager, on 9/15/2021, **MODIFYING** Title V, "Traffic Code," of the Cincinnati Municipal Code by **REPEALING** Section 507-1-E8, "East Hollister Street, west from Auburn Avenue to Vine Street," to convert the portion of East Hollister Street located between Auburn Avenue and Vine Street from a one-way street to a two-way street.

Recommendation PASS

Sponsors: City Manager

EQUITY, INCLUSION, YOUTH, & THE ARTS COMMITTEE

36. [202102819](#) **MOTION**, submitted by Councilmember Landsman, **WE MOVE** that the Administration work with all youth job partners- such as Cincinnati Recreation Commission, ArtWorks, the Urban League, etc. - to determine the existing collective waiting list for all youth job programs that the city supports or financially participates in.

Recommendation ADOPT

Sponsors: Landsman

ANNOUNCEMENTS

Adjournment

City of Cincinnati



#57

Mayor John Cranley

202102825

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

September 2021

APPOINTMENT

I hereby appoint Jeniece Jones to the Housing Advisory Board for a term of four years. This appointment is submitted to City Council for its advice and consent pursuant to its Rules.



Mayor John Cranley

Dr. Carling



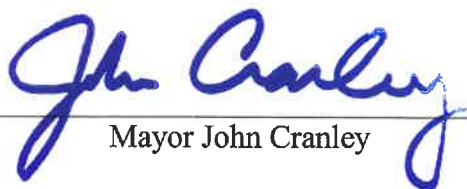
Office of Mayor John Cranley

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

September 2021

APPOINTMENT

I hereby appoint Susan Thomas to the Housing Advisory Board for a term of four years. This appointment is submitted to City Council for its advice and consent pursuant to its Rules.



Mayor John Cranley

Contact

www.linkedin.com/in/susanelizabeththomas (LinkedIn)

Honors-Awards

Award of Merit, Stanford Associates

40 Under 40

Excellence in Bond Finance
(National)

Non-Profit Winner for Product or
Service

Susan E. Thomas

Use finance tools and expertise to drive economic development and community impact while providing financial return.

Cincinnati

Summary

I returned to Cincinnati in 2007 having spent 8 years living in the northeast earning my MBA and working as an investment banker in New York City. I wanted to do something that combined my economic development and public policy interests with my finance skills.

I was fortunate to become the first public finance professional at the Port Authority. The next ten years were an amazing and fulfilling adventure - establishing the county landbank in response to the foreclosure crisis, developing innovative ways to use private sector finance tools and expertise to drive economic development and community impact, and actively participating in the transformation of my hometown.

In August of 2017 I returned to the banking world by joining Fifth Third Bank as part of the National Tax Credit Lending team. I am also responsible for the non-tax credit commercial real estate lending strategy across the Bank's 10-state footprint as part of the bank's \$32 billion 5-year Community Commitment.

Experience

Fifth Third Bank

4 years 2 months

SVP, Head of Fifth Third Community Development Company (CDC)
January 2021 - Present (9 months)

Lead the Fifth Third CDC, the wholly-owned subsidiary of Fifth Third Bank that acquires and manages qualified investments that support the Bank's strategic objectives under the Community Revitalization Act (CRA). The CDC's current portfolio includes investments in Low Income Housing Tax Credits (LIHTC), New Markets Tax Credits (NMTCs), Community Development Financial Institutions (CDFIs) and Opportunity Zones (OZs).

Vice President

August 2017 - January 2021 (3 years 6 months)

Cincinnati, OH

Vice President and Commercial Real Estate Director in the National Tax Credit Lending team. Work across the Bank's footprint on tax credit lending transactions including new market tax credits (NMTC), historic tax credits, and low income housing tax credits (LIHTC).

Responsible for the non-tax credit commercial real estate lending strategy across the Bank's 10-state footprint as part of Fifth Third's \$32 billion 5-year Community Commitment.

The Port (Port of Greater Cincinnati Development Authority, Greater Cincinnati Redevelopment)

Executive Vice President

2015 - June 2017 (2 years)

Cincinnati, Ohio

Senior officer responsible for providing strategic direction on a broad range of strategy, policy, program development, and governance matters for both the Redevelopment Authority and the Hamilton County Land Reutilization Corporation (LandBank).

Developed innovative financing products to fund the Redevelopment Authority's industrial revitalization initiative to develop market ready sites to attract modern manufacturing back to Greater Cincinnati.

Directed programs that address abandoned, foreclosed and underutilized properties and other conditions that prevent Hamilton County residents from living in sustainable neighborhoods and from participating in economic prosperity. Partnered with local communities, municipalities, nonprofits, private sector financiers, and developers to return underutilized and foreclosed properties to their highest and best use.

Envisioned and led the Redevelopment Authority's evolution of its public finance work from primarily an issuer of conduit debt to an innovative real estate finance operation that plays a vital role within the development community.

Highly sought after speaker on a range of topics including: Public-Private Partnerships, Real Estate Development and Infrastructure Finance, PACE financing, Public Finance, and Programs to Address Abandoned Properties.

Port of Greater Cincinnati Development Authority

Vice President - Public Finance

2007 - 2015 (8 years)

Worked with businesses, developers, and municipalities to promote economic development in the City of Cincinnati and Hamilton County, Ohio, and drove the evolution of the public finance work from primarily an issuer of conduit debt to an innovative real estate finance operation that plays a vital role within the development community.

Led the Port Authority's bond issuance activities, specializing in structured lease, tax increment financing (TIF) and conduit bonds, issuing over \$500 million in bonds. Transaction experience includes Queen City Square Tower, Kenwood Collection, 5th and Race parking garage, Regency Centers retail and office development on Red Bank Road; and the Oakley Station mixed-use development.

Morgan Stanley

6 years

Vice President, Leverage and Acquisition Finance

2006 - 2007 (1 year)

New York, New York

Project Manager

2005 - 2006 (1 year)

New York, New York

Sale of AWAS (aircraft leasing business) and proposed Discover Card spin-off.

Associate

2001 - 2005 (4 years)

City of Cincinnati

Assistant to the Mayor

1996 - 1999 (3 years)

Cincinnati, Ohio

Assistant to Cincinnati Mayor Roxanne Qualls.



Education

Yale School of Management

Master of Business Administration (MBA), Finance, General · (1999 - 2001)

Stanford University

Bachelor's degree, Public Policy · (1991 - 1995)

City of Cincinnati



#54

Mayor John Cranley

202102826

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

September 2021

APPOINTMENT

I hereby appoint Greg Landsman to the Children & Families Cabinet for a term concurrent with his term as chair of the Major Projects & Smart Government Committee. This appointment is submitted to City Council for its advice and consent pursuant to its Rules.



Mayor John Cranley

for Carling

Date: November 12, 2020

To: Councilmembers Jan-Michele Kearney

From: Andrew Garth, Interim City Solicitor *AWG*

Subject: **Resolution – Erica J. Hollman Foundation**

Transmitted herewith is a resolution captioned as follows:

RECOGNIZING the Erica J. Holloman Foundation for its service and contributions to the fight against breast cancer, specifically against triple negative breast cancer.

AWG/AKS/(lnk)
Attachment
325799

RESOLUTION NO. _____ - 2020

RECOGNIZING the Erica J. Holloman Foundation for its service and contributions to the fight against breast cancer, specifically against triple negative breast cancer.

WHEREAS, triple negative breast cancer (“TNBC”) represents 15-20% of breast cancer diagnoses, and is comparatively more aggressive and difficult to treat than other breast cancers, resulting in a lower survival rate, and disproportionately impacts younger, Black, Latinx, and Asian women; and

WHEREAS, in the fight against cancer, it is essential that community members and oncologists are acutely aware of TNBC and the significance of its early detection and prevention; and

WHEREAS, the Erica J. Holloman Foundation (“Foundation”) was founded by Josie Holloman-Adams after her daughter, Dr. Erica J. Holloman, passed away from TNBC in 2011 at the age of 35 following more than a four year battle, during which she continued to work on her Ph.D. in Education at the University of Louisville while serving her students and the greater community; and

WHEREAS, the purpose of the Foundation is to honor the legacy of Dr. Holloman by raising awareness of TNBC, financially contributing to TNBC scientific research in the hope of a cure, and assisting the community in charitable efforts; and

WHEREAS, the Foundation hosts annual fundraisers and community events including the Mammogram Jam, College Students against TNBC, Play in Pink with the Walnut Hills High School Women’s Soccer program, and 50 Shades of Pink; and

WHEREAS, through the Foundation’s Bra Drive program approximately six thousand new bras have been collected and donated to those in shelters, disaster relief efforts, and career programs with “Smiling for Erica” ribbons to remind recipients of the importance of early cancer detection; and

WHEREAS, the Foundation led the effort for the procurement of “Triple Negative Breast Cancer Awareness” license plates, now implemented by the Ohio Bureau of Motor Vehicles under Section 4503.556 of the Ohio Revised Code; now, therefore,

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

Section 1. That the Mayor and this Council hereby recognize the Erica J. Holloman Foundation for its service and contributions to the fight against breast cancer, specifically against triple negative breast cancer.

Section 2. That this resolution be spread upon the minutes of Council and that copies be sent to the Cincinnati Health Department and Ohio Department of Health by the Clerk of Council.

Passed: _____, 2020

John Cranley, Mayor

Attest: _____
Clerk

Submitted by Councilmember Kearney



Jan-Michele Lemon Kearney
Councilmember

September 22, 2021

MOTION

WE MOVE for the City Administration to extend the current parking amnesty period for unpaid parking tickets incurred within the City of Cincinnati to December 31, 2021. The amount owed during this amnesty extension will include only the original parking ticket cost and no additional penalties or fees.

WE FURTHER MOVE for this amnesty period to authorize any person who pays an unpaid parking ticket or tickets by October 31, 2021, to pay half of the full balance of the original ticket cost and no additional penalties or fees.

WE FURTHER MOVE that all unpaid parking tickets incurred within the City of Cincinnati are eligible for the amnesty described above regardless of when the parking ticket was issued, or the number of parking tickets issued to any individual.

WE FURTHER MOVE for the City Administration to report to City Council the data collected pertaining to the amnesty period extension and October amnesty program, including amount of funds collected.

Councilmember Jan-Michele Lemon Kearney

_____	_____
_____	_____
_____	_____
_____	_____

STATEMENT

Paying parking fines and subsequent financial penalties are an economic hardship for many Cincinnatians, especially during the pandemic. According to the U.S. Census 2019 American Community Survey, 23 percent of our community's population live below the poverty level and this extension of amnesty through December 31, 2021, will remove financial burdens faced by our residents. The amnesty program will also encourage residents to pay outstanding parking tickets as late fees and penalties will be forgiven and/or waived.

For the year of 2021, the City of Cincinnati has approximately 27,768 unpaid parking tickets. In 2020, the City of Cincinnati had 18,888 unpaid parking tickets, and in 2019, the City had approximately 23,173 unpaid parking tickets. In 2018, the City of Cincinnati had 21,234 unpaid parking tickets, and in 2017, the City of Cincinnati had 18,373 unpaid parking tickets. Finally, in 2016, the City of Cincinnati had approximately 17,667 unpaid parking tickets. It is evident that the collection of parking ticket payments has stalled. This motion serves to accelerate the payment of unpaid parking tickets while providing much-needed relief to our citizens. The tickets issued in 2021 and 2020 range from \$250 to \$45, with a median amount of \$65 per ticket as an average of the amount owed to the City of Cincinnati.

We ask that the City Administration inform Council of the data collected from this relief program, including amounts collected during the amnesty and amnesty extension periods.

Date: September 24, 2021

To: Councilmember Jan-Michele Lemon Kearney
From: Andrew Garth, City Solicitor *AWG*
Subject: **Ordinance – Honorary Street Name The Lubavitcher Rebbe Way**

Transmitted herewith is an ordinance captioned as follows:

DECLARING that Reinhold Drive shall hereby receive the honorary, secondary name of The Lubavitcher Rebbe Way, honoring the life of Rabbi Menachem Mendel Schneerson, known internationally as The Lubavitcher Rebbe, in recognition of his contributions to the religious, educational, and humanitarian needs of the City of Cincinnati.

AWG/KKF/(lnk)
Attachment
348071

City of Cincinnati

KKF

AWB

An Ordinance No. _____

- 2021

DECLARING that Reinhold Drive shall hereby receive the honorary, secondary name of The Lubavitcher Rebbe Way, honoring the life of Rabbi Menachem Mendel Schneerson, known internationally as The Lubavitcher Rebbe, in recognition of his contributions to the religious, educational, and humanitarian needs of the City of Cincinnati.

WHEREAS, The Lubavitcher Rebbe was the son of Rabbi Levi Yitzchak and Rebbetzen Chana Schneerson; and

WHEREAS, The Lubavitcher Rebbe immigrated from war-torn Europe to America in 1941; and

WHEREAS, The Lubavitcher Rebbe assumed leadership of the international Chabad-Lubavitch movement in 1951, following the passing of his illustrious father-in-law Rabbi Yosef Yitzchak Schneerson; and

WHEREAS, The Lubavitcher Rebbe set up an international network of outreach and educational centers all over the globe that includes seven centers in the Greater Cincinnati area; and

WHEREAS, three generations of Chabad emissaries carry on his work that was started in Cincinnati in 1976; and

WHEREAS, The Lubavitcher Rebbe received the Congressional Gold Medal and his birthday has been declared Education and Sharing Day by every President since 1978 and in Cincinnati since 2018; now, therefore,

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

Section 1. That Reinhold Drive shall hereby receive the honorary, secondary name of The Lubavitcher Rebbe Way by legislative action of the Mayor and City Council in honor of Rabbi Menachem Mendel Schneerson, in recognition of his contributions to the City of Cincinnati and the world.

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 Reinhold Drive as The Lubavitcher Rebbe Way, in accordance with the Department of Transportation and Engineering's procedures relating to secondary street designation and related signage.

Section 3. That a copy of this ordinance be sent to the family of Rabbi Menachem Mendel Schneerson via the office of Councilmember Jan-Michele Lemon Kearney.

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

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

Date: September 23, 2021

To: Councilmember Jan-Michele Lemon Kearney
From: Andrew Garth, City Solicitor *AWG*
Subject: **Ordinance – Honorary Street Name Reverend Clarence S. Wallace Way**

Transmitted herewith is an ordinance captioned as follows:

DECLARING that Reading Road at Forest Avenue hereby receives the honorary, secondary name of Reverend Clarence S. Wallace Way in memory of Reverend Clarence S. Wallace, recognizing his contributions to the City of Cincinnati through his impactful service to the Avondale community.

AWG/CFG/(lnk)
Attachment
347193

City of Cincinnati

CFG

AWB

An Ordinance No. _____

-2021

DECLARING that Reading Road at Forest Avenue hereby receives the honorary, secondary name of Reverend Clarence S. Wallace Way in memory of Reverend Clarence S. Wallace, recognizing his contributions to the City of Cincinnati through his impactful service to the Avondale community.

WHEREAS, in 1978 Reverend Clarence S. Wallace moved to Cincinnati to serve as the pastor of Carmel Presbyterian Church in Avondale; and

WHEREAS, Rev. Wallace played a key role in numerous vital community programs and services, including establishing the Alcoholics Anonymous program as a long-term fixture of Carmel Presbyterian's ministry, and forming a summer program for youth via the Avondale Ecumenical Consortium; and

WHEREAS, to combat alarming infant mortality rates in Avondale, Rev. Wallace's church established a partnership in 2006 with Cincinnati Children's Hospital to host and house "Every Child Succeeds," a program that helps new parents and their children thrive; and

WHEREAS, within the first two years of the partnership, "Every Child Succeeds" reached 85% of eligible mothers, providing them with home visitation and other services; and

WHEREAS, to further assist new parents in the neighborhood, in 2007 Rev. Wallace led Carmel Presbyterian to establish the Avondale Caring Network Pantry, providing free baby formula and diapers; and

WHEREAS, Rev. Wallace actively served the Avondale community as a member of Cincinnati Community Action Now's Economic Inclusion Action Team, and as president of the Avondale Coalition of Churches; and

WHEREAS, under Rev. Wallace's leadership, the Avondale Coalition of Churches purchased the Avondale Town Center in 1996 and secured an ALDI grocery store to address the area's food desert; and

WHEREAS, Rev. Wallace passed away in 2012, but his legacy continues to live; now, therefore,

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

Section 1. That Reading Road at Forest Avenue shall hereby receive the honorary, secondary name of Reverend Clarence S. Wallace Way by legislative action of the Mayor and City

Council in honor of Reverend Clarence S. Wallace, in recognition of his contributions to the City of Cincinnati through his impactful service to the Avondale community.

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 Reading Road at Forest Avenue as Reverend Clarence S. Wallace Way, in accordance with the Department of Transportation and Engineering's procedures relating to secondary street designation.

Section 3. That a copy of this ordinance be sent to the family of Reverend Clarence S. Wallace via the office of Councilmember Jan-Michele Lemon Kearney.

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

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk



Jan-Michele Lemon Kearney
Councilmember

September 27, 2021

MOTION

WE MOVE that the City set aside funds in the Fiscal Year 2021 budget to repair and/or upgrade the following city roadways, including the provision of traffic calming devices and better grading to prevent accidents:

- Reading Road (From Avondale through Bond Hill and then Roselawn)
- Glenway
- Elberon (near Mt. Echo Park)
- Erie (by District 2)
- Sycamore Hill in Mt. Auburn
- Paddock Road between Reading Road and Tennessee Avenue


Councilmember Jan-Michele Lemon Kearney

_____	_____
_____	_____
_____	_____
_____	_____

Date: September 29, 2021

To: Mayor and Members of City Council

202102834

From: Paula Boggs Muething, City Manager

Subject: **Liquor License – Transfer (Exempt)**

FINAL RECOMMENDATION REPORT

OBJECTIONS: None

This is a report on a communication from the State of Ohio, Division of Liquor Control, advising of a permit application for the following:

APPLICATION: 1403569
PERMIT TYPE: TREX
CLASS: D5 D6
NAME: CINTRIFUSE LANDLORD LLC
DBA: NONE LISTED
1313 VINE ST
CINCINNATI, OH 45202

On August 12, 2021, Over-the-Rhine Community Council was notified of this application and do not object.

Police Department Approval

David M. Laing, Assistant City Prosecutor
Law Department - Recommendation

Objection No Objection

MUST BE RECEIVED BY OHIO DIVISION OF LIQUOR CONTROL BY: October 6, 2021

September 29, 2021

To: Mayor and Members of City Council 202102839
From: Paula Boggs Muething, City Manager
Subject: **Emergency Ordinance – Public Services: Moral Obligation
Payment to Kelly-Creswell**

Attached is an Emergency Ordinance captioned:

AUTHORIZING the payment of \$7,794.92 as a moral obligation to Ernest Industries, doing business as Kelly-Creswell, for outstanding charges incurred for the repair of line-stripping equipment for the Traffic and Road Operations Division; and **AUTHORIZING** the Finance Director to make payment of \$7,794.92 to Ernest Industries from the Street Construction Maintenance and Repair Fund Traffic and Road Operations non-personnel operating budget account no. 301x252x6000x7259.

This Emergency Ordinance authorizes the payment of \$7,794.92 as a moral obligation to Ernest Industries, doing business as (dba) Kelly-Creswell, for services provided to the Department of Public Services (DPS) Traffic and Road Operations Division in relation to repair of line-stripping equipment.

Kelly Creswell provided services to the City prior to the proper certification and encumbrance of funds. Due to the timing of the encumbrance, a moral obligation payment is required. DPS has reminded the vendor that a completed certification for work is needed prior to proceeding with any repairs of City equipment.

This Emergency Ordinance will also authorize the Finance Director to make a payment from the Street Construction Maintenance and Repair Fund Traffic and Road Operations non-personnel operating budget account no. 301x252x6000x7259 in an amount of \$7,794.92 for the purpose of providing payment to the vendor.

The reason for the emergency is the immediate need to pay Kelly-Creswell for outstanding charges relating to the services provided to the Department of Public Services.

The Administration recommends passage of this Emergency Ordinance.

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

Attachment

EMERGENCY

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- 2021

AUTHORIZING the payment of \$7,794.92 as a moral obligation to Ernest Industries, doing business as Kelly-Creswell, for outstanding charges incurred for the repair of line-striping equipment for the Traffic and Road Operations Division; and **AUTHORIZING** the Finance Director to make payment of \$7,794.92 to Ernest Industries from the Street Construction Maintenance and Repair Fund Traffic and Road Operations non-personnel operating budget account no. 301x252x6000x7259.

WHEREAS, Ernest Industries, doing business as Kelly-Creswell, repaired line-striping equipment for the Department of Public Services (“DPS”), Traffic and Road Operations Division, without having submitted a certification for the work prior to beginning the repairs; and

WHEREAS, DPS has identified and resolved the issue which led to this oversight to avoid a similar situation in the future, and the vendor has been reminded that a completed certification for work is needed prior to proceeding with any repairs of City equipment; and

WHEREAS, sufficient resources are available to cover the incurred expenses in Street Construction Maintenance and Repair Fund Traffic and Road Operations non-personnel operating budget account no. 301x252x6000x7259; and

WHEREAS, the Cincinnati City Council desires to provide payment for such services in the amount of \$7,794.92; now, therefore,

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

Section 1. That the Finance Director is authorized to make a total payment of \$7,794.92 as a moral obligation to Ernest Industries, doing business as Kelly-Creswell, for outstanding charges incurred for the repair of line-striping equipment for the Traffic and Road Operations Division of the Department of Public Services, to be paid from Street Construction Maintenance and Repair Fund Traffic and Road Operations non-personnel operating budget account no. 301x252x6000x7259.

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

Section 3. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to pay Kelly-Creswell for outstanding charges relating to the services provided to the Department of Public Services.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

September 29, 2021

To: Mayor and Members of City Council 202102840
From: Paula Boggs Muething, City Manager
Subject: Emergency Ordinance – ETS: Moral Obligation Payment to OARnet

Attached is an Emergency Ordinance captioned:

AUTHORIZING the payment of \$57,000 as a moral obligation to The Ohio State University, doing business as the Ohio Academic Resources Network, for internet services and connectivity to the remote data center as part of the City's disaster recovery solution, and **AUTHORIZING** the Finance Director to make payment of \$57,000 to the Ohio Academic Resources Network from the General Fund non-departmental Enterprise Software and Licenses non-personnel operating budget account no. 050x952x4500x7212.

This Emergency Ordinance authorizes the payment of \$57,000 as a moral obligation to The Ohio State University, doing business as (dba) the Ohio Academic Resources Network (OARnet), for services provided to the Department of Enterprise Technology Solutions (ETS) in relation to internet services and connectivity to the remote data center as part of the City's disaster recovery solution.

OARnet provided services to the City in Fiscal Year 2020 and Fiscal Year 2021 for which funds were not properly encumbered. Due to the timing of the encumbrance, a moral obligation payment is required. ETS has identified and resolved the issue which led to this oversight to avoid a similar situation in the future. Moving forward, the department intends to perform routine audits to ensure prompt payment of outstanding invoices.

This Emergency Ordinance will also authorize the Finance Director to make a payment from the General Fund non-departmental Enterprise Software and Licenses non-personnel operating budget account no. 050x952x4500x7212 in an amount of \$57,000 for the purpose of providing payment to the vendor.

The reason for the emergency is the immediate need to avoid service interruption by paying Ohio Academic Resources Network for past due charges invoiced to Enterprise Technology Solutions.

The Administration recommends passage of this Emergency Ordinance.

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

Attachment

EMERGENCY

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AUTHORIZING the payment of \$57,000 as a moral obligation to The Ohio State University, doing business as the Ohio Academic Resources Network, for internet services and connectivity to the remote data center as part of the City’s disaster recovery solution; and **AUTHORIZING** the Finance Director to make payment of \$57,000 to the Ohio Academic Resources Network from the General Fund non-departmental Enterprise Software and Licenses non-personnel operating budget account no. 050x952x4500x7212.

WHEREAS, Ohio Academic Resources Network (“OARnet”) provided services to the Department of Enterprise Technology Solutions (“ETS”), including internet services and connectivity to the remote data center as part of the City’s disaster recovery solution; and

WHEREAS, OARnet has not been paid for these services despite having timely submitted invoices to ETS; and

WHEREAS, ETS has identified and resolved the issue which led to this oversight, and it is anticipated that greater stability in ETS staffing and improved communication between ETS and the vendor will prevent similar situations in the future; and

WHEREAS, City Council desires to provide payment for the services provided by OARnet; now, therefore,

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

Section 1. That the Finance Director is authorized to make a payment of \$57,000 from the General Fund non-departmental Enterprise Software and Licenses non-personnel operating budget account no. 050x952x4500x7212 to The Ohio State University, doing business as Ohio Academic Resources Network, as a moral obligation of the City of Cincinnati, for internet service and connectivity to the remote data center as part of the City’s disaster recovery solution.

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

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 avoid service interruption by paying Ohio Academic Resources Network for past due charges invoiced to Enterprise Technology Solutions.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

September 29, 2021

To: Mayor and Members of City Council 202102841
From: Paula Boggs Muething, City Manager
Subject: **Ordinance – Cincinnati Fire Department Carbon Monoxide Detector In-Kind Donation**

Attached is an Ordinance captioned:

AUTHORIZING the City Manager to accept an in-kind donation from the Candace Bates State Farm Agency of 25 carbon monoxide units valued at up to \$500 for use by the Cincinnati Fire Department.

Approval of this Ordinance authorizes the City Manager to accept an in-kind donation from the Candace Bates State Farm Agency of equipment valued at up to \$500 for use by Cincinnati Fire Department.

The Candace Bates State Farm Agency has offered to donate equipment, including 25 carbon monoxide detectors, to the Cincinnati Fire Department to be used for fire prevention efforts.

This donation does not require additional FTE or matching funds.

This Ordinance is in accordance with the “Sustain” goal to “manage our financial resources” as described on page 199 of Plan Cincinnati (2012).

The Administration recommends passage of this Ordinance.

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

Attachment



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- 2021

AUTHORIZING the City Manager to accept an in-kind donation from the Candace Bates State Farm Agency of 25 carbon monoxide units valued at up to \$500 for use by the Cincinnati Fire Department.

WHEREAS, the Candace Bates State Farm Agency has offered to donate 25 carbon monoxide units to the Cincinnati Fire Department to be used for fire prevention efforts; and

WHEREAS, the value of the donation is up to \$500; and

WHEREAS, there is no local match required and no FTEs are associated with this donation; and

WHEREAS, this ordinance is in accordance with the “Sustain” goal to “manage our financial resources” as described on page 199 of Plan Cincinnati (2012); now, therefore,

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

Section 1. That the City Manager is hereby authorized to accept an in-kind donation from the Candace Bates State Farm Agency of 25 carbon monoxide units valued at up to \$500 for use by Cincinnati Fire Department Fire in fire prevention efforts.

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: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

September 29, 2021

To: Mayor and Members of City Council 202102842
From: Paula Boggs Muething, City Manager
Subject: EMERGENCY ORDINANCE – LUNKEN AIRPORT LEASE WITH CONDOR AIR, LTD

Attached is an emergency ordinance captioned as follows:

AUTHORIZING the City Manager to execute a *Lease Agreement* with Condor Air, Ltd. pursuant to which the company will renew its leasehold interest at Lunken Airport for up to an additional twenty years.

The City currently leases space at Lunken Airport, known as Lease Area 47, to Condor Air, Ltd. (“Company”) pursuant to a lease that is scheduled to expire on October 31, 2021.

The Company desires to renew its leasehold interest for up to an additional 20 years (namely, an initial term of 5 years commencing November 1, 2021, with three 5-year renewal options), as further described in the attached *Lease Agreement*.

Council previously authorized the renewal of the Company’s lease by Ordinance No. 35-2020, but, upon further investigation, it was determined that extensive capital improvements are required to modernize the hangar on the leased premises (ownership of which will revert to the City upon the expiration of the existing lease) and to render it functional to serve tenants and their contemporary aircraft.

The Company has agreed to make substantial improvements to the City’s hangar that will improve its functionality and extend its useful life, and the *Lease Agreement* has been revised to reflect this arrangement.

The City’s Real Estate Services Division, in consultation with the City’s Airport Manager, and after considering airport industry standards, FAA requirements, and the work to be performed by the Company, has determined by appraisal that the fair market rental value of the leased premises is approximately \$33,550 per annum, which the Company has agreed to pay (with rent for each renewal period to be adjusted as described in the *Lease Agreement*).

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

The City Planning Commission approved the renewed lease of Lease Area 47 to the Company at its meeting on January 17, 2020.

The reason for the emergency is the immediate need to execute the *Lease Agreement* prior to the expiration of the Company’s existing lease, to ensure the Company’s leasehold is timely renewed, and that the City receives the benefit of the work to be performed by the Company at the earliest possible time.

The Administration recommends passage of the attached emergency ordinance.

Attachment I – Lease agreement

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

EMERGENCY

City of Cincinnati

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An Ordinance No. _____

- 2021

AUTHORIZING the City Manager to execute a *Lease Agreement* with Condor Air, Ltd. pursuant to which the company will renew its leasehold interest at Lunken Airport for up to an additional twenty years.

WHEREAS, the City owns Lunken Airport, which is under the management and control of the City's Department of Transportation and Engineering; and

WHEREAS, the City currently leases space at the Airport, known as Lease Area 47, to Condor Air, Ltd. ("Company") pursuant to a lease that is scheduled to expire on October 31, 2021; and

WHEREAS, the Company desires to renew its leasehold interest for up to an additional twenty years (namely, an initial term of five years commencing November 1, 2021, with three five-year renewal options), as further described in the *Lease Agreement* attached to this ordinance as Attachment A; and

WHEREAS, Council previously authorized the renewal of the Company's lease by Ordinance No. 35-2020, but, upon further investigation, it was determined that extensive capital improvements are required to modernize the hangar on the leased premises (ownership of which will revert to the City upon the expiration of the existing lease) and to render it functional to serve tenants and their contemporary aircraft; and

WHEREAS, the Company has agreed to make substantial improvements to the City's hangar that will improve its functionality and extend its useful life, and the *Lease Agreement* has been revised to reflect this arrangement; and

WHEREAS, the City's Real Estate Services Division, in consultation with the City's Airport Manager, and after considering airport industry standards, FAA requirements, and the work to be performed by the Company, has determined by appraisal that the fair market rental value of the leased premises is approximately \$33,550 per annum, which the Company has agreed to pay (with rent for each renewal period to be adjusted as described in the *Lease Agreement*); and

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

WHEREAS, the City Planning Commission approved the renewed lease of Lease Area 47 to the Company at its meeting on January 17, 2020; now, therefore,

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

Section 1. That the City Manager is hereby authorized to execute a *Lease Agreement* with Condor Air, Ltd. (“Company”), in substantially the form attached as Attachment A to this ordinance, pursuant to which the City of Cincinnati will renew the company’s leasehold interest in Lease Area 47 at Lunken Airportm for an initial term of five years, with three five-year renewal options (for a total of up to twenty years).

Section 2. That the rent set forth in the *Lease Agreement* reflects the fair market rental value of the leased premises, as determined by appraisal by the City’s Real Estate Services Division in consultation with the City’s Airport Manager and after considering airport industry standards, FAA requirements, and the work necessary to update and extend the useful life of the hangar.

Section 3. That eliminating competitive bidding in connection with the City’s lease of the leased premises is in the best interest of the City because the Company has been a good and responsible tenant at the Airport for decades, the City desires to retain the Company as a tenant, and the Company will make improvements to the City’s hangar that will improve its functionality and extend its useful life.

Section 4. That the proper City officials are hereby authorized to take all necessary and proper actions to carry out the provisions of this ordinance and the *Lease Agreement*, including executing any and all ancillary documents associated therewith.

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 execute the *Lease Agreement* prior to the expiration of the Company’s

existing lease to ensure the Company's leasehold is timely renewed and that the City receives the benefit of the work to be performed by the Company at the earliest possible time.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

ATTACHMENT A

Contract No. _____

Property: Lunken Airport – Lease Area No. 47

LUNKEN AIRPORT LEASE AGREEMENT

THIS LEASE AGREEMENT (“Lease”) is made and entered into on the Effective Date (as defined on the signature page hereof) by and between the **City of Cincinnati**, an Ohio municipal corporation, the address of which is 801 Plum Street, Cincinnati, OH 45202 (the “City”), and **Condor Air, Ltd.**, an Ohio limited liability company, the address of which is 670 Wilmer Avenue, Cincinnati, OH 45226 (“Lessee”).

Recitals:

A. The City owns Lunken Airport, which is under the management and control of the City’s Department of Transportation and Engineering (“**DOTE**”).

B. Pursuant to an *Agreement of Lease* dated November 1, 1976 between the City and Condor, an Ohio general partnership (Lessee’s predecessor-in-interest), as amended by an *Addendum to Lease* dated August 15, 1977 and an *Amendment of Lease* dated November 18, 1999 (as so amended, the “**Existing Lease**”), Lessee currently leases the portion of the Airport known as Lease Area No. 47, containing approximately 1.575 acres, as generally depicted on Exhibit A (Site Map) and described on Exhibit B (Description of Leased Premises) hereto (the “**Leased Premises**”), for the storage, maintenance and repair of airplanes and other general aeronautical purposes (the “**Permitted Use**”).

C. The initial 45-year term of the Existing Lease (an initial term of 5 years, with eight 5-year renewal options) is scheduled to expire on Oct 31, 2021. Ownership of the hangar and associated leasehold improvements at the Leased Premises (the “**Leasehold Improvements**”) will automatically revert to the City on the above specified expiration date.

D. The parties desire to enter into a new lease pursuant to which the City will lease the Leased Premises to Lessee for an additional term of up to 20 years (5 years, with three 5-year renewal options).

E. The Leasehold Improvements require capital repairs and maintenance (as further described on Exhibit A hereto; hereinafter referred to as the “**Work**”), and Lessee has agreed to make the needed repairs and maintenance at its sole cost and expense.

F. The rent set forth in this Lease reflects the fair market rental value of the Leased Premises, as determined by analysis by the City’s Real Estate Services Division and the Airport Manager taking into consideration airport industry standards and FAA requirements, and as further modified in recognition of the Work to be performed by Lessee.

G. City Planning Commission, having the authority to approve the change in the use of City owned property, approved the City’s lease of the Leased Premises to Lessee for an additional term of up to 20 years at its meeting on January 17, 2020.

H. Execution of this Lease was authorized by Ordinance No. _____, passed by Cincinnati City Council on _____, 2021.

NOW, THEREFORE, the parties hereby agree as follows:

1. Leased Premises; Termination of Existing Lease.

(A) Grant. The City hereby leases the Leased Premises to Lessee, and Lessee hereby leases the Leased Premises from the City, on the terms and conditions set forth herein. The City makes no

representations or warranties to Lessee regarding the physical condition of the Airport or Leased Premises and Lessee accepts the Leased Premises in "as is" condition. The rights herein granted to Lessee are subject and subordinate to any and all existing covenants, easements, restrictions and other matters of record affecting the Leased Premises, and to any and all existing agreements between the City and the federal government pertaining to the Airport.

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

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

2. Term; Renewal Periods.

(A) Initial Term (5 years). The initial term of this Lease ("Initial Term") shall commence on **November 1, 2021** (the "**Commencement Date**"), and, unless extended or sooner terminated as herein provided, shall expire on **Oct 31, 2026**. As used herein, each "**Lease Year**" shall mean each 12-month period from Nov 1 through Oct 31.

(B) Renewal Periods (three 5-year automatic renewal periods unless Lessee provides Notice of Non-Renewal). Provided that (i) on the commencement date of each renewal period Lessee is not in default under this Lease beyond any applicable notice and cure period provided for herein, and (ii) Lessee shall not have notified the City in writing that Lessee does NOT wish to extend the Term (a "**Notice of Non-Renewal**"), the Initial Term of this Lease shall automatically be extended for three (3) renewal periods of five (5) years each (each, a "**Renewal Period**") (for a total Term, including the Initial Term, of 20 Lease Years). Each renewal shall be on the same terms and conditions as set forth herein (except that, after the 3rd Renewal Period, there shall be no additional renewal options unless agreed to by the parties in a written amendment to this Lease). As used herein, the "**Term**" of this Lease means the Initial Term and, if applicable, the Renewal Periods.

3. Rent.

(A) Base Rent. Beginning on the Commencement Date, Lessee shall pay annual base rent in equal monthly installments, in advance, on the first business day of each month, in the amounts calculated in this paragraph (namely, fixed for the Initial Term, with CPI adjustments every 5 years thereafter). The monthly installment of rent for any partial calendar month at the beginning or end of the Term shall be prorated on a per diem basis. Notwithstanding the rent adjustments provided for herein, in no event shall annual base rent decrease.

(i) Initial Term (Lease Years 1-5: Nov 1, 2021 – Oct 31, 2026) (fixed). For Lease Years 1-5, annual base rent shall be equal to the following amount:

Annual Amount	Monthly Installment
\$33,550.00	\$2,795.83

(ii) Renewal Periods (CPI adjustment every 5 years). Effective as of the first day of Lease

Years 6, 11 and 16 (i.e., every 5 years), the annual base rent shall increase to an amount that is equal to the product of multiplying the annual base rent payable during the 5-year term then just ended by a fraction, the numerator of which is the CPI most recently published 60 days prior to the rent adjustment date, and the denominator of which is the CPI most recently published 60 days prior to the commencement of the 5-year term then just ended. "CPI" means the Consumer Price Index, All Urban Consumers, U. S. City Average (1982-1984=100) published from time to time by the United States Bureau of Labor Statistics. Lessee shall make all CPI rent adjustment computations under this section 3(A) and shall send written notice of each CPI-based rent adjustment, together with Lessee's computations ("**Lessee's Rent Adjustment Notice**"), to DOTE (to the two addresses set forth in section 12 below) and to the City's Real Estate Services Division (801 Plum Street, Room 122, Cincinnati, OH 45202) no less than 30 days prior to each rent adjustment date.

(B) **Place of Payment.** As used herein, "rent" shall mean base rent and all other amounts payable by Lessee to the City under this Lease. Rent shall be payable to "Treasurer – City of Cincinnati" and mailed or delivered to: City of Cincinnati, 262 Wilmer Avenue, Room 22, Cincinnati, OH 45226, Attn: Lunken Airport Manager, or to such other address as the City may from time to time specify in writing.

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

(D) **Rent Adjustment if Lessee Fails to Complete the Work Within One Year.** If Lessee fails to complete the Work to the City's satisfaction within **one (1) year** after the Commencement Date (such determination to be made by the City) (the "**Work Period**"), the annual base rent for Lease Years 2-5 shall automatically increase to the following amount:

Annual Amount	Monthly Installment
\$61,950.00	\$5,162.50

In addition, if Lessee fails to complete the Work to the City's satisfaction within the Work Period, Lessee shall pay additional rent in the following amount during Lease Years 2-5 to reimburse the City for the Year 1 base rent adjustment applied in anticipation of Lessee's performance of the Work:

Annual Amount	Monthly Installment
\$7,100.00	\$591.67

If Lessee commences and diligently pursues the completion of the Work, but for reasons beyond Lessee's reasonable control (excluding financial reasons), Lessee is unable to complete the Work within the Work Period, Lessee may, prior to the end of the Work Period, make a written request to extend the Work Period for a reasonable period of time, which the City agrees to consider (however the City's agreement to consider such request shall not impair the City's termination rights under this paragraph (D) should the City determine that Lessee's failure to complete the Work within the Work Period was within Lessee's reasonable control or that the requested extension is otherwise not justified).

4. Permitted Use. Provided Lessee has obtained all valid permits from the City and any and all other required permits, Lessee shall use the Leased Premises for the Permitted Use and for no other activities whatsoever without the City's prior written consent. Lessee's right to use the Leased Premises for the Permitted Use is non-exclusive, and nothing herein shall limit or prevent the City from granting the same or similar non-exclusive rights to other persons or entities utilizing space at the Airport. Lessee shall not deviate from the Permitted Use without the City's prior written approval (and if required, as determined by the City, without the prior written approval of the FAA).

5. Utilities; Real Estate Taxes; Other Expenses. This is a "triple net" lease for the City, and during the Term of this Lease, Lessee shall pay (i) any and all utility charges associated with the Leased

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

6. Performance of Work; Maintenance and Repairs; Other Operating Requirements.

(A) Work. Lessee shall complete the Work in accordance with Exhibit C and Exhibit D hereto.

(B) Maintenance and Repairs. Lessee shall maintain the Leased Premises in good, clean and safe condition and repair, shall not permit any waste or nuisance on the Leased Premises, shall not permit any debris or rubbish to accumulate in open space, and shall keep the Leased Premises free from unreasonable accumulations of snow and ice and other obstructions. Without limitation of the foregoing, Lessee shall replace all light bulbs and filters, provide water sprinkler system inspection and repair, provide trash removal, window washing, grass cutting and proper maintenance of landscaped areas, and maintain and keep in good condition and repair the exterior and interior structural portions and roof of any and all buildings, structures, hangars, fences, fixtures, pavement, HVAC, electrical, plumbing and mechanical fixtures, and any and all other improvements located on the Leased Premises, reasonable wear and tear excepted, and in compliance with all applicable building and fire codes, airport regulations and other laws (collectively, "**Applicable Laws**").

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

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

(E) Fuel Facilities. Lessee shall have sole responsibility for the operation, maintenance, repair and replacement of the fuel storage and distribution facilities located on the Leased Premises. Lessee shall be responsible for all required inspections and State of Ohio annual registration and fees.

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

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

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

(H) Flood Plain. Lessee acknowledges that (i) the Leased Premises are located in a flood plain, (ii) FEMA requires that all improvements constructed within a flood plain comply with precise, rigorous

construction standards, (iii) City building officials will not issue construction permits if the plans are not in compliance with the FEMA standards specific to flood plains, and (iv) compliance may add significant additional time and costs to the design and construction of the Leasehold Improvements.

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

(J) Determinations by DOTE. All determinations of the City, including determinations by the DOTE Director, with respect to the construction, alteration, maintenance, repair, restoration or removal of improvements at the Leased Premises shall be based upon confirmation that the improvements (i) are structurally sound, (ii) comply with the safety standards and requirements applicable to all other buildings and structures at the Airport, (iii) are consistent with the quality and appearance of Airport facilities adjacent to Wilmer Avenue, and (iv) comply with all other requirements under this Lease applicable to the Leasehold Improvements.

7. Insurance.

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

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

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

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

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

(v) workers compensation insurance as required by law.

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

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

(D) Indemnity. The City assumes no responsibility for any acts, errors or omissions of Lessee or

any employee, agent, contractor, subcontractor, representative or any other person acting or purporting to act for or on behalf of Lessee. Lessee shall defend, indemnify and hold the City, its employees, agents, contractors and subcontractors ("**Indemnified Parties**") harmless from and against all costs (including without limitation legal costs), losses, claims, demands, actions, suits, judgments, claims for relief, damages and liability suffered or incurred by or asserted against the Indemnified Parties or any one or more of them as a result of or arising from the acts of Lessee, its employees, agents, licensees, invitees, contractors, subcontractors or anyone else acting at the request of Lessee in connection with Lessee's activities at or with respect to the Leased Premises or in connection with any breach by Lessee under this Lease.

8. Casualty; Eminent Domain. If the Leased Premises are damaged or destroyed by fire or other casualty or if any portion thereof is taken by exercise of eminent domain (federal, state or local), Lessee shall repair and restore the same, as expeditiously as possible, and to the extent practicable, to substantially the same condition in which they were in immediately prior to such occurrence. The City and Lessee shall jointly participate in filing claims and taking such other actions pertaining to the payment of proceeds resulting from such occurrence. If Lessee's insurance proceeds are insufficient to fully repair and restore the Leasehold Improvements, Lessee shall make up the deficiency. Lessee shall handle all construction in accordance with the applicable requirements set forth in this Lease. Lessee shall not be relieved of any obligations, financial or otherwise, under this Lease during any period in which the Leasehold Improvements are being repaired or restored.

9. Default; Remedies.

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

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

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

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

sequester or similar official for it or for any of its respective property or assets (unless, in the case of involuntary proceedings, the same shall be dismissed within ninety (90) days after institution).

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

10. Assignment and Subletting. Lessee acknowledges that the City is entering into this transaction because of the City's confidence that Lessee has the financial means and business experience that are necessary to successfully operate Lessee's business in accordance with the provisions of this Lease. Lessee acknowledges that the City shall not be expected to consent to a proposed assignment or sublease by Lessee of its interests under this Lease to any person or entity in whom the City does not have similar confidence. Any attempt by Lessee to assign, sublease, or otherwise transfer its interests under this Lease to a third party without the City's prior written consent shall be null and void and shall, at the option of the City, constitute a default of Lessee under this Lease. No assignment or sublease by Lessee of its rights or obligations under this Lease to an affiliate or any other third party shall relieve Lessee from any liability to the City under this Lease.

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

To the City:

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

To Lessee:

Condor Air, Ltd.
670 Wilmer Avenue
Cincinnati, OH 45226

with a copy to:

Lunken Airport Administration Building
Attn: Airport Manager
262 Wilmer Avenue, Room 23
Cincinnati, OH 45226

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

12. Surrender; Holdover.

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

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

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

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

13. Compliance with Laws.

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

(B) **Non-Discrimination.** With reference to 49 CFR Subtitle A, Part 21, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation", the purpose of which "is to effectuate the provisions of Title VI of the Civil Rights Act of 1964 . . . to the end that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance from the Department of Transportation", Lessee shall include the foregoing provision in every agreement or concession pursuant to which any person or persons, other than Lessee, operates any facility at the Leased Premises providing services to the public and shall include therein a provision granting the City the right to take such action as the United States may direct to enforce such covenant. Lessee shall defend, indemnify and hold harmless the City from any and all claims and demands of third persons, including the United States of America, resulting from Lessee's noncompliance with any of the provisions of this section and shall reimburse the City for any and all losses or expenses incurred by reason

of such noncompliance.

14. General Provisions.

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

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

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

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

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

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

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

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

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

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

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

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

- 15. Exhibits.** The following exhibits are attached hereto and made a part hereof:
Exhibit A - *Site Map*
Exhibit B - *Legal Description of Leased Premises*

Exhibit C – *Description of Work*
Exhibit D – *Construction Requirements*
Exhibit E – *Additional Requirements*

SIGNATURE PAGE FOLLOWS

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

Condor Air, Ltd.

By: _____

Printed name: _____

Title: _____

Date: _____, 2021

City of Cincinnati

By: _____
Paula Boggs Muething, City Manager

Date: _____, 2021

Recommended by:

John Brazina, Director, Department of Transportation and Engineering

Fred Anderton, Lunken Airport Manager

Approved as to Form:

Assistant City Solicitor

Certified Date: _____

Fund/Code: _____

Amount: _____

By: _____
Karen Alder, City Finance Director

EXHIBIT A

SITE MAP

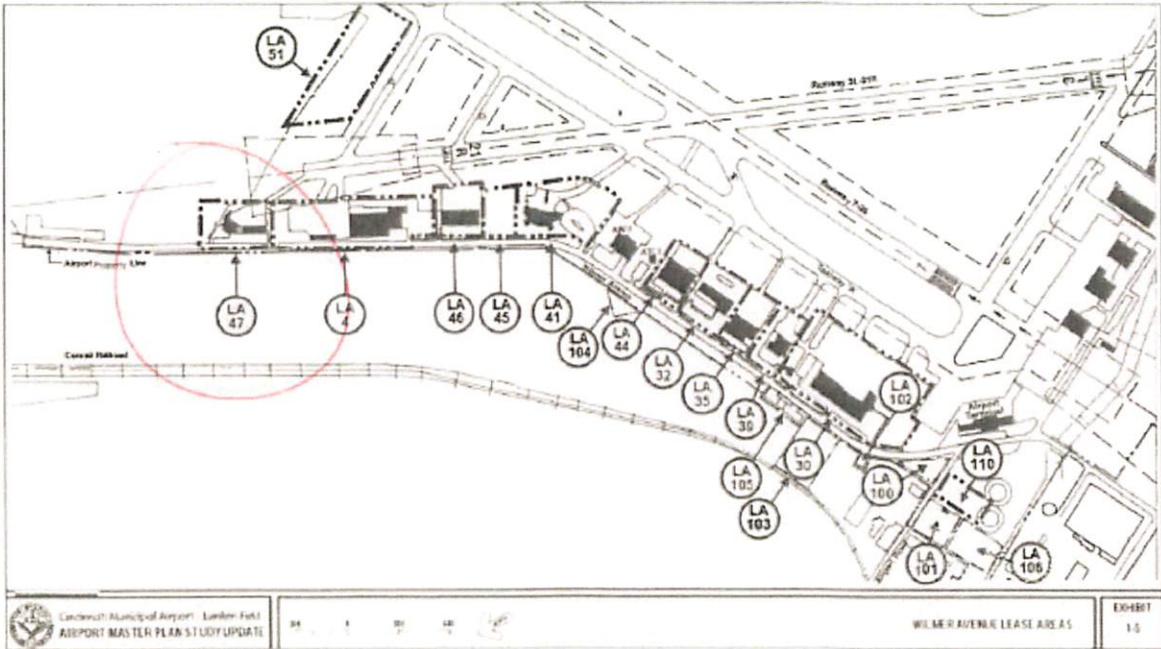


EXHIBIT B

LEGAL DESCRIPTION OF LEASED PREMISES

LEASE AREA 47

Situate in Section 19, Town 4, Fractional Range 2, Columbia Township, City of Cincinnati, Hamilton County, Ohio, being part of Lots 57, 58 and 67 of Longworth's Subdivision of Turkey Bottom as recorded in Plat Book 3, Page 105, Hamilton County Records and more particularly described as follows:

From the common corner of Lots 58, 59, 65 and 67 of Longworth's Subdivision of Turkey Bottom as recorded in Plat Book 3, Page 105, Hamilton County Records, said corner being also an angle point on the northwesterly right-of-way line of Wilmer Avenue (as established by Ordinance No. 164-1962), measure along said northwesterly right-of-way line South 27 degrees, 4 minutes, 55 seconds West, 400.00 feet to the northerly corner of the property leased to the Proctor & Gamble Company by Paragraph One of Parcel Two as recorded in Lease Book 313, Pages 517-519 Hamilton County Records; thence measure along the northeasterly boundary line of said property South 54 degrees, 13 minutes, 05 seconds East, 93.58 feet to the southeasterly right-of-way line of said Wilmer Avenue for the PLACE OF BEGINNING; thence continuing along said northeasterly boundary line South 54 degrees, 13 minutes, 05 seconds East, 206.42 feet to a point; thence North 29 degrees, 53 minutes, 55 seconds East, 166.30 feet to the westerly Recreation

Commission line; thence along said Recreation Commission line continuing north 29 degrees, 53 minutes, 55 seconds East, 101.83 feet to a point; thence continuing along said Recreation Commission Line North 23 degrees, 24 minutes, 18 seconds West, 256.09 feet to the said southeasterly right-of-way line of Wilmer Avenue; thence along said southeasterly right of way line south 29 degrees, 53 minutes, 55 seconds West, 400.00 feet to the PLACE OF BEGINNING, containing 1.575 acres, more or less.

EXHIBIT C
DESCRIPTION OF WORK



<u>Planned Immediate Improvements</u>	<u>Estimated Cost</u>
Replace Hangar doors	\$475,000
Replace all original passenger steel doors	\$34,000
Remodeling passenger area	\$128,000
Repaint and seal all structures	\$55,000
Reblacktop Ramp and Parking Lot	\$186,000
Rebuild Hangar Bathroom	\$29,000
Seal hangar floors and reinsulate hangars	\$46,000
Signage and lighting	\$32,000
Security gate and cameras	\$24,000
Fuel Farm DOT compliance	?
Total	\$1,009,000

EXHIBIT D

CONSTRUCTION REQUIREMENTS

As used in this exhibit, the word "Project" shall mean the Work.

1. Construction Schedule.

(A) Completion Date. Lessee shall complete the Work within **one (1) year** after the Commencement Date (defined in this Lease as the Work Period). (The parties acknowledge that Section 3(D) in the main body of this Lease provides that Lessee may request an extension of the Work Period in the event of a delay in completing the Work caused by circumstances beyond Lessee's reasonable control, which the City agrees to consider.)

(B) Verification of Actual Commencement and Completion Dates. Lessee shall notify DOTE promptly after commencing the Work, and shall notify DOTE within **10 days** following the date on which Lessee completes the Work (a "**Notice of Completion**"). The City shall inspect the Work upon completion and notify Lessee of any observable deficiencies.

2. Design & Construction. Prior to commencing construction, Lessee shall provide DOTE with plans and specifications for the Work for DOTE's review and approval (as approved, the "**Final Plans**"). Once approved by DOTE, Lessee shall not make any changes without DOTE's written approval. Lessee shall obtain all other required approvals pertaining to the Final Plans, and any and all changes thereto, from the City's Building Department. Lessee shall cause the Work to be performed in accordance with the Final Plans. All construction shall be performed in a good and workmanlike manner and in accordance with all legal requirements. All materials and workmanship shall be of good quality, and upon completion of construction, all improvements will be structurally safe and sound, and all parts therefor and all mechanical equipment therein and all utilities serving the improvements will be in good working order and will have been properly installed, tested, and paid for. Upon completion of construction, Lessee shall deliver a copy of all final "as-built" drawings to DOTE.

3. City's Approval of General Contractor and Subcontractors. Lessee's general contractor and subcontractors for the Project shall be subject to the prior written approval of DOTE. Lessee shall not hire any contractor or subcontractor who is listed on the Federal Debarred List or State Debarred List, or any contractor or subcontractor who is identified as being debarred on the City's Vendor's Performance list (as identified on the applicable federal, state and local government websites).

4. Monthly Project Reports. Until such time as the Work has been completed, Lessee shall submit a monthly progress report to DOTE so that the City can be kept up-to-date on all matters pertaining to the Work.

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

6. Signs. During construction, the City shall have the right to review and approve all construction-related, financing-related and other signs relating to the Project that are posted at the site.

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

8. Insurance. Throughout construction of the Project, Lessee shall maintain, or cause to be

maintained, the following insurance: (i) Commercial General Liability insurance of at least Two Million Dollars (\$2,000,000) per occurrence, combined single limit, naming the City as an additional insured, (ii) builder's risk insurance in the amount of one-hundred percent (100%) of the value of the improvements constructed, (iii) worker's compensation insurance in such amount as required by law, (iv) all insurance as may be required by Lessee's construction lenders, and (v) such other insurance as may be reasonably required by the City. All insurance maintained pursuant to this Lease shall be written by companies of recognized responsibility and credit reasonably acceptable to the City and authorized to do business in the State of Ohio, and in the form customarily in use or otherwise reasonably acceptable to the City. Lessee shall provide all applicable certificates of insurance to the City prior to the commencement of construction.

9. Environmental Issues. During construction, Lessee shall not accumulate, process, store, treat, or dispose of any Hazardous Materials (as hereinafter defined) at the site, nor shall Lessee allow any other person or entity to do so, except that Lessee may, in accordance with all applicable legal requirements, accumulate, process, store, treat and dispose of such Hazardous Materials as are necessary or incidental in connection with the Project. Under no circumstances shall the City have any liability to Lessee, nor shall the City be expected to take any remedial or other actions, with respect to pre-existing Hazardous Materials or other pre-existing environmental conditions at the site. For purposes of this Lease, "Hazardous Materials" shall mean: (i) any "hazardous substance," "pollutant" or "contaminant" as defined in the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9601(14) and (33) or 40 C.F.R. Part 302 (including asbestos, asbestos containing materials and polychlorinated biphenyls (PCBs)), and (ii) any substance containing "petroleum," as defined in the Resource Conservation and Recovery Act, 42 U.S.C. §6991(8), or 40 C.F.R. §280.12.

10. Prevailing Wage. Lessee shall comply with applicable prevailing wages for the Project as determined by state and local law. If available on the Effective Date, a copy of the City's prevailing wage determination is attached as *Addendum I* to this Exhibit. Lessee acknowledges and agrees that it has not and shall not rely upon determinations or representations made by the City, its employees or agents regarding applicability of state and local prevailing wage laws and that Lessee's decisions regarding applicability of and compliance with such laws shall be based upon its own and its counsel's investigations, determinations and opinions. Without limitation of other rights and remedies available to the City under this Lease or under state or local laws, Lessee shall defend, indemnify and hold the City harmless from and against all costs (including without limitation legal costs), losses, claims, demands, actions, suits, judgments, claims for relief, damages and liability suffered or incurred by or asserted against them as a result of or arising from Lessee's failure to comply with applicable prevailing wage laws.

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

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

* * *

EXHIBIT E
ADDITIONAL REQUIREMENTS

As used in this exhibit, the term "Project" shall mean the Work, and the term "Developer" shall mean Lessee.

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, without limitation, 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 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 (“CMC”) Chapter 321. CMC 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 ("ORC"), 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 CMC 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.¹

(i) Applicability. The applicability of CMC Chapter 323 (Small Business Enterprise Program) is limited to construction contracts in excess of \$5,000. CMC 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 CMC 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 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.

1 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.

(2) Assuring that SBEs are solicited whenever they are potential sources. Contractor must advertise, on at least two separate occasions, both in local minority publications and in other local newspapers of general circulation, invitations to SBEs to provide services, to supply materials or to bid on construction contracts for the Project. Contractor is encouraged to use the internet and similar types of advertising to reach a broader audience, but these additional types of advertising cannot be used as substitutes for the above.

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

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

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

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

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

(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 CMC 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. CMC Chapter 325 (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. CMC Chapter 325 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 CMC Chapter 325, 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 CMC Chapter 319, which provides for a "Prompt Payment System", may apply to this Agreement. CMC 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 ORC Section 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 CMC Chapter 326 (Wage Enforcement) (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. CMC 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 ORC Section 3735.67, et seq., or Job Creation Tax Credits pursuant to ORC Section 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 Exhibit E

Prevailing Wage Determination

[To be attached to execution version of Lease Agreement

LUNKEN AIRPORT LEASE AGREEMENT

THIS LEASE AGREEMENT (“**Lease**”) is made and entered into on the Effective Date (as defined on the signature page hereof) by and between the **City of Cincinnati**, an Ohio municipal corporation, the address of which is 801 Plum Street, Cincinnati, OH 45202 (the “**City**”), and **Condor Air, Ltd.**, an Ohio limited liability company, the address of which is 670 Wilmer Avenue, Cincinnati, OH 45226 (“**Lessee**”).

Recitals:

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

B. Pursuant to an *Agreement of Lease* dated November 1, 1976 between the City and Condor, an Ohio general partnership (Lessee’s predecessor-in-interest), as amended by an *Addendum to Lease* dated August 15, 1977 and an *Amendment of Lease* dated November 18, 1999 (as so amended, the “**Existing Lease**”), Lessee currently leases the portion of the Airport known as Lease Area No. 47, containing approximately 1.575 acres, as generally depicted on Exhibit A (Site Map) and described on Exhibit B (Description of Leased Premises) hereto (the “**Leased Premises**”), for the storage, maintenance and repair of airplanes and other general aeronautical purposes (the “**Permitted Use**”).

C. The initial 45-year term of the Existing Lease (an initial term of 5 years, with eight 5-year renewal options) is scheduled to expire on **Oct 31, 2021**. Ownership of the hangar and associated leasehold improvements at the Leased Premises (the “**Leasehold Improvements**”) will automatically revert to the City on the above specified expiration date.

D. The parties desire to enter into a new lease pursuant to which the City will lease the Leased Premises to Lessee for an additional term of up to 20 years (5 years, with three 5-year renewal options).

E. The Leasehold Improvements require capital repairs and maintenance (as further described on Exhibit A hereto; hereinafter referred to as the “**Work**”), and Lessee has agreed to make the needed repairs and maintenance at its sole cost and expense.

F. The rent set forth in this Lease reflects the fair market rental value of the Leased Premises, as determined by analysis by the City’s Real Estate Services Division and the Airport Manager taking into consideration airport industry standards and FAA requirements, and as further modified in recognition of the Work to be performed by Lessee.

G. City Planning Commission, having the authority to approve the change in the use of City owned property, approved the City’s lease of the Leased Premises to Lessee for an additional term of up to 20 years at its meeting on January 17, 2020.

H. Execution of this Lease was authorized by Ordinance No. _____, passed by Cincinnati City Council on _____, 2021.

NOW, THEREFORE, the parties hereby agree as follows:

1. Leased Premises; Termination of Existing Lease.

(A) Grant. The City hereby leases the Leased Premises to Lessee, and Lessee hereby leases the Leased Premises from the City, on the terms and conditions set forth herein. The City makes no

representations or warranties to Lessee regarding the physical condition of the Airport or Leased Premises and Lessee accepts the Leased Premises in “as is” condition. The rights herein granted to Lessee are subject and subordinate to any and all existing covenants, easements, restrictions and other matters of record affecting the Leased Premises, and to any and all existing agreements between the City and the federal government pertaining to the Airport.

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

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

2. Term; Renewal Periods.

(A) Initial Term (5 years). The initial term of this Lease (“**Initial Term**”) shall commence on **November 1, 2021** (the “**Commencement Date**”), and, unless extended or sooner terminated as herein provided, shall expire on **Oct 31, 2026**. As used herein, each “**Lease Year**” shall mean each 12-month period from Nov 1 through Oct 31.

(B) Renewal Periods (three 5-year automatic renewal periods unless Lessee provides Notice of Non-Renewal). Provided that (i) on the commencement date of each renewal period Lessee is not in default under this Lease beyond any applicable notice and cure period provided for herein, and (ii) Lessee shall not have notified the City in writing that Lessee does NOT wish to extend the Term (a “**Notice of Non-Renewal**”), the Initial Term of this Lease shall automatically be extended for three (3) renewal periods of five (5) years each (each, a “**Renewal Period**”) (for a total Term, including the Initial Term, of 20 Lease Years). Each renewal shall be on the same terms and conditions as set forth herein (except that, after the 3rd Renewal Period, there shall be no additional renewal options unless agreed to by the parties in a written amendment to this Lease). As used herein, the “**Term**” of this Lease means the Initial Term and, if applicable, the Renewal Periods.

3. Rent.

(A) Base Rent. Beginning on the Commencement Date, Lessee shall pay annual base rent in equal monthly installments, in advance, on the first business day of each month, in the amounts calculated in this paragraph (namely, fixed for the Initial Term, with CPI adjustments every 5 years thereafter). The monthly installment of rent for any partial calendar month at the beginning or end of the Term shall be prorated on a per diem basis. Notwithstanding the rent adjustments provided for herein, in no event shall annual base rent decrease.

(i) Initial Term (Lease Years 1-5: Nov 1, 2021 – Oct 31, 2026) (fixed). For Lease Years 1-5, annual base rent shall be equal to the following amount:

Annual Amount	Monthly Installment
\$33,550.00	\$2,795.83

(ii) Renewal Periods (CPI adjustment every 5 years). Effective as of the first day of Lease

Years 6, 11 and 16 (i.e., every 5 years), the annual base rent shall increase to an amount that is equal to the product of multiplying the annual base rent payable during the 5-year term then just ended by a fraction, the numerator of which is the CPI most recently published 60 days prior to the rent adjustment date, and the denominator of which is the CPI most recently published 60 days prior to the commencement of the 5-year term then just ended. “CPI” means the Consumer Price Index, All Urban Consumers, U. S. City Average (1982-1984=100) published from time to time by the United States Bureau of Labor Statistics. Lessee shall make all CPI rent adjustment computations under this section 3(A) and shall send written notice of each CPI-based rent adjustment, together with Lessee’s computations (“**Lessee’s Rent Adjustment Notice**”), to DOTE (to the two addresses set forth in section 12 below) and to the City’s Real Estate Services Division (801 Plum Street, Room 122, Cincinnati, OH 45202) no less than 30 days prior to each rent adjustment date.

(B) Place of Payment. As used herein, “rent” shall mean base rent and all other amounts payable by Lessee to the City under this Lease. Rent shall be payable to “Treasurer – City of Cincinnati” and mailed or delivered to: City of Cincinnati, 262 Wilmer Avenue, Room 22, Cincinnati, OH 45226, Attn: Lunken Airport Manager, or to such other address as the City may from time to time specify in writing.

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

(D) Rent Adjustment if Lessee Fails to Complete the Work Within One Year. If Lessee fails to complete the Work to the City’s satisfaction within **one (1) year** after the Commencement Date (such determination to be made by the City) (the “**Work Period**”), the annual base rent for Lease Years 2-5 shall automatically increase to the following amount:

Annual Amount	Monthly Installment
\$61,950.00	\$5,162.50

In addition, if Lessee fails to complete the Work to the City’s satisfaction within the Work Period, Lessee shall pay additional rent in the following amount during Lease Years 2-5 to reimburse the City for the Year 1 base rent adjustment applied in anticipation of Lessee’s performance of the Work:

Annual Amount	Monthly Installment
\$7,100.00	\$591.67

If Lessee commences and diligently pursues the completion of the Work, but for reasons beyond Lessee’s reasonable control (excluding financial reasons), Lessee is unable to complete the Work within the Work Period, Lessee may, prior to the end of the Work Period, make a written request to extend the Work Period for a reasonable period of time, which the City agrees to consider (however the City’s agreement to consider such request shall not impair the City’s termination rights under this paragraph (D) should the City determine that Lessee’s failure to complete the Work within the Work Period was within Lessee’s reasonable control or that the requested extension is otherwise not justified).

4. Permitted Use. Provided Lessee has obtained all valid permits from the City and any and all other required permits, Lessee shall use the Leased Premises for the Permitted Use and for no other activities whatsoever without the City’s prior written consent. Lessee’s right to use the Leased Premises for the Permitted Use is non-exclusive, and nothing herein shall limit or prevent the City from granting the same or similar non-exclusive rights to other persons or entities utilizing space at the Airport. Lessee shall not deviate from the Permitted Use without the City’s prior written approval (and if required, as determined by the City, without the prior written approval of the FAA).

5. Utilities; Real Estate Taxes; Other Expenses. This is a “triple net” lease for the City, and during the Term of this Lease, Lessee shall pay (i) any and all utility charges associated with the Leased

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

6. Performance of Work; Maintenance and Repairs; Other Operating Requirements.

(A) Work. Lessee shall complete the Work in accordance with Exhibit C and Exhibit D hereto.

(B) Maintenance and Repairs. Lessee shall maintain the Leased Premises in good, clean and safe condition and repair, shall not permit any waste or nuisance on the Leased Premises, shall not permit any debris or rubbish to accumulate in open space, and shall keep the Leased Premises free from unreasonable accumulations of snow and ice and other obstructions. Without limitation of the foregoing, Lessee shall replace all light bulbs and filters, provide water sprinkler system inspection and repair, provide trash removal, window washing, grass cutting and proper maintenance of landscaped areas, and maintain and keep in good condition and repair the exterior and interior structural portions and roof of any and all buildings, structures, hangars, fences, fixtures, pavement, HVAC, electrical, plumbing and mechanical fixtures, and any and all other improvements located on the Leased Premises, reasonable wear and tear excepted, and in compliance with all applicable building and fire codes, airport regulations and other laws (collectively, "**Applicable Laws**").

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

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

(E) Fuel Facilities. Lessee shall have sole responsibility for the operation, maintenance, repair and replacement of the fuel storage and distribution facilities located on the Leased Premises. Lessee shall be responsible for all required inspections and State of Ohio annual registration and fees.

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

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

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

(H) Flood Plain. Lessee acknowledges that (i) the Leased Premises are located in a flood plain, (ii) FEMA requires that all improvements constructed within a flood plain comply with precise, rigorous

construction standards, (iii) City building officials will not issue construction permits if the plans are not in compliance with the FEMA standards specific to flood plains, and (iv) compliance may add significant additional time and costs to the design and construction of the Leasehold Improvements.

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

(J) Determinations by DOTE. All determinations of the City, including determinations by the DOTE Director, with respect to the construction, alteration, maintenance, repair, restoration or removal of improvements at the Leased Premises shall be based upon confirmation that the improvements (i) are structurally sound, (ii) comply with the safety standards and requirements applicable to all other buildings and structures at the Airport, (iii) are consistent with the quality and appearance of Airport facilities adjacent to Wilmer Avenue, and (iv) comply with all other requirements under this Lease applicable to the Leasehold Improvements.

7. Insurance.

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

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

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

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

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

(v) workers compensation insurance as required by law.

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

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

(D) Indemnity. The City assumes no responsibility for any acts, errors or omissions of Lessee or

any employee, agent, contractor, subcontractor, representative or any other person acting or purporting to act for or on behalf of Lessee. Lessee shall defend, indemnify and hold the City, its employees, agents, contractors and subcontractors ("**Indemnified Parties**") harmless from and against all costs (including without limitation legal costs), losses, claims, demands, actions, suits, judgments, claims for relief, damages and liability suffered or incurred by or asserted against the Indemnified Parties or any one or more of them as a result of or arising from the acts of Lessee, its employees, agents, licensees, invitees, contractors, subcontractors or anyone else acting at the request of Lessee in connection with Lessee's activities at or with respect to the Leased Premises or in connection with any breach by Lessee under this Lease.

8. Casualty; Eminent Domain. If the Leased Premises are damaged or destroyed by fire or other casualty or if any portion thereof is taken by exercise of eminent domain (federal, state or local), Lessee shall repair and restore the same, as expeditiously as possible, and to the extent practicable, to substantially the same condition in which they were in immediately prior to such occurrence. The City and Lessee shall jointly participate in filing claims and taking such other actions pertaining to the payment of proceeds resulting from such occurrence. If Lessee's insurance proceeds are insufficient to fully repair and restore the Leasehold Improvements, Lessee shall make up the deficiency. Lessee shall handle all construction in accordance with the applicable requirements set forth in this Lease. Lessee shall not be relieved of any obligations, financial or otherwise, under this Lease during any period in which the Leasehold Improvements are being repaired or restored.

9. Default; Remedies.

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

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

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

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

sequester or similar official for it or for any of its respective property or assets (unless, in the case of involuntary proceedings, the same shall be dismissed within ninety (90) days after institution).

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

10. Assignment and Subletting. Lessee acknowledges that the City is entering into this transaction because of the City's confidence that Lessee has the financial means and business experience that are necessary to successfully operate Lessee's business in accordance with the provisions of this Lease. Lessee acknowledges that the City shall not be expected to consent to a proposed assignment or sublease by Lessee of its interests under this Lease to any person or entity in whom the City does not have similar confidence. Any attempt by Lessee to assign, sublease, or otherwise transfer its interests under this Lease to a third party without the City's prior written consent shall be null and void and shall, at the option of the City, constitute a default of Lessee under this Lease. No assignment or sublease by Lessee of its rights or obligations under this Lease to an affiliate or any other third party shall relieve Lessee from any liability to the City under this Lease.

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

To the City:

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

To Lessee:

Condor Air, Ltd.
670 Wilmer Avenue
Cincinnati, OH 45226

with a copy to:

Lunken Airport Administration Building
Attn: Airport Manager
262 Wilmer Avenue, Room 23
Cincinnati, OH 45226

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

12. Surrender; Holdover.

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

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

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

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

13. Compliance with Laws.

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

(B) Non-Discrimination. With reference to 49 CFR Subtitle A, Part 21, “Nondiscrimination in Federally-Assisted Programs of the Department of Transportation”, the purpose of which “is to effectuate the provisions of Title VI of the Civil Rights Act of 1964 . . . to the end that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance from the Department of Transportation”, Lessee shall include the foregoing provision in every agreement or concession pursuant to which any person or persons, other than Lessee, operates any facility at the Leased Premises providing services to the public and shall include therein a provision granting the City the right to take such action as the United States may direct to enforce such covenant. Lessee shall defend, indemnify and hold harmless the City from any and all claims and demands of third persons, including the United States of America, resulting from Lessee’s noncompliance with any of the provisions of this section and shall reimburse the City for any and all losses or expenses incurred by reason

of such noncompliance.

14. General Provisions.

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

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

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

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

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

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

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

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

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

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

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

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

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

Exhibit A - *Site Map*

Exhibit B - *Legal Description of Leased Premises*

Exhibit C – *Description of Work*
Exhibit D – *Construction Requirements*
Exhibit E – *Additional Requirements*

SIGNATURE PAGE FOLLOWS

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

Condor Air, Ltd.

By: _____

Printed name: _____

Title: _____

Date: _____, 2021

City of Cincinnati

By: _____
Paula Boggs Muething, City Manager

Date: _____, 2021

Recommended by:

John Brazina, Director, Department of Transportation and Engineering

Fred Anderton, Lunken Airport Manager

Approved as to Form:

Assistant City Solicitor

Certified Date: _____

Fund/Code: _____

Amount: _____

By: _____
Karen Alder, City Finance Director

EXHIBIT A

SITE MAP

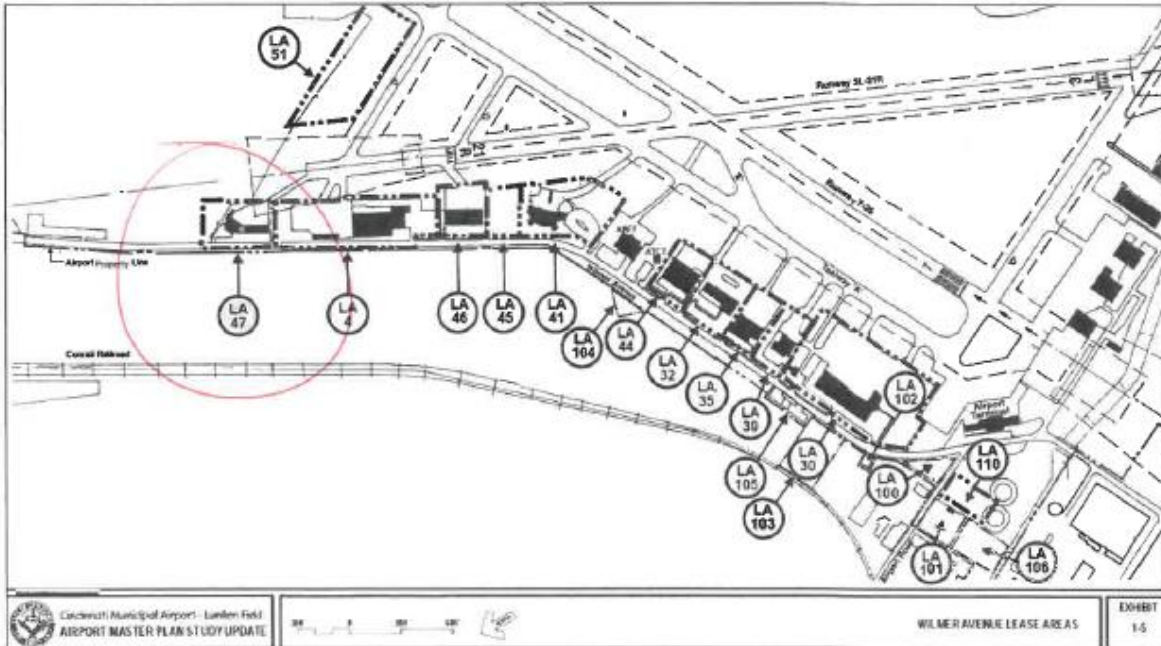


EXHIBIT B

LEGAL DESCRIPTION OF LEASED PREMISES

LEASE AREA 47

Situate in Section 19, Town 4, Fractional Range 2, Columbia Township, City of Cincinnati, Hamilton County, Ohio, being part of Lots 57, 58 and 67 of Longworth's Subdivision of Turkey Bottom as recorded in Plat Book 3, Page 105, Hamilton County Records and more particularly described as follows:

From the common corner of Lots 58, 59, 65 and 67 of Longworth's Subdivision of Turkey Bottom as recorded in Plat Book 3, Page 105, Hamilton County Records, said corner being also an angle point on the northwesterly right-of-way line of Wilmer Avenue (as established by Ordinance No. 164-1962), measure along said northwesterly right-of-way line South 27 degrees, 4 minutes, 55 seconds West, 400.00 feet to the northerly corner of the property leased to the Proctor & Gamble Company by Paragraph One of Parcel Two as recorded in Lease Book 313, Pages 517-519 Hamilton County Records; thence measure along the northeasterly boundary line of said property South 54 degrees, 13 minutes, 05 seconds East, 93.58 feet to the southeasterly right-of-way line of said Wilmer Avenue for the PLACE OF BEGINNING; thence continuing along said northeasterly boundary line South 54 degrees, 13 minutes, 05 seconds East, 206.42 feet to a point; thence North 29 degrees, 53 minutes, 55 seconds East, 166.30 feet to the westerly Recreation

Commission line; thence along said Recreation Commission line continuing north 29 degrees, 53 minutes, 55 seconds East, 101.83 feet to a point; thence continuing along said Recreation Commission Line North 23 degrees, 24 minutes, 18 seconds West, 256.09 feet to the said southeasterly right-of-way line of Wilmer Avenue; thence along said southeasterly right of way line south 29 degrees, 53 minutes, 55 seconds West, 400.00 feet to the PLACE OF BEGINNING, containing 1.575 acres, more or less.

EXHIBIT C

DESCRIPTION OF WORK



<u>Planned Immediate Improvements</u>	<u>Estimated Cost</u>
Replace Hangar doors	\$475,000
Replace all original passenger steel doors	\$34,000
Remodeling passenger area	\$128,000
Repaint and seal all structures	\$55,000
Reblacktop Ramp and Parking Lot	\$186,000
Rebuild Hangar Bathroom	\$29,000
Seal hangar floors and reinsulate hangars	\$46,000
Signage and lighting	\$32,000
Security gate and cameras	\$24,000
Fuel Farm DOT compliance	?
Total	<u>\$1,009,000</u>

EXHIBIT D

CONSTRUCTION REQUIREMENTS

As used in this exhibit, the word "Project" shall mean the Work.

1. Construction Schedule.

(A) Completion Date. Lessee shall complete the Work within **one (1) year** after the Commencement Date (defined in this Lease as the Work Period). (The parties acknowledge that Section 3(D) in the main body of this Lease provides that Lessee may request an extension of the Work Period in the event of a delay in completing the Work caused by circumstances beyond Lessee's reasonable control, which the City agrees to consider.)

(B) Verification of Actual Commencement and Completion Dates. Lessee shall notify DOTE promptly after commencing the Work, and shall notify DOTE within 10 days following the date on which Lessee completes the Work (a "**Notice of Completion**"). The City shall inspect the Work upon completion and notify Lessee of any observable deficiencies.

2. Design & Construction. Prior to commencing construction, Lessee shall provide DOTE with plans and specifications for the Work for DOTE's review and approval (as approved, the "**Final Plans**"). Once approved by DOTE, Lessee shall not make any changes without DOTE's written approval. Lessee shall obtain all other required approvals pertaining to the Final Plans, and any and all changes thereto, from the City's Building Department. Lessee shall cause the Work to be performed in accordance with the Final Plans. All construction shall be performed in a good and workmanlike manner and in accordance with all legal requirements. All materials and workmanship shall be of good quality, and upon completion of construction, all improvements will be structurally safe and sound, and all parts therefor and all mechanical equipment therein and all utilities serving the improvements will be in good working order and will have been properly installed, tested, and paid for. Upon completion of construction, Lessee shall deliver a copy of all final "as-built" drawings to DOTE.

3. City's Approval of General Contractor and Subcontractors. Lessee's general contractor and subcontractors for the Project shall be subject to the prior written approval of DOTE. Lessee shall not hire any contractor or subcontractor who is listed on the Federal Debarred List or State Debarred List, or any contractor or subcontractor who is identified as being debarred on the City's Vendor's Performance list (as identified on the applicable federal, state and local government websites).

4. Monthly Project Reports. Until such time as the Work has been completed, Lessee shall submit a monthly progress report to DOTE so that the City can be kept up-to-date on all matters pertaining to the Work.

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

6. Signs. During construction, the City shall have the right to review and approve all construction-related, financing-related and other signs relating to the Project that are posted at the site.

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

8. Insurance. Throughout construction of the Project, Lessee shall maintain, or cause to be

maintained, the following insurance: (i) Commercial General Liability insurance of at least Two Million Dollars (\$2,000,000) per occurrence, combined single limit, naming the City as an additional insured, (ii) builder's risk insurance in the amount of one-hundred percent (100%) of the value of the improvements constructed, (iii) worker's compensation insurance in such amount as required by law, (iv) all insurance as may be required by Lessee's construction lenders, and (v) such other insurance as may be reasonably required by the City. All insurance maintained pursuant to this Lease shall be written by companies of recognized responsibility and credit reasonably acceptable to the City and authorized to do business in the State of Ohio, and in the form customarily in use or otherwise reasonably acceptable to the City. Lessee shall provide all applicable certificates of insurance to the City prior to the commencement of construction.

9. Environmental Issues. During construction, Lessee shall not accumulate, process, store, treat, or dispose of any Hazardous Materials (as hereinafter defined) at the site, nor shall Lessee allow any other person or entity to do so, except that Lessee may, in accordance with all applicable legal requirements, accumulate, process, store, treat and dispose of such Hazardous Materials as are necessary or incidental in connection with the Project. Under no circumstances shall the City have any liability to Lessee, nor shall the City be expected to take any remedial or other actions, with respect to pre-existing Hazardous Materials or other pre-existing environmental conditions at the site. For purposes of this Lease, "Hazardous Materials" shall mean: (i) any "hazardous substance," "pollutant" or "contaminant" as defined in the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9601(14) and (33) or 40 C.F.R. Part 302 (including asbestos, asbestos containing materials and polychlorinated biphenyls (PCBs)), and (ii) any substance containing "petroleum," as defined in the Resource Conservation and Recovery Act, 42 U.S.C. §6991(8), or 40 C.F.R. §280.12.

10. Prevailing Wage. Lessee shall comply with applicable prevailing wages for the Project as determined by state and local law. If available on the Effective Date, a copy of the City's prevailing wage determination is attached as *Addendum I* to this Exhibit. Lessee acknowledges and agrees that it has not and shall not rely upon determinations or representations made by the City, its employees or agents regarding applicability of state and local prevailing wage laws and that Lessee's decisions regarding applicability of and compliance with such laws shall be based upon its own and its counsel's investigations, determinations and opinions. Without limitation of other rights and remedies available to the City under this Lease or under state or local laws, Lessee shall defend, indemnify and hold the City harmless from and against all costs (including without limitation legal costs), losses, claims, demands, actions, suits, judgments, claims for relief, damages and liability suffered or incurred by or asserted against them as a result of or arising from Lessee's failure to comply with applicable prevailing wage laws.

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

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

* * *

EXHIBIT E
ADDITIONAL REQUIREMENTS

As used in this exhibit, the term “Project” shall mean the Work, and the term “Developer” shall mean Lessee.

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, without limitation, 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 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 (“**CMC**”) Chapter 321. CMC 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 (“**ORC**”), 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 CMC 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.¹

(i) Applicability. The applicability of CMC Chapter 323 (Small Business Enterprise Program) is limited to construction contracts in excess of \$5,000. CMC 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 CMC 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 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.

¹ 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.

(2) Assuring that SBEs are solicited whenever they are potential sources. Contractor must advertise, on at least two separate occasions, both in local minority publications and in other local newspapers of general circulation, invitations to SBEs to provide services, to supply materials or to bid on construction contracts for the Project. Contractor is encouraged to use the internet and similar types of advertising to reach a broader audience, but these additional types of advertising cannot be used as substitutes for the above.

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

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

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

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

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

(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 CMC 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. CMC Chapter 325 (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. CMC Chapter 325 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 CMC Chapter 325, 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 CMC Chapter 319, which provides for a "Prompt Payment System", may apply to this Agreement. CMC 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 ORC Section 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 CMC Chapter 326 (Wage Enforcement) (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. CMC 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 ORC Section 3735.67, et seq., or Job Creation Tax Credits pursuant to ORC Section 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 Exhibit E

Prevailing Wage Determination

[To be attached to execution version of Lease Agreement

Date: September 29, 2021

To: Mayor and Members of City Council 202102843
From: Paula Boggs Muething, City Manager
Subject: ORDINANCE – LEASE A PORTION OF BLUE ROCK STREET TO BREWING ARTS, LLC

Attached is an ordinance captioned as follows:

AUTHORIZING the City Manager to execute a Lease Agreement with Brewing Arts, LLC, pursuant to which the City will lease for a five-year term an above grade portion of the excess right of way located north of Blue Rock Street, and between Cherry Street and Turrill Street, in the Northside neighborhood.

The City owns certain real property, designated as public right of way, and more particularly described as an above grade portion of the excess right of way located north of Blue Rock Street between Cherry Street and Turrill Street in the Northside neighborhood (the “Property”). Brewing Arts, LLC owns property abutting the Property and has requested to lease the Property.

The City has determined the Lease Area is not needed for vehicular or pedestrian access or any other municipal purpose for the duration of the lease and leasing the area to Brewing Arts, LLC is not adverse to the City’s retained interest in the Lease Area.

The fair market value of the Lease Area is approximately \$2,400 per year, which Brewing Arts, LLC has agreed to pay.

The City Planning Commission approved the lease at its meeting on August 20, 2021.

The Administration recommends passage of the attached ordinance.

Attachment I – Lease Agreement

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

City of Cincinnati

JRS

An Ordinance No. _____ - 2021

AWB

AUTHORIZING the City Manager to execute a *Lease Agreement* with Brewing Arts, LLC, pursuant to which the City will lease for a five-year term an above grade portion of the excess right of way located north of Blue Rock Street, and between Cherry Street and Turrill Street, in the Northside neighborhood.

WHEREAS, the City of Cincinnati owns certain real property, designated as public right of way, and more particularly described as an above grade portion of the excess right of way located north of Blue Rock Street, and between Cherry Street and Turrill Street, in the Northside neighborhood (the “Property”), which Property is under the management of the Department of Transportation and Engineering (“DOTE”); and

WHEREAS, Brewing Arts, LLC, an Ohio limited liability company (“Lessee”), owns or otherwise controls certain real property abutting the Property located at 1662 Blue Rock Street, and has requested to lease from the City a portion of the Property, as more particularly depicted in the *Lease Agreement* attached to this ordinance as Attachment A and incorporated herein by reference (the “Lease Area”); and

WHEREAS, the City Manager, in consultation with DOTE, has determined that (i) the Lease Area is not needed for vehicular or pedestrian access or any other municipal purpose for the duration of the lease, and (ii) leasing the Lease Area to Lessee is not adverse to the City’s retained interest in the Lease Area or the Property; and

WHEREAS, the City’s Real Estate Services Division has determined by appraisal that the fair market rental value of the Lease Area is approximately \$2,400 per year, which Lessee has agreed to pay; and

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

WHEREAS, the City Planning Commission, having the authority to approve the change in the use of City-owned property, approved the lease of the Lease Area at its meeting on August 20, 2021; now, therefore,

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

Section 1. That the City Manager is hereby authorized to execute a *Lease Agreement* with Brewing Arts, LLC, an Ohio limited liability company (“Lessee”), in substantially the form attached as Attachment A to this ordinance and incorporated herein by reference, pursuant to which the City of Cincinnati will lease for a five-year term an above grade portion of the excess right of way located north of Blue Rock Street, and between Cherry Street and Turrill Street, in the Northside neighborhood, as more particularly depicted in the *Lease Agreement* (the “Lease Area”).

Section 2. That the Lease Area is not needed for vehicular or pedestrian access or any other municipal purpose for the duration of the lease.

Section 3. That leasing the Lease Area to Lessee is not adverse to the City’s retained interest in the Lease Area.

Section 4. That eliminating competitive bidding in connection with the City’s lease of the Lease Area is in the best interest of the City because as a practical matter, no one other than Lessee, an abutting property owner, would have any interest in leasing the Lease Area and assuming responsibility for the maintenance and repair thereof.

Section 5. That the fair market value of the lease, as determined by appraisal by the City’s Real Estate Services Division, is \$2,400 per year, which Lessee has agreed to pay.

Section 6. That the proceeds from the lease of the Property, if any, shall be deposited into Property Management Fund 209 to pay the fees for services provided by the City’s Real Estate Services Division in connection with the lease, and that the City’s Finance Director is hereby authorized to deposit amounts in excess amount thereof into Miscellaneous Permanent Improvement Fund 757.

Section 7. That the City’s Finance Director is authorized to transfer and appropriate such excess funds from Miscellaneous Permanent Improvement Fund 757 into Capital Improvement Program Project Account No. 980x233xYY2306, “Street Improvements,” in which “YY” represents the last two digits of the fiscal year in which the closing occurs and the proceeds are received, referencing the latter fiscal year if the events occur in different fiscal years.

Section 8. That the proper City officials are hereby authorized to take all necessary and proper actions to carry out the provisions and intent of this ordinance and the *Lease Agreement* including by generating and installing street signage in accordance with the Department of Transportation and Engineering’s policies and procedures, and by executing any and all ancillary documents associated with the *Lease Agreement*, such as amendments or supplements to the *Lease Agreement* deemed by the City Manager to be in the vital and best interests of the City.

Section 9. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

ATTACHMENT A

LEASE AGREEMENT

(Portion of excess right-of-way north of Blue Rock Street between Cherry Street and Turrill Street)

This Lease Agreement (“Lease”) is made and entered into on the Effective Date (as defined on the signature page hereof) by and between the **City of Cincinnati**, an Ohio municipal corporation, the address of which is 801 Plum Street, Cincinnati, OH 45202 (the “City”), and **Brewing Arts, LLC**, an Ohio limited liability corporation, the address of which is 1662 Blue Rock Street, Cincinnati, Ohio, 45223, (“Tenant”).

Recitals:

A. The City owns the portion of excess right-of-way north of Blue Rock Street between Cherry Street and Turrill Street in the Northside neighborhood, as depicted on Exhibit A (Site Map) hereto, which is under the management and control of the City’s Department of Transportation and Engineering (“DOT”).

B. Tenant owns the adjoining property located at 1662 Blue Rock Street, Cincinnati, Ohio, 45223, also depicted on Exhibit A (“Tenant’s Property”).

C. Tenant desires to lease the portion of the public street marked “Lease Area” on Exhibit A (the “Leased Premises”), for assimilation with Tenant’s Property.

D. Brian J. Hirsch, Esq., a reputable attorney practicing in Hamilton County, Ohio, has certified via an Attorney Certificate of Title that Tenant owns all of the real property abutting the Leased Premises.

E. Pursuant to Section 723.04, Ohio Revised Code, the City has determined that there is good cause to close the Leased Premises to the general public and that the lease of the Leased Premises to Tenant will not be detrimental to the general interest.

F. Pursuant to Section 331-1, Cincinnati Municipal Code (“CMC”), the City has determined that the Leased Premises are not currently needed for transportation or other municipal purposes.

G. Pursuant to Section 331-1, CMC, the City has determined that the fair market rental value of the Leased Premises, as determined by appraisal by the City’s Real Estate Services Division, is \$2,400/year, which Tenant has agreed to pay.

H. Pursuant to Section 331-5, CMC, the City has determined that eliminating competitive bidding in connection with leasing the Leased Premises is in the best interest of the public because, as a practical matter, no one other than an adjoining property owner would have any interest in leasing the Leased Premises and assuming responsibility for the maintenance and repair thereof.

I. City Planning Commission, having the authority to approve the change in the use of City-owned property, approved the City’s lease of the Leased Premises to Tenant at its meeting on August 20, 2021.

J. The City’s execution of this Lease was approved by Cincinnati City Council by Ordinance No. ___ - 20___, passed on _____, 20___.

NOW THEREFORE, the parties hereby agree as follows:

1. Grant.

(A) Grant. The City does hereby lease the Leased Premises to Tenant, and Tenant does hereby lease the Leased Premises from the City, on the terms and conditions set forth therein. The rights herein granted to Tenant are subject and subordinate to any and all existing covenants, easements, restrictions and other matters of record affecting the Leased Premises. The City makes no representations or warranties to Tenant concerning {00347677-1}

the physical condition of the Leased Premises or the condition of the City's title to the Leased Premises and, on the Commencement Date (defined below), Tenant shall accept the Leased Premises in "as is" condition.

2. Term.

(A) **Initial Term.** The initial term ("Term") of this Lease shall be five (5) years and shall commence on the Effective Date (as defined on the signature page hereof), (herein, the "**Commencement Date**"), unless extended or sooner terminated as herein provided, and shall expire on the 5th anniversary thereof. The City shall deliver possession of the Leased Premises to Tenant on the Commencement Date.

(B) **Early Termination on 30 Days Notice.** Notwithstanding anything in this Lease to the contrary, the City may terminate this Lease at any time during the Term, by giving Tenant no less than 30 days prior written notice thereof, if the City determines that it needs the Leased Premises or any portion thereof for a municipal purpose or for any other reason. Similarly, Tenant may terminate this Lease at any time and for any reason by giving the City no less than 30 days prior written notice thereof.

3. Rent.

(A) **Base Rent.** On the Commencement Date, and on each anniversary thereof during the Term, Tenant shall pay the City annual rent for the Leased Premises, in advance, without notice or setoff, in the amount of **\$2,400** per annum.

(B) **Late Payment.** If any payment owed by Tenant hereunder is not received by the City on the due date, Tenant shall pay the City a late charge equal to five percent of the amount past due, together with interest on the past due amount, until paid, at an annual rate of ten percent. If the Term of this Lease is terminated for any reason prior to the end of any given 12-month period for which rent has been paid, the City shall not be required to refund any portion of the prepaid rent for such period. All payments shall be made by check payable to the "City of Cincinnati-Treasurer" and mailed to: City of Cincinnati, 801 Plum Street, Cincinnati, Ohio 45202, Attention: Real Estate, or to such other address as the City may from time to time designate in writing.

4. Permitted Use. Tenant may use the Leased Premises as a private walkway or patio for placement of tables and chairs for patrons of an eating and drinking establishment and for no other purpose unless consented to in writing by DOTE (the "**Permitted Use**"). Notwithstanding the forgoing, nothing herein shall be construed to permit or authorize any use or activity prohibited by applicable land use regulations, including, without limitation to, the Cincinnati Zoning Code. Tenant shall apply for and receive any and all required permits from DOTE and the City's Department of Buildings and Inspections, for the Permitted uses before the establishment of any of the Permitted Use at the Leased Premises. Tenant shall not bring or permit to be brought onto the Leased Premises any hazardous materials or other contaminants or substances that are harmful to the public or to the environment.

5. Utilities & Other Expenses. During the Term of this Lease, Tenant shall pay, when due, (i) any and all utility expenses associated with the Leased Premises, (ii) any and all real estate taxes and assessments levied against the Leased Premises that become due and payable during the Term (the parties acknowledge that the Leased Premises may currently be tax-exempt), and (iii) any and all other expenses associated with the Leased Premises. The Tenant is permitted to file complaints, at its sole expense, with the Hamilton County Board of Revision to challenge any taxable value of the Leased Premises if the Tenant chooses to do so. *Tenant acknowledges and agrees that the City shall not be liable for any expenses associated with the Leased Premises during the Term of this Lease.*

6. Maintenance and Repairs. Tenant shall, at its sole expense, keep and maintain the Leased Premises in good, safe, orderly, sanitary, and clean condition and repair, ordinary wear and tear excepted, including without limitation any and all concrete and asphalt pavement, pavers, curbs and sidewalks within and abutting the Leased Premises. Tenant shall not permit garbage, debris or unsightly or odorous materials to accumulate within the Leased Premises. In the event of damage to the Leased Premises, Tenant shall promptly repair such damage, at its sole expense, to the satisfaction of DOTE. Tenant shall be solely responsible for all snow and ice removal from the Leased Premises. *During the Term of this Lease, the City shall have no*

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maintenance or repair obligations with respect to the Leased Premises or any improvements thereon.

7. Alterations.

A. Vehicular/Pedestrian Barriers.

- i. *Type and Location of Barriers:* Tenant, at its sole expense, may block access to the Leased Premises by the general public by installing removable traffic barriers or other similar barriers in the approximate location shown on Exhibit A (a "Barrier"), subject to approval by DOTE, provided, however, that Tenant shall have first determined that the Barrier will not interfere with the rights of utility providers to access, operate, maintain and repair their facilities as described in paragraph 7(B) below. Tenant shall not obstruct or block the existing sidewalk north of the Leased Premises nor the existing pedestrian crosswalks on the east or west of the Leased Premises as shown on Exhibit A.
- ii. *DOTE Approval of Plans:* Tenant shall design and install the Barrier in accordance with professionally prepared plans and specifications approved in writing by DOTE. Tenant, through a licensed street contractor, shall obtain a street opening permit before installing the Barrier and shall pay any and all permit fees imposed by DOTE. Before a street opening permit can be issued, Tenant's licensed street contractor shall be required to supply two (2) sets of plans to DOTE showing the location of the Barrier in relation to street fixtures and the rights-of-way lines. If the Barrier consists of a gate, the plans must provide the manufacturer's details of the gate and locking mechanism. Unless otherwise approved by DOTE, the locking mechanism shall include key locking from the outside and panic hardware for pedestrian egress on the inside and such other features as may be required by DOTE. If the Barrier consists of bollards, the plans must show bollard footing and details showing how the bollards are locked in place and removable. Retractable bollards must require a key to both raise and lower the bollards.
- iii. *Removal:* At the end of the Term, and unless DOTE requires that the Barrier remains in place, Tenant shall remove the Barrier and immediately perform all necessary street and sidewalk restoration under a DOTE street opening permit obtained by a licensed contractor. If Tenant fails to timely remove the Barrier and complete such restoration to the satisfaction of the City Engineer, the City may do so at Tenant's expense, which amount shall be payable by Tenant within thirty (30) days after Tenant's receipt of a statement from the City indicating the amount due. The foregoing notwithstanding, if this Lease is terminated in connection with Tenant's simultaneous acquisition of title to the Leased Premises from the City, Tenant shall not be required to remove the Barrier at the end of the Term.

B. Access by City Departments, Utility Companies and Others. (i) Tenant shall ensure continuous access to the Leased Premises (24 hours/day, 7 days/week, 52 weeks/year), by: (i) DOTE for inspection and all other reasonable purposes; (ii) the City's Police and Fire Departments; (iii) Greater Cincinnati Water Works ("GCWW") for the inspection, maintenance, repair or replacement of existing water mains in the area; (iv) Metropolitan Sewer District for the inspection, maintenance, repair or replacement of existing public sewers in the area; (v) Cincinnati Bell for the inspection, maintenance, repair or replacement of existing telephone facilities in the area; and (vi) Duke Energy for the inspection, maintenance, repair or replacement of any and all existing gas or electric facilities in the area. Tenant shall contact GCWW at least 2 full working days prior to commencing any construction within the Leased Premises; the GCWW contact person is Mark Niehe (513-591-7870). If Tenant undertakes any action or constructs any improvements within the Leased Premises that interfere with the access rights reserved to the City and third parties herein, the same shall constitute an immediate default of Tenant under this Lease. If Tenant's activities within the Leased Premises cause damage to existing utility lines or other utility facilities belonging to a utility provider, Tenant shall immediately notify the appropriate utility provider. All costs of such repairing such damage, including without limitation, all costs of replacing any damaged utility lines and facilities that are not capable of being properly repaired as determined by the applicable utility provider in its sole discretion, shall be borne by Tenant and shall be payable by Tenant within thirty (30) days after Tenant receives documentation substantiating such costs. If any utility company damages or must remove any improvements installed by Tenant within the Leased Premises in connection with its inspection, maintenance, repair or

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replacement of its existing utility facilities in the area, Tenant shall be solely responsible for all costs associated with the repair or replacement of Tenant's improvements.

C. **No Liens.** Tenant shall not permit any mechanics liens to attach to the Leased Premises in connection with work performed by or at the request of Tenant.

D. **Compliance with Laws.** Tenant shall obtain all necessary City inspection permits for work within the Leased Premises performed by Tenant and shall pay all required permit fees. Tenant shall ensure that all work is performed in compliance with all applicable federal, state, and local laws, codes, regulations, and other governmental requirements.

E. **No Other Alterations or Signs.** Except as permitted under this section, Tenant shall not make any alterations or improvements to the Leased Premises, install any signs within the Leased Premises that are visible from outside the Leased Premises, install any new utilities within the Leased Premises, or remove any existing improvements within the Leased Premises, without obtaining the prior written consent of DOTE. If Tenant proposes to install any permanent-type structures or other improvements within the Leased Premises (including without limitation the Barrier), Tenant shall also obtain the prior written consent of all utility companies whose utility facilities might be affected.

8. Insurance; Indemnification.

(A) **Insurance.** Throughout the Term, Tenant shall maintain Commercial General Liability insurance with respect to the Leased Premises in an amount not less than \$1,000,000 per occurrence, combined single limit/\$1,000,000 aggregate, naming the City as an additional insured, and such additional insurance as DOTE or the City's Department of Risk Management may from time to time reasonably require. All insurance required to be maintained by Tenant hereunder shall be issued by insurance companies reasonably acceptable to the City. If Tenant constructs any improvements within the Leased Premises, Tenant shall maintain property insurance on such improvements in the amount of the full replacement cost thereof. On or prior to the Commencement Date and prior to the expiration of each insurance policy, Tenant shall furnish to the City a certificate of insurance evidencing the insurance required hereunder.

(B) **Waiver of Subrogation.** All improvements, materials, equipment and other personal property of every kind that may at any time be on the Leased Premises shall be on the Leased Premises at Tenant's sole risk, and under no circumstances shall the City be liable for any loss or damage thereto, no matter how such loss or damage is caused. Tenant hereby waives, as against the City, its employees, agents and contractors, all claims and liability, and on behalf of Tenant's insurers, rights of subrogation, with respect to property damaged or destroyed by fire or other casualty or any other cause, it being the agreement of the parties that Tenant shall at all times protect itself against such loss or damage by carrying adequate insurance.

(C) **Indemnification.** Tenant shall defend (with counsel reasonably acceptable to the City), indemnify and hold the City harmless from and against any and all claims, causes of action, losses, costs, judgments, fines, liability and damages relating to the Leased Premises and accruing during or with respect to the Term of this Lease, including without limitation any of the foregoing that may occur or be claimed with respect to any death, personal injury or loss of or damage to property on or about the Leased Premises.

9. Default; Remedies. Should Tenant fail to pay the rent or any other sum due under this Lease within five (5) days after receiving written notice thereof from the City, or should Tenant fail to observe or perform any other obligation under this Lease within thirty (30) days after receiving written notice thereof from the City (in either event, a "default"), the City, at its option, immediately or at any time during the continuance of the default, may terminate this Lease by delivering a written notice of termination to Tenant. Tenant shall pay to the City, upon demand, all costs and damages suffered or incurred by the City in connection with Tenant's default or the termination of this Lease. Without limitation of the City's other rights and remedies hereunder, upon the occurrence of a default, the City may, but shall not be obligated to, cure or attempt to cure such default at Tenant's sole expense and may, if necessary, enter onto the Leased Premises in order to undertake such cure. Tenant shall pay the City within ten (10) days after the City's written demand an amount equal to all costs paid or incurred by the City in effecting compliance with Tenant's obligations under this Lease, together with interest {00347677-1}

thereon from the date that the City pays or incurs such costs at an annual rate of ten percent. The rights and remedies of the City under this Lease are cumulative and are not intended to be exclusive of, and the City shall be entitled to, any and all other rights and remedies to which the City may be entitled hereunder, at law or in equity. The City's failure to insist in any one or more cases on strict performance of any provision of this Lease or to exercise any right herein contained shall not constitute a waiver in the future of such right. If Tenant becomes debarred by the federal, state or local government, the same shall constitute an immediate default of Tenant under this Lease.

10. Notices. All notices required to be given hereunder by either party shall be in writing and personally delivered, sent by Federal Express, UPS or other recognized courier that in the ordinary course of business maintains a record of each delivery, or mailed by U.S. certified mail, postage prepaid, return receipt requested, addressed to the parties at their respective addresses set forth in the introductory paragraph of this Lease or at such other address as either party may from time to time specify by notice to the other. Notices shall be deemed to have been given on the date of receipt if personally delivered, on the following business day if sent by an overnight courier, and on the date noted on the return receipt if mailed by U.S. certified mail. If Tenant sends a notice to the City alleging that the City is in default under this Lease, Tenant shall simultaneously send a copy of such notice by U.S. certified mail to: City Solicitor, 801 Plum Street, Suite 214, Cincinnati, OH 45202.

11. Surrender; Holdover.

(A) **Surrender; Holdover.** At the end of the Term, Tenant shall surrender the Leased Premises to the City in the condition in which Tenant is required to maintain the Leased Premises under the terms of this Lease. If Tenant remains in possession of the Leased Premises after the termination date, then, at the City's option, such holdover shall create a tenancy at will on the same terms and conditions as set forth in this Lease except that rent payable during such holdover shall be equal to the then fair market rental value of the Leased Premises as determined by appraisal by the City's Real Estate Services Division. Tenant shall pay all costs incurred by the City in connection with Tenant's holdover, including without limitation attorneys' fees and court costs.

(B) **Removal of Alterations.** If Tenant has made improvements to the Leased Premises during the Term, then, at the end of the Term (and unless Tenant shall have simultaneously acquired title to the Leased Premises from the City), the City shall identify which improvements Tenant shall be required to surrender (at no cost to the City) and which improvements Tenant shall be required to remove. If Tenant fails to timely remove improvements that are designated for removal by the City, such improvements shall be deemed abandoned by Tenant, whereupon the City may remove, store, keep, sell, discard, or otherwise dispose of such improvements, and Tenant shall pay all costs incurred by the City in so doing within twenty days after the City's written demand.

12. General Provisions. This Lease constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior understandings and agreements of the parties. This Lease may be amended only by a written amendment signed by both parties hereto. Tenant shall not assign its interests under this Lease or sublet any portion of the Leased Premises without the prior written consent of the City, which consent may be withheld in the City's sole discretion. This Lease shall be binding upon Tenant and its successors and permitted assigns. If the Tenant hereunder consists of more than one individual or entity, such individuals' or entities' obligations under this Lease are joint and several. This Lease shall not be recorded in the Hamilton County, Ohio Recorder's office. This Lease shall be governed by the laws of the City of Cincinnati and the State of Ohio.

13. Additional Conditions from City's Coordinated Report (CR #10-2021). Tenant shall comply with the following additional terms and conditions:

A) **NOTE:**

(i.) Pending approval from Fire and Police Departments, vehicular access if restricted shall be done with removable bollards or planters. Barriers must:

- a. Allow all utilities, Fire, Police, and emergency equipment access at all times.
- b. Permit ADA compliant pedestrian access.

- c. Facilitate access to abutting property owners that desire it.
 - d. Be submitted (plans) to DOTE showing the location of the bollards or barriers in relation to street fixtures and right-of-way line. Plans must also show bollard footing and details showing how bollard is locked in place and removable. Retractable bollards must require a key to both raise and lower.
 - e. All Barriers must be removed at the end of the Term and the street fully restored to allow for its original purpose.
- B) **Stormwater**: Tenant is responsible for any stormwater inlets and ensuring they are free of debris and any repair, replacement, or maintenance as determined by the City.
- C) **Buildings and Inspections**: Tenant shall obtain all Conditional Use and Zoning Variances regarding outdoor dining and potential parking variances are required and to be approved by the Zoning Hearing Examiner. Tenant shall ensure the existing and proposed occupancy for the Leased Premises meets with all Building and Inspection requirements and obtains necessary approvals, and further shall develop pathway and code compliance for access to adequate restroom facilities including all necessary approvals and permits.
14. **Exhibits**. The following exhibits are attached hereto and made a part hereof:
Exhibit A – *Site Map*

SIGNATURE PAGE FOLLOWS

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

Brewing Arts, LLC,
an Ohio limited liability company,

By: _____

Printed name: _____

Title: _____

Date: _____, 2021

STATE OF OHIO)
) ss:
COUNTY OF HAMILTON)

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

Notary Public
My commission expires: _____

City of Cincinnati

By: _____

Printed name: _____

Title: _____

Date: _____, 2021

STATE OF OHIO)
) ss:
COUNTY OF HAMILTON)

The foregoing instrument was acknowledged before me this ____ day of _____, 2021 by _____, the _____ of 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: _____

Recommended by:

John S. Brazina, Director,
Department of Transportation & Engineering

Approved as to Form:

Assistant City Solicitor

Certified Date: _____

Fund/Code: _____

Amount: _____

By: _____
Karen Alder, City Finance Director

EXHIBIT A
to
Lease Agreement

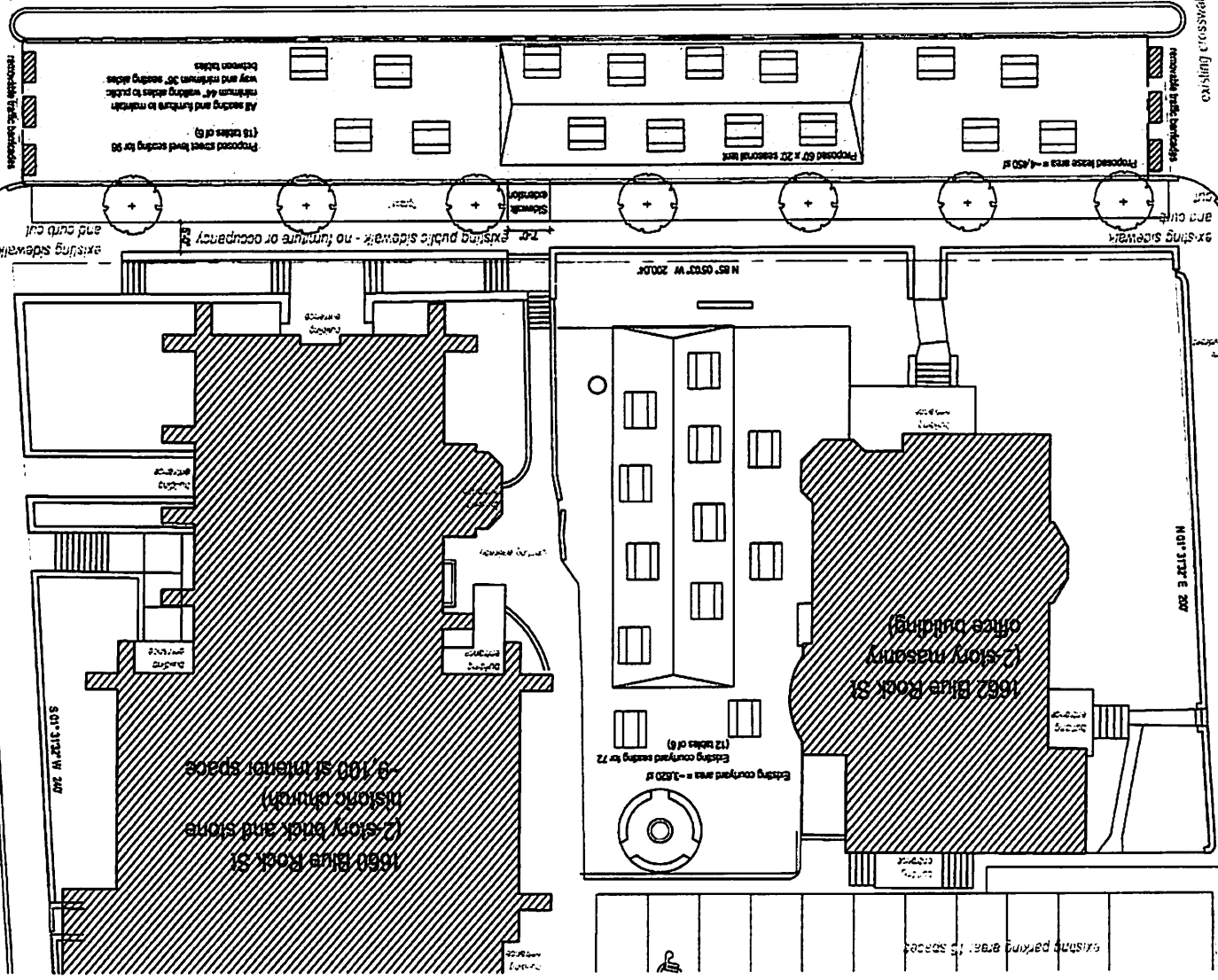
SITE MAP

TURRILL STREET (30')

existing adjacent street parking: 6 spaces

PLUMBING CALCULATIONS

Occupancy in courtyard: 72
 Occupancy at street level: 15
TOTAL OUTDOOR OCC. 87
 Plumbing fixture requirement for outdoor seating (300 occupants): requires 2 water closets for each 100 occupants
 Occupancy in apartment: 200
 Plumbing fixture requirement for apartment seating (1 water closet per 40 occupants for A-2 bar) = 5 water closets or 3 per sex
TOTAL REQUIREMENT: 8 total water closets or 5 per sex
PROVIDE: 15 total water closets
 7 men + 8 women's water closets



BLUE ROCK STREET

SITE PLAN
 prepared by Urban Architects 2021-05-07
 1/4" = 1'-0"

ZONING CALCULATIONS

Use: A-2 bar and A-2 lounge
 Form and location existing
 non-conforming, no change

Existing floor space: 5,100 sq ft
 Existing Outdoor Dining: 3,820 sq ft
 Proposed Outdoor Dining: 4,450 sq ft
 12,170 sq ft total

Parking:
 16 spaces provided onsite
 15 spaces covered adjacent
 = 31 existing parking spaces

The Northwest Business Association
 Opposes 7 public parking lots within
 1/4 mile of the property.

existing adjacent street parking: 4 spaces

CHERRY STREET (30')

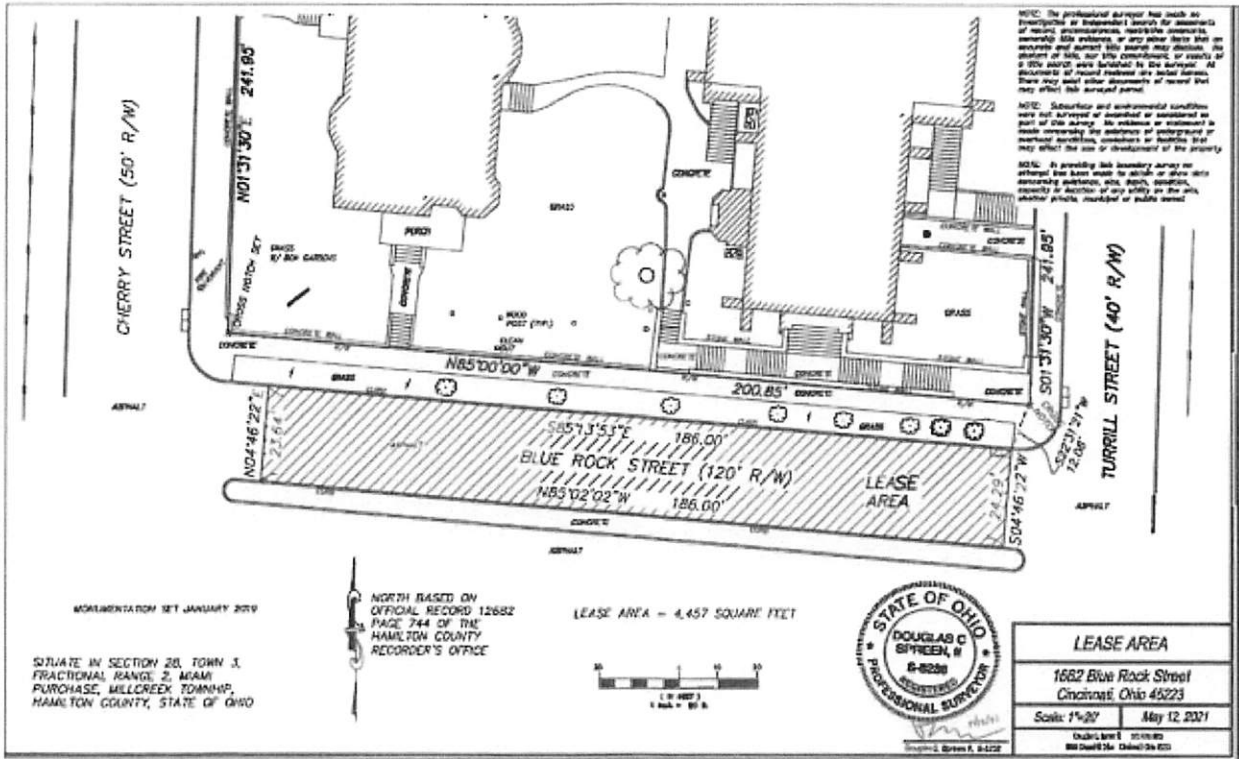


Exhibit "A" - Legal Description

Lease Area

4,457 Square Feet

May 12, 2021

Situate in Section 28, Town 3, Fractional Range 2, Millcreek Township, Hamilton County, State of Ohio, and being more particularly described as follows:

Commencing at a cross notch set at the intersection of the west right-of-way of Turrill Street (40' R/W) and the north right-of-way of Blue Rock Street (120' R/W); Thence southwardly, South 22°31'21" West, 12.08 feet to the POINT OF BEGINNING;

Thence southwardly, South 04°46'22" West, 24.29 feet to a point;

Thence westwardly, North 85°02'02" West, 186.00 feet to a point;

Thence northwardly, North 04°46'22" East, 23.64 feet to a point;

Thence eastwardly, South 85°13'53" East, 186.00 feet to the POINT OF BEGINNING, containing 4,457 square feet of land, more or less, subject to all easements and restrictions of record.

The basis of bearing for this described real estate was Official Record 12682 Page 744 of the Hamilton County Recorder's Office.

This description was prepared by Douglas C. Spreen II, Ohio Registration S-8238, as a result of a survey dated May 12, 2021.



LEASE AGREEMENT

(Portion of excess right-of-way north of Blue Rock Street between Cherry Street and Turrill Street)

This Lease Agreement (“**Lease**”) is made and entered into on the Effective Date (as defined on the signature page hereof) by and between the **City of Cincinnati**, an Ohio municipal corporation, the address of which is 801 Plum Street, Cincinnati, OH 45202 (the “**City**”), and Brewing Arts, LLC, an Ohio limited liability corporation, the address of which is 1662 Blue Rock Street, Cincinnati, Ohio, 45223, (“**Tenant**”).

Recitals:

A. The City owns the portion of excess right-of-way north of Blue Rock Street between Cherry Street and Turrill Street in the Northside neighborhood, as depicted on Exhibit A (Site Map) hereto, which is under the management and control of the City’s Department of Transportation and Engineering (“**DOT**”).

B. Tenant owns the adjoining property located at 1662 Blue Rock Street, Cincinnati, Ohio, 45223, also depicted on Exhibit A (“Tenant’s Property”).

C. Tenant desires to lease the portion of the public street marked “Lease Area” on Exhibit A (the “Leased Premises”), for assimilation with Tenant’s Property.

D. Brian J. Hirsch, Esq., a reputable attorney practicing in Hamilton County, Ohio, has certified via an Attorney Certificate of Title that Tenant owns all of the real property abutting the Leased Premises.

E. Pursuant to Section 723.04, Ohio Revised Code, the City has determined that there is good cause to close the Leased Premises to the general public and that the lease of the Leased Premises to Tenant will not be detrimental to the general interest.

F. Pursuant to Section 331-1, Cincinnati Municipal Code (“**CMC**”), the City has determined that the Leased Premises are not currently needed for transportation or other municipal purposes.

G. Pursuant to Section 331-1, CMC, the City has determined that the fair market rental value of the Leased Premises, as determined by appraisal by the City’s Real Estate Services Division, is \$2,400/year, which Tenant has agreed to pay.

H. Pursuant to Section 331-5, CMC, the City has determined that eliminating competitive bidding in connection with leasing the Leased Premises is in the best interest of the public because, as a practical matter, no one other than an adjoining property owner would have any interest in leasing the Leased Premises and assuming responsibility for the maintenance and repair thereof.

I. City Planning Commission, having the authority to approve the change in the use of City-owned property, approved the City’s lease of the Leased Premises to Tenant at its meeting on August 20, 2021.

J. The City’s execution of this Lease was approved by Cincinnati City Council by Ordinance No. ____-20__, passed on _____, 20__.

NOW THEREFORE, the parties hereby agree as follows:

1. Grant.

(A) Grant. The City does hereby lease the Leased Premises to Tenant, and Tenant does hereby lease the Leased Premises from the City, on the terms and conditions set forth therein. The rights herein granted to Tenant are subject and subordinate to any and all existing covenants, easements, restrictions and other matters of record affecting the Leased Premises. The City makes no representations or warranties to Tenant concerning the

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physical condition of the Leased Premises or the condition of the City's title to the Leased Premises and, on the Commencement Date (defined below), Tenant shall accept the Leased Premises in "as is" condition.

2. Term.

(A) Initial Term. The initial term ("**Term**") of this Lease shall be five (5) years and shall commence on the Effective Date (as defined on the signature page hereof), (herein, the "**Commencement Date**"), unless extended or sooner terminated as herein provided, and shall expire on the 5th anniversary thereof. The City shall deliver possession of the Leased Premises to Tenant on the Commencement Date.

(B) Early Termination on 30 Days Notice. Notwithstanding anything in this Lease to the contrary, the City may terminate this Lease at any time during the Term, by giving Tenant no less than 30 days prior written notice thereof, if the City determines that it needs the Leased Premises or any portion thereof for a municipal purpose or for any other reason. Similarly, Tenant may terminate this Lease at any time and for any reason by giving the City no less than 30 days prior written notice thereof.

3. Rent.

(A) Base Rent. On the Commencement Date, and on each anniversary thereof during the Term, Tenant shall pay the City annual rent for the Leased Premises, in advance, without notice or setoff, in the amount of **\$2,400** per annum.

(B) Late Payment. If any payment owed by Tenant hereunder is not received by the City on the due date, Tenant shall pay the City a late charge equal to five percent of the amount past due, together with interest on the past due amount, until paid, at an annual rate of ten percent. If the Term of this Lease is terminated for any reason prior to the end of any given 12-month period for which rent has been paid, the City shall not be required to refund any portion of the prepaid rent for such period. All payments shall be made by check payable to the "City of Cincinnati-Treasurer" and mailed to: City of Cincinnati, 801 Plum Street, Cincinnati, Ohio 45202, Attention: Real Estate, or to such other address as the City may from time to time designate in writing.

4. Permitted Use. Tenant may use the Leased Premises as a private walkway or patio for placement of tables and chairs for patrons of an eating and drinking establishment and for no other purpose unless consented to in writing by DOTE (the "**Permitted Use**"). Notwithstanding the forgoing, nothing herein shall be construed to permit or authorize any use or activity prohibited by applicable land use regulations, including, without limitation to, the Cincinnati Zoning Code. Tenant shall apply for and receive any and all required permits from DOTE and the City's Department of Buildings and Inspections, for the Permitted uses before the establishment of any of the Permitted Use at the Leased Premises. Tenant shall not bring or permit to be brought onto the Leased Premises any hazardous materials or other contaminants or substances that are harmful to the public or to the environment.

5. Utilities & Other Expenses. During the Term of this Lease, Tenant shall pay, when due, (i) any and all utility expenses associated with the Leased Premises, (ii) any and all real estate taxes and assessments levied against the Leased Premises that become due and payable during the Term (the parties acknowledge that the Leased Premises may currently be tax-exempt), and (iii) any and all other expenses associated with the Leased Premises. The Tenant is permitted to file complaints, at its sole expense, with the Hamilton County Board of Revision to challenge any taxable value of the Leased Premises if the Tenant chooses to do so. *Tenant acknowledges and agrees that the City shall not be liable for any expenses associated with the Leased Premises during the Term of this Lease.*

6. Maintenance and Repairs. Tenant shall, at its sole expense, keep and maintain the Leased Premises in good, safe, orderly, sanitary, and clean condition and repair, ordinary wear and tear excepted, including without limitation any and all concrete and asphalt pavement, pavers, curbs and sidewalks within and abutting the Leased Premises. Tenant shall not permit garbage, debris or unsightly or odorous materials to accumulate within the Leased Premises. In the event of damage to the Leased Premises, Tenant shall promptly repair such damage, at its sole expense, to the satisfaction of DOTE. Tenant shall be solely responsible for all snow and ice removal from the Leased Premises. *During the Term of this Lease, the City shall have no*

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maintenance or repair obligations with respect to the Leased Premises or any improvements thereon.

7. Alterations.

A. Vehicular/Pedestrian Barriers.

- i. *Type and Location of Barriers:* Tenant, at its sole expense, may block access to the Leased Premises by the general public by installing removable traffic barriers or other similar barriers in the approximate location shown on Exhibit A (a "Barrier"), subject to approval by DOTE, provided, however, that Tenant shall have first determined that the Barrier will not interfere with the rights of utility providers to access, operate, maintain and repair their facilities as described in paragraph 7(B) below. Tenant shall not obstruct or block the existing sidewalk north of the Leased Premises nor the existing pedestrian crosswalks on the east or west of the Leased Premises as shown on Exhibit A.
- ii. *DOTE Approval of Plans:* Tenant shall design and install the Barrier in accordance with professionally prepared plans and specifications approved in writing by DOTE. Tenant, through a licensed street contractor, shall obtain a street opening permit before installing the Barrier and shall pay any and all permit fees imposed by DOTE. Before a street opening permit can be issued, Tenant's licensed street contractor shall be required to supply two (2) sets of plans to DOTE showing the location of the Barrier in relation to street fixtures and the rights-of-way lines. If the Barrier consists of a gate, the plans must provide the manufacturer's details of the gate and locking mechanism. Unless otherwise approved by DOTE, the locking mechanism shall include key locking from the outside and panic hardware for pedestrian egress on the inside and such other features as may be required by DOTE. If the Barrier consists of bollards, the plans must show bollard footing and details showing how the bollards are locked in place and removable. Retractable bollards must require a key to both raise and lower the bollards.
- iii. *Removal:* At the end of the Term, and unless DOTE requires that the Barrier remains in place, Tenant shall remove the Barrier and immediately perform all necessary street and sidewalk restoration under a DOTE street opening permit obtained by a licensed contractor. If Tenant fails to timely remove the Barrier and complete such restoration to the satisfaction of the City Engineer, the City may do so at Tenant's expense, which amount shall be payable by Tenant within thirty (30) days after Tenant's receipt of a statement from the City indicating the amount due. The foregoing notwithstanding, if this Lease is terminated in connection with Tenant's simultaneous acquisition of title to the Leased Premises from the City, Tenant shall not be required to remove the Barrier at the end of the Term.

B. Access by City Departments, Utility Companies and Others. (i) Tenant shall ensure continuous access to the Leased Premises (24 hours/day, 7 days/week, 52 weeks/year), by: (i) DOTE for inspection and all other reasonable purposes; (ii) the City's Police and Fire Departments; (iii) Greater Cincinnati Water Works ("GCWW") for the inspection, maintenance, repair or replacement of existing water mains in the area; (iv) Metropolitan Sewer District for the inspection, maintenance, repair or replacement of existing public sewers in the area; (v) Cincinnati Bell for the inspection, maintenance, repair or replacement of existing telephone facilities in the area; and (vi) Duke Energy for the inspection, maintenance, repair or replacement of any and all existing gas or electric facilities in the area. Tenant shall contact GCWW at least 2 full working days prior to commencing any construction within the Leased Premises; the GCWW contact person is Mark Niehe (513-591-7870). If Tenant undertakes any action or constructs any improvements within the Leased Premises that interfere with the access rights reserved to the City and third parties herein, the same shall constitute an immediate default of Tenant under this Lease. If Tenant's activities within the Leased Premises cause damage to existing utility lines or other utility facilities belonging to a utility provider, Tenant shall immediately notify the appropriate utility provider. All costs of such repairing such damage, including without limitation, all costs of replacing any damaged utility lines and facilities that are not capable of being properly repaired as determined by the applicable utility provider in its sole discretion, shall be borne by Tenant and shall be payable by Tenant within thirty (30) days after Tenant receives documentation substantiating such costs. If any utility company damages or must remove any improvements installed by Tenant within the Leased Premises in connection with its inspection, maintenance, repair or

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replacement of its existing utility facilities in the area, Tenant shall be solely responsible for all costs associated with the repair or replacement of Tenant's improvements.

C. No Liens. Tenant shall not permit any mechanics liens to attach to the Leased Premises in connection with work performed by or at the request of Tenant.

D. Compliance with Laws. Tenant shall obtain all necessary City inspection permits for work within the Leased Premises performed by Tenant and shall pay all required permit fees. Tenant shall ensure that all work is performed in compliance with all applicable federal, state, and local laws, codes, regulations, and other governmental requirements.

E. No Other Alterations or Signs. Except as permitted under this section, Tenant shall not make any alterations or improvements to the Leased Premises, install any signs within the Leased Premises that are visible from outside the Leased Premises, install any new utilities within the Leased Premises, or remove any existing improvements within the Leased Premises, without obtaining the prior written consent of DOTE. If Tenant proposes to install any permanent-type structures or other improvements within the Leased Premises (including without limitation the Barrier), Tenant shall also obtain the prior written consent of all utility companies whose utility facilities might be affected.

8. Insurance; Indemnification

(A) Insurance. Throughout the Term, Tenant shall maintain Commercial General Liability insurance with respect to the Leased Premises in an amount not less than \$1,000,000 per occurrence, combined single limit/\$1,000,000 aggregate, naming the City as an additional insured, and such additional insurance as DOTE or the City's Department of Risk Management may from time to time reasonably require. All insurance required to be maintained by Tenant hereunder shall be issued by insurance companies reasonably acceptable to the City. If Tenant constructs any improvements within the Leased Premises, Tenant shall maintain property insurance on such improvements in the amount of the full replacement cost thereof. On or prior to the Commencement Date and prior to the expiration of each insurance policy, Tenant shall furnish to the City a certificate of insurance evidencing the insurance required hereunder.

(B) Waiver of Subrogation. All improvements, materials, equipment and other personal property of every kind that may at any time be on the Leased Premises shall be on the Leased Premises at Tenant's sole risk, and under no circumstances shall the City be liable for any loss or damage thereto, no matter how such loss or damage is caused. Tenant hereby waives, as against the City, its employees, agents and contractors, all claims and liability, and on behalf of Tenant's insurers, rights of subrogation, with respect to property damaged or destroyed by fire or other casualty or any other cause, it being the agreement of the parties that Tenant shall at all times protect itself against such loss or damage by carrying adequate insurance.

(C) Indemnification. Tenant shall defend (with counsel reasonably acceptable to the City), indemnify and hold the City harmless from and against any and all claims, causes of action, losses, costs, judgments, fines, liability and damages relating to the Leased Premises and accruing during or with respect to the Term of this Lease, including without limitation any of the foregoing that may occur or be claimed with respect to any death, personal injury or loss of or damage to property on or about the Leased Premises.

9. Default; Remedies. Should Tenant fail to pay the rent or any other sum due under this Lease within five (5) days after receiving written notice thereof from the City, or should Tenant fail to observe or perform any other obligation under this Lease within thirty (30) days after receiving written notice thereof from the City (in either event, a "default"), the City, at its option, immediately or at any time during the continuance of the default, may terminate this Lease by delivering a written notice of termination to Tenant. Tenant shall pay to the City, upon demand, all costs and damages suffered or incurred by the City in connection with Tenant's default or the termination of this Lease. Without limitation of the City's other rights and remedies hereunder, upon the occurrence of a default, the City may, but shall not be obligated to, cure or attempt to cure such default at Tenant's sole expense and may, if necessary, enter onto the Leased Premises in order to undertake such cure. Tenant shall pay the City within ten (10) days after the City's written demand an amount equal to all costs paid or incurred by the City in effecting compliance with Tenant's obligations under this Lease, together with interest thereon from

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the date that the City pays or incurs such costs at an annual rate of ten percent. The rights and remedies of the City under this Lease are cumulative and are not intended to be exclusive of, and the City shall be entitled to, any and all other rights and remedies to which the City may be entitled hereunder, at law or in equity. The City's failure to insist in any one or more cases on strict performance of any provision of this Lease or to exercise any right herein contained shall not constitute a waiver in the future of such right. If Tenant becomes debarred by the federal, state or local government, the same shall constitute an immediate default of Tenant under this Lease.

10. Notices. All notices required to be given hereunder by either party shall be in writing and personally delivered, sent by Federal Express, UPS or other recognized courier that in the ordinary course of business maintains a record of each delivery, or mailed by U.S. certified mail, postage prepaid, return receipt requested, addressed to the parties at their respective addresses set forth in the introductory paragraph of this Lease or at such other address as either party may from time to time specify by notice to the other. Notices shall be deemed to have been given on the date of receipt if personally delivered, on the following business day if sent by an overnight courier, and on the date noted on the return receipt if mailed by U.S. certified mail. If Tenant sends a notice to the City alleging that the City is in default under this Lease, Tenant shall simultaneously send a copy of such notice by U.S. certified mail to: City Solicitor, 801 Plum Street, Suite 214, Cincinnati, OH 45202.

11. Surrender; Holdover.

(A) **Surrender; Holdover.** At the end of the Term, Tenant shall surrender the Leased Premises to the City in the condition in which Tenant is required to maintain the Leased Premises under the terms of this Lease. If Tenant remains in possession of the Leased Premises after the termination date, then, at the City's option, such holdover shall create a tenancy at will on the same terms and conditions as set forth in this Lease except that rent payable during such holdover shall be equal to the then fair market rental value of the Leased Premises as determined by appraisal by the City's Real Estate Services Division. Tenant shall pay all costs incurred by the City in connection with Tenant's holdover, including without limitation attorneys' fees and court costs.

(B) **Removal of Alterations.** If Tenant has made improvements to the Leased Premises during the Term, then, at the end of the Term (and unless Tenant shall have simultaneously acquired title to the Leased Premises from the City), the City shall identify which improvements Tenant shall be required to surrender (at no cost to the City) and which improvements Tenant shall be required to remove. If Tenant fails to timely remove improvements that are designated for removal by the City, such improvements shall be deemed abandoned by Tenant, whereupon the City may remove, store, keep, sell, discard, or otherwise dispose of such improvements, and Tenant shall pay all costs incurred by the City in so doing within twenty days after the City's written demand.

12. General Provisions. This Lease constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior understandings and agreements of the parties. This Lease may be amended only by a written amendment signed by both parties hereto. Tenant shall not assign its interests under this Lease or sublet any portion of the Leased Premises without the prior written consent of the City, which consent may be withheld in the City's sole discretion. This Lease shall be binding upon Tenant and its successors and permitted assigns. If the Tenant hereunder consists of more than one individual or entity, such individuals' or entities' obligations under this Lease are joint and several. This Lease shall not be recorded in the Hamilton County, Ohio Recorder's office. This Lease shall be governed by the laws of the City of Cincinnati and the State of Ohio.

13. Additional Conditions from City's Coordinated Report (CR #10-2021). Tenant shall comply with the following additional terms and conditions:

A) **DOT:**

- (i.) Pending approval from Fire and Police Departments, vehicular access if restricted shall be done with removable bollards or planters. Barriers must:
 - a. Allow all utilities, Fire, Police, and emergency equipment access at all times.
 - b. Permit ADA compliant pedestrian access.

- c. Facilitate access to abutting property owners that desire it.
 - d. Be submitted (plans) to DOTE showing the location of the bollards or barriers in relation to street fixtures and right-of-way line. Plans must also show bollard footing and details showing how bollard is locked in place and removable. Retractable bollards must require a key to both raise and lower.
 - e. All Barriers must be removed at the end of the Term and the street fully restored to allow for its original purpose.
- B) Stormwater: Tenant is responsible for any stormwater inlets and ensuring they are free of debris and any repair, replacement, or maintenance as determined by the City.
- C) Buildings and Inspections: Tenant shall obtain all Conditional Use and Zoning Variances regarding outdoor dining and potential parking variances are required and to be approved by the Zoning Hearing Examiner. Tenant shall ensure the existing and proposed occupancy for the Leased Premises meets with all Building and Inspection requirements and obtains necessary approvals, and further shall develop pathway and code compliance for access to adequate restroom facilities including all necessary approvals and permits.
14. Exhibits. The following exhibits are attached hereto and made a part hereof:
Exhibit A – *Site Map*

SIGNATURE PAGE FOLLOWS

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

Brewing Arts, LLC,
an Ohio limited liability company,

By: _____

Printed name: _____

Title: _____

Date: _____, 2021

STATE OF OHIO)
) ss:
COUNTY OF HAMILTON)

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

Notary Public
My commission expires: _____

City of Cincinnati

By: _____

Printed name: _____

Title: _____

Date: _____, 2021

STATE OF OHIO)
) ss:
COUNTY OF HAMILTON)

The foregoing instrument was acknowledged before me this ____ day of _____, 2021 by _____, the _____ of 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: _____

Recommended by:

John S. Brazina, Director,
Department of Transportation & Engineering

Approved as to Form:

Assistant City Solicitor

Certified Date: _____

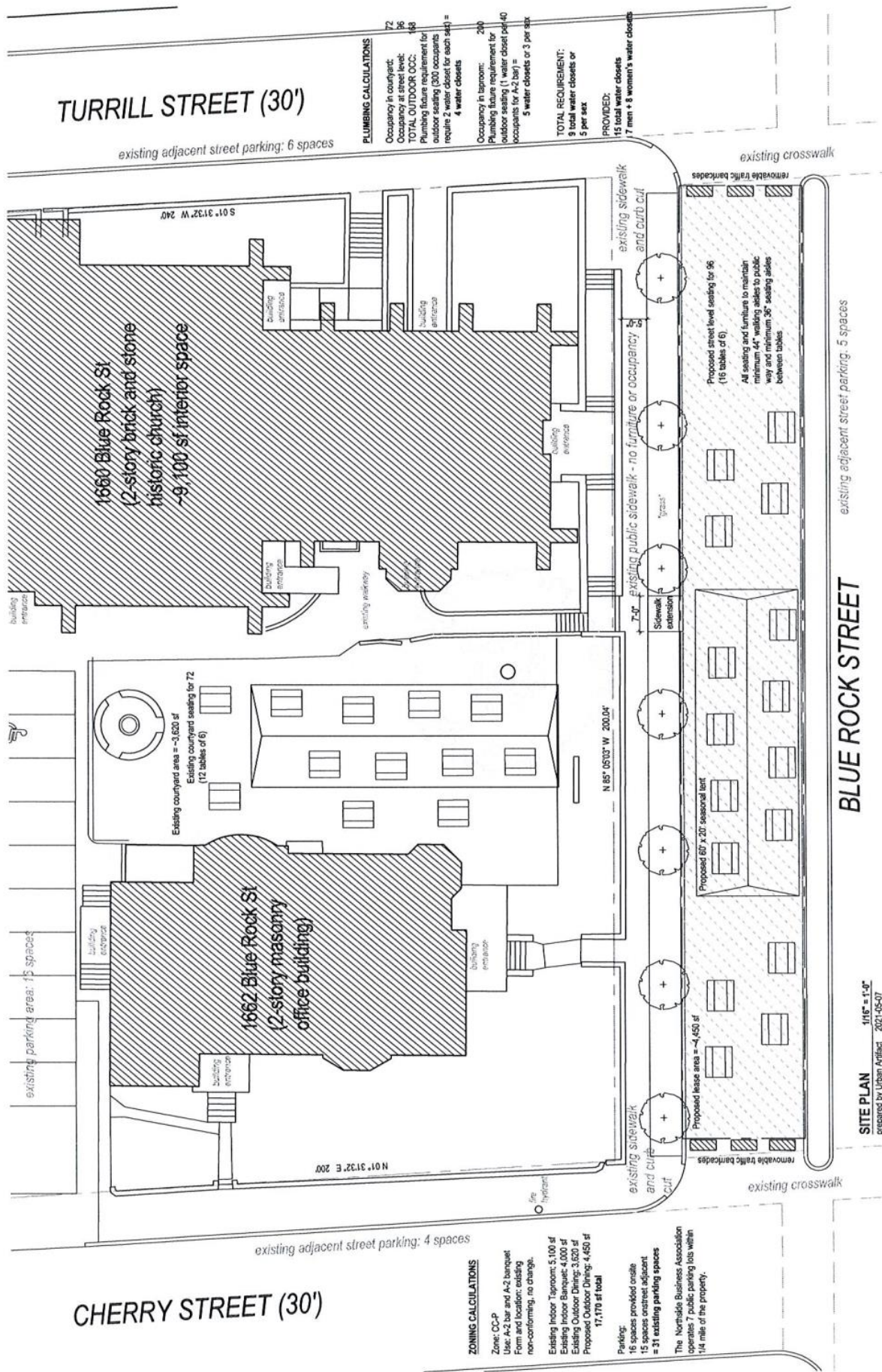
Fund/Code: _____

Amount: _____

By: _____
Karen Alder, City Finance Director

EXHIBIT A
to
Lease Agreement

SITE MAP



TURRILL STREET (30')

existing adjacent street parking: 6 spaces

1660 Blue Rock St
(2-story brick and stone historic church)
~9,100 sf interior space

Existing courtyard area = 3,620 sf
Existing courtyard seating for 72
(12 tables of 6)

1662 Blue Rock St
(2-story masonry office building)

existing parking area: 15 spaces

existing adjacent street parking: 4 spaces

CHERRY STREET (30')

PLUMBING CALCULATIONS

Occupancy in courtyard: 72
Occupancy at street level: 156
TOTAL OUTDOOR OCC: 186
Plumbing fixture requirement for outdoor seating (300 occupants require 2 water closets for each sex) = 4 water closets
Occupancy in taproom: 200
Plumbing fixture requirement for outdoor seating (1 water closet per 40 occupants for A-2 bar) = 5 water closets or 3 per sex

TOTAL REQUIREMENT:

9 total water closets or 5 per sex

PROVIDED:

15 total water closets
7 men + 8 women's water closets

ZONING CALCULATIONS

Zones: DCCP
Use: A-2 bar and A-2 banquet
Form and location: existing non-conforming, no change.
Existing Indoor Taproom: 5,100 sf
Existing Indoor Banquet: 4,000 sf
Existing Outdoor Dining: 3,620 sf
Proposed Outdoor Dining: 4,450 sf
17,170 sf total

Parking:

16 spaces provided onsite
15 spaces onstreet adjacent
= 31 existing parking spaces

The Normandie Business Association operates 7 public parking lots within 1/4 mile of the property.

Proposed street level seating for 96 (18 tables of 6).
All seating and furniture to maintain minimum 4' walking aisles to public way and minimum 36" seating aisles between tables

Proposed 60' x 20' seasonal tent

Proposed lease area = 4,450 sf

existing adjacent street parking: 5 spaces

BLUE ROCK STREET

SITE PLAN 1/16" = 1'-0"
prepared by Urban Artifact 2021-05-07

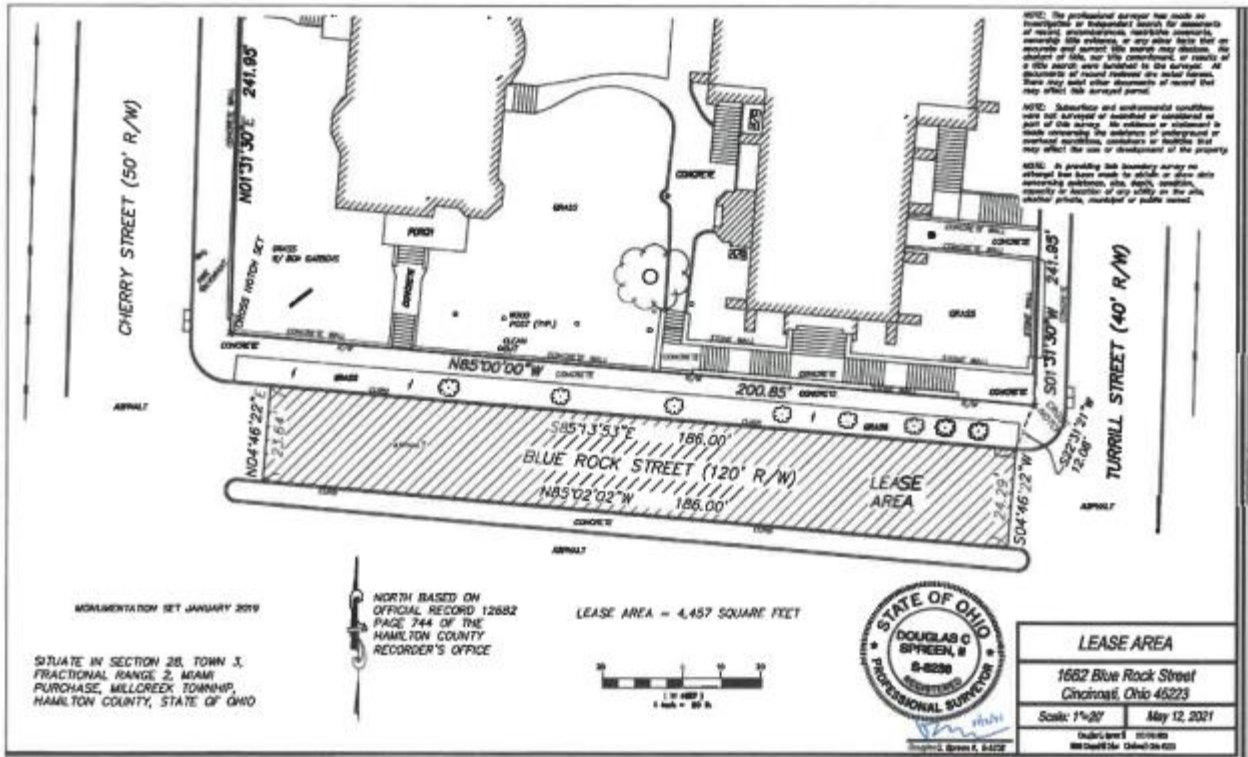


Exhibit "A" - Legal Description

Lease Area

4,457 Square Feet

May 12, 2021

Situate in Section 28, Town 3, Fractional Range 2, Millcreek Township, Hamilton County, State of Ohio, and being more particularly described as follows:

Commencing at a cross notch set at the intersection of the west right-of-way of Turrill Street (40' R/W) and the north right-of-way of Blue Rock Street (120' R/W); Thence southwardly, South 22°31'21" West, 12.08 feet to the POINT OF BEGINNING;

Thence southwardly, South 04°46'22" West, 24.29 feet to a point;

Thence westwardly, North 85°02'02" West, 186.00 feet to a point;

Thence northwardly, North 04°46'22" East, 23.64 feet to a point;

Thence eastwardly, South 85°13'53" East, 186.00 feet to the POINT OF BEGINNING, containing 4,457 square feet of land, more or less, subject to all easements and restrictions of record.

The basis of bearing for this described real estate was Official Record 12682 Page 744 of the Hamilton County Recorder's Office.

This description was prepared by Douglas C. Spreen II, Ohio Registration S-8238, as a result of a survey dated May 12, 2021.



September 29, 2021

To: Mayor and Members of City Council 202102844
From: Paula Boggs Muething, City Manager
Subject: **Emergency Ordinance – Parks: Biochar Replication Bloomberg Philanthropies Grant**

Attached is an Emergency Ordinance captioned:

ESTABLISHING new capital improvement program project account no. 980x203x222004, “Biochar Replication Bloomberg Grant”; **AUTHORIZING** the City Manager to apply for, accept, and appropriate grant resources in an amount of up to \$400,000 from Bloomberg Philanthropies into the newly established capital improvement program project account no. 980x203x222004, “Biochar Replication Bloomberg Grant,” for the purpose of implementing a biochar production facility; and **AUTHORIZING** the transfer and appropriation of local matching resources from the unappropriated surplus of Urban Forestry Fund 428 in the amount of \$100,000 to newly established capital improvement program project account no. 980x203x222004, “Biochar Replication Bloomberg Grant.”

This Emergency Ordinance authorizes the City Manager to apply for, accept, and appropriate a grant in the amount of \$400,000 from Bloomberg Philanthropies for the purpose of implementing a biochar production facility. This Emergency Ordinance would also authorize the Finance Director to establish new capital improvement program project no. 980x203x222004, “Biochar Replication Bloomberg Grant,” for the purpose of providing grant resources for implementing a biochar production facility.

This Emergency Ordinance authorizes the transfer and appropriation of \$100,000 from the unappropriated surplus of Urban Forestry Fund 428 to satisfy the local match requirement. There are no new FTE associated with the grant. While the grant application deadline was September 24, 2021, funding will not be accepted without the approval of this Emergency Ordinance by the City Council.

In March 2021, the Cincinnati Parks Division of Natural Resources partnered with the City’s Office of Environment & Sustainability (OES) and the University of Cincinnati (UC) to submit a proposal to Bloomberg Philanthropies to participate in the Mayors Challenge: Biochar Replication Project. Cincinnati was one of only ten cities in the world chosen to participate. The Urban Forestry team recently completed a summer workshop with Bloomberg Philanthropies learning about the Biochar product. Biochar is a supplemental planting product that is incorporated into the soil of new tree plantings and landscape beds to increase the water and nutrient holding

capacity of the soil. The addition of biochar into the soil helps improve the growth rate and health of the trees and plants by locking the nutrients and water near the root structure.

This Emergency Ordinance is in accordance with the “Sustain” goal to “Preserve our natural and built environment” and strategy to “Protect our natural resources,” as described on pages 193 – 196 of Plan Cincinnati (2012).

The reason for the emergency is the immediate need to assure the timely submission of the grant application and acceptance of any granted funds.

The Administration recommends passage of this Emergency Ordinance.

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



Attachment

EMERGENCY

CFG

-2021

ESTABLISHING new capital improvement program project account no. 980x203x222004, “Biochar Replication Bloomberg Grant”; **AUTHORIZING** the City Manager to apply for, accept, and appropriate grant resources in an amount of up to \$400,000 from Bloomberg Philanthropies into the newly established capital improvement program project account no. 980x203x222004, “Biochar Replication Bloomberg Grant,” for the purpose of implementing a biochar production facility; and **AUTHORIZING** the transfer and appropriation of local matching resources from the unappropriated surplus of Urban Forestry Fund 428 in the amount of \$100,000 to newly established capital improvement program project account no. 980x203x222004, “Biochar Replication Bloomberg Grant.”

WHEREAS, in March 2021, the City of Cincinnati Parks Department’s Division of Natural Resources (“Parks”) and the City of Cincinnati Office of Environment and Sustainability partnered with the University of Cincinnati in the submission of a proposal to Bloomberg Philanthropies’ Mayors Challenge: Biochar Replication Project; and

WHEREAS, the City of Cincinnati was one of only ten cities in the world chosen to participate in the Biochar Replication Project; and

WHEREAS, biochar is a supplemental planting product incorporated into the soil of new tree plantings and landscape beds to increase their capacity to hold water and nutrients, thereby improving growth rate and health; and

WHEREAS, Urban Forestry Fund 428 will be used to provide \$100,000 of City resources toward this project, as it holds sufficient resources and is restricted for Urban Forestry Management Program use; and

WHEREAS, the deadline for submission to Bloomberg Philanthropies of a grant application detailing an implementation plan and requesting funds to match the City’s funding is September 24, 2021, and Parks intends to apply by this date but will not accept the grant award prior to City Council authorization; and

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

WHEREAS, acceptance of the grant is in accordance with the “Sustain” goal to “Preserve our natural and built environment” and the strategy to “Protect our natural resources” as described on pages 193-196 of Plan Cincinnati (2012); now, therefore,

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

Section 1. That the Finance Director is hereby authorized to establish new capital improvement program project account no. 980x203x222004, "Biochar Replication Bloomberg Grant," for the purpose of implementing a biochar production facility.

Section 2. That the City Manager is hereby authorized to apply for, accept, and appropriate grant resources in an amount of up to \$400,000 from Bloomberg Philanthropies into the newly established capital improvement program project account no. 980x203x222004, "Biochar Replication Bloomberg Grant."

Section 3. That the transfer and appropriation from the unappropriated surplus of Urban Forestry Fund 428 of \$100,000 to newly established capital improvement program project account no. 980x203x222004, "Biochar Replication Bloomberg Grant," is hereby authorized.

Section 4. That the proper City officials are hereby authorized to do all things necessary and proper to comply with the terms of Sections 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 assure the timely submission of the grant application and acceptance of any granted funds.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

September 29, 2021

To: Mayor and Members of City Council 202102845
From: Paula Boggs Muething, City Manager
Subject: **Emergency Ordinance – ESPN RePlay Grant Program**

Attached is an Emergency Ordinance captioned:

AUTHORIZING the City Manager to apply for, accept, and appropriate a grant in an amount of up to \$75,000 from the Cincinnati Recreation Foundation, from funds made available through the ESPN RePlay program, for the purpose of renovating underutilized recreation spaces in Avondale as part of the 2021 Community Makeover program; and **AUTHORIZING** the Finance Director to deposit the grant funds into Recreation Special Activities Fund revenue account no. 323x8571x199Q876, “2021 Community Makeover.”

This Emergency Ordinance authorizes the City Manager to apply for, accept, and appropriate a grant in the amount of up to \$75,000 from the Cincinnati Recreation Foundation for the purpose of renovating vacant or underutilized spaces in low to moderate income neighborhoods. These funds have been made available from the ESPN RePlay Program.

The Cincinnati Recreation Commission (CRC) is partnering with the Avondale Development Corporation to seek additional funds for community-based projects. Avondale is the designated area for the 2021 Community Makeover program. This program brings together the resources of the Cincinnati Reds Community Fund, P&G, the Cincinnati Zoo, and Children's Hospital to make a positive impact to identified neighborhoods.

There is no match funding requirement, and there are no new FTE associated with the grant. The department submitted this grant application on April 20, 2021. As a result, the Cincinnati Recreation Commission has applied for this grant prior to this Emergency Ordinance receiving approval from the City Council. Should this Emergency Ordinance not be approved, the grant funding will not be accepted.

This Ordinance is in accordance with the “Live” goal to “Create a more livable community,” as described on page 156 of Plan Cincinnati (2012).

The reason for the emergency is the need for grant funds to be accepted in a timely fashion upon receipt of an award notice.

The Administration recommends passage of this Ordinance.

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

Attachment



EMERGENCY

City of Cincinnati

MSS

AWB

An Ordinance No. _____

- 2021

AUTHORIZING the City Manager to apply for, accept, and appropriate a grant in an amount of up to \$75,000 from the Cincinnati Recreation Foundation, from funds made available through the ESPN RePlay program, for the purpose of renovating underutilized recreation spaces in Avondale as part of the 2021 Community Makeover program; and **AUTHORIZING** the Finance Director to deposit the grant funds into Recreation Special Activities Fund revenue account no. 323x8571x199Q876, “2021 Community Makeover.”

WHEREAS, the Cincinnati Recreation Commission (“CRC”) is partnering with the Avondale Development Corporation to seek additional funds for community-based projects; and

WHEREAS, a grant in an amount of up to \$75,000 is available from the Cincinnati Recreation Foundation, from funds made available through the ESPN RePlay program, which provides financial support for revitalizing places for sports, recreation, and play in low- and moderate-income neighborhoods; and

WHEREAS, Avondale is the designated area for the 2021 Community Makeover program; and

WHEREAS, the 2021 Community Makeover program brings together the resources of the Cincinnati Reds Community Fund, P&G, the Cincinnati Zoo, and Children’s Hospital to positively impact identified neighborhoods; and

WHEREAS, two CRC sites, the Avondale Recreation Area (870 Blair Avenue) and the Rockdale Recreation Area (3480 Harvey Avenue), will receive improvements from the 2021 Community Makeover program; and

WHEREAS, the additional funds made available from the Cincinnati Recreation Foundation/ESPN RePlay program grant will be used to offset City investments and add additional amenities to the sites; and

WHEREAS, no matching funds and no additional FTEs are required for the acceptance of this grant; and

WHEREAS, CRC applied for this grant on April 20, 2021, but no funds will be accepted without Council approval; and

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

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

Section 1. That the City Manager is hereby authorized to apply for, accept, and appropriate a grant in an amount of up to \$75,000 from the Cincinnati Recreation Foundation, from funds made available through the ESPN RePlay program, for the purpose of renovating underutilized recreation spaces in Avondale as part of the 2021 Community Makeover program.

Section 2. That the Finance Director is hereby authorized to deposit the grant funds into Recreation Special Activities Fund revenue account no. 323x8571x199Q876, "2021 Community Makeover."

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

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 need for grant funds to be accepted in a timely fashion upon receipt of an award notice.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

September 29, 2021

To: Mayor and Members of City Council **202102848**

From: Paula Boggs Muething, City Manager

Subject: LEGISLATIVE RESOLUTION DECLARING THE NECESSITY OF THE PACE ASSESSMENT PROJECT FOR 3634-3638 MADISON ROAD

Attached is an Emergency Legislative Resolution captioned as follows:

DECLARING by legislative resolution the necessity of the special assessment project at 3634-3638 Madison Road in the City of Cincinnati, Ohio involving the City of Cincinnati, Ohio Energy Special Improvement District.

BACKGROUND/CURRENT CONDITIONS

The Ohio PACE (Property Assessed Clean Energy) program allows commercial property owners to opt into a special assessment which is added to the property tax bill to access long-term, fixed-rate financing for energy efficiency upgrades. The current owners, Michelene M. Bennett, Ryan C. Schwallie, and Wilburn Realty Limited, together with the future owner of the project site, Oakley Crossings Holdings, LLC, have requested to have their property added to the Energy Special Improvement District (ESID) and special assessments levied on the property, for the purpose of accessing PACE financing for energy efficient electrical systems, HVAC improvements, lighting, building envelope improvements and related improvements.

DEVELOPER INFORMATION

Michelene M. Bennett, Ryan C. Schwallie, and Wilburn Realty Limited are the current owners of the property. The anticipated purchaser is Oakley Crossings Holdings, LLC, which is affiliated with Morelia Group, LLC (Morelia). Morelia has experience producing high-quality developments in the Greater Cincinnati area, including within the neighborhood of Oakley.

In 2017, Morelia, through its affiliate entities, acquired from Crossroads Church an approximately five-acre site located on Madison Road in Oakley and constructed thereon the Oakley Connection and Encore of Oakley mixed-use developments that now count as occupants Starbucks, Condado Tacos, Crumbl Cookie, Great Clips, Top Nail Salon, Chicken Salad Chick, General Electric Credit Union, McAlister's Deli, Tropical Smoothie Café, Holtman's Donuts, Tide Dry Cleaners and All About Kids Child Care & Learning Center. Together, these developments were an approximately \$25,000,000 investment

that created approximately 300 new jobs, increased the City's tax base, and enhanced the quality of life for Oakley residents.

PROJECT DESCRIPTION

The project will include the construction of approximately 17,300 square feet of commercial space. The total cost of the PACE eligible improvements is \$1,771,846.

PROPOSED INCENTIVE

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

PROJECT TEAM & TIMELINE

The project team (listed below) will make themselves available at the request of the councilmember(s).

- Assistant City Manager: Billy Weber (Ext. 3318)
- DCED Director: Markiea Carter (Ext. 1953)
- Project Attorney: Samantha Brandenburg (Ext. 4704)

The anticipated council timeline, which includes two Budget and Finance meetings if necessary is as follows:

- September 29, 2021: Introduction to City Council
- October 4, 2021: Budget and Finance (1)
- October 11, 2021: Budget and Finance (2)
- October 13, 2021: City Council for Final Approval

RECOMMENDATION

The Administration recommends approval of this Legislative Resolution.

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

EMERGENCY

AWB

Legislative Resolution

RESOLUTION NO. _____ - 2021

DECLARING by legislative resolution the necessity of the special assessment project at 3634-3638 Madison Road in the City of Cincinnati, Ohio involving the City of Cincinnati, Ohio Energy Special Improvement District.

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

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

WHEREAS, Michelene M. Bennett, Ryan C. Schwallie, and Wilburn Realty Limited (collectively, and together with all future owners of the Project Site, as defined below, the "Owner"), as the owner of one hundred percent (100%) of the lots and lands, including air parcels, to be assessed for the improvements described in this Resolution, has executed and filed with this Council a *Petition for Special Assessments for Special Energy Improvement Projects* dated as of January 7, 2021 (the "Petition"), including a *Supplement to Plan for 3634-3638 Madison Road Project* (the "Supplemental Plan"), proposing the necessity of special assessments to pay the costs of special energy improvement projects (as more fully identified in the Petition and Supplemental Plan, the "Authorized Improvements") to be located at 3634-3638 Madison Road in Cincinnati (the "Assessed Property"), and Oakley Crossings Holdings, LLC is the anticipated purchaser of the Assessed Property ("Oakley Crossings"); and

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

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

of the Authorized Improvements, and requests that the Authorized Improvements be undertaken cooperatively by the City, the ESID, the Owner, and Oakley Crossings in accordance with the Standing Assignment Agreement dated as of February 28, 2017 by and among the City, the Port of Greater Cincinnati Development Authority, and the ESID (the “Standing Assignment Agreement”); and

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

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

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

Section 1. That the recitals hereof are hereby incorporated by reference, and each capitalized term not otherwise defined in this Resolution or by reference to another document shall have the meaning assigned to it in the *Petition for Special Assessments for Special Energy Improvement Projects* dated January 7, 2021 (the “Petition”), which Petition, together with a *Supplement to Plan for 3634-3638 Madison Road Project* (the “Supplemental Plan”), are hereby approved and accepted, and copies of which are attached to this Resolution as Attachment A.

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

Section 3. That it is hereby declared necessary, and a vital and essential public purpose of the City, to improve the real property located at 3634-3638 Madison Road, Cincinnati, Ohio (the “Assessed Property”), by providing for special energy improvement projects as more fully identified in the Petition and Supplemental Plan (the “Authorized Improvements”) on the Assessed

Property, including any and all costs and expenses in connection with or otherwise related thereto as described in the Petition (collectively, the “Assessment Project”), which Assessment Project is described in the plans, specifications, profiles, and estimates of costs included in the Petition and on file in the office of the Clerk of Council.

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

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

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

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

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

Section 9. That the Special Assessments shall be levied and paid in fifty-six (56) semi-annual installments pursuant to the list of estimated Special Assessments set forth in the Petition. The Owner and Oakley Crossings have waived the right to pay the Special Assessment in cash within thirty (30) days after the first publication of the notice of the assessing ordinance.

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

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

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

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

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

Section 15. That this resolution shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms

of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is to ensure that the board of directors of the ESID may proceed with the Assessment Project as soon as possible so that work thereon may commence or continue without delay.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

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

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

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

The undersigned are collectively the owners (collectively, the "Petitioners") are the owners of 100% of the property described on **Exhibit A** attached to this Petition (the "Property"). Oakley Crossings Holdings, LLC, a Delaware limited liability is the anticipated purchaser of the Property (the "Anticipated Purchaser"), and, following its acquisition of the Property, will implement special energy improvement projects on the Property (the "Authorized Improvements," as further described in **Exhibit B**).

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

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

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

As required by Ohio Revised Code Section 1710.02, the Petitioners, as the owners of the Property, being 100% of the area proposed to be added to the District and 100% of the area proposed to be assessed for the Authorized Improvements, hereby (a) petition the City Council to (i) approve the addition of the Property to the District and (ii) approve an amendment and supplement to the Plan by the Supplemental Plan to include the Authorized Improvements and

(b) request that (i) Authorized Improvements be undertaken by the District, and (ii) the total cost of those Authorized Improvements be assessed on the Property in proportion to the special benefits that will result from the Authorized Improvements.

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

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

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

Notwithstanding anything to the contrary contained herein, in the event that at any time following the date of this Petition the Property is combined or subdivided into permanent parcels in the records of the County Auditor of Hamilton County, Ohio (the "County Auditor"), the Petitioners and the Anticipated Purchaser hereby request that the Special Assessments be allocated only to the resulting parcels which will be improved with the approximately 11,000 square foot retail building into which the Authorized Improvements will be incorporated (the "Assessed Parcels"). The allocation among any resulting Assessed Parcels shall be made such that any Assessed Parcel or Assessed Parcels on which the approximately 11,000 square foot retail building into which the Authorized Improvements will be incorporated (the "Assessed Building") shall be allocated a total of 100% of the Special Assessments. If the Property is combined or subdivided such that more than one Assessed Parcel is to receive an allocation of

the Special Assessments, the Special Assessments to be allocated to those Assessed Parcels shall be allocated among them in proportion to the total square feet of improvements on each such Assessed Parcel divided by the total square feet of improvements on all such Assessed Parcels. The Petitioners hereby certify, represent, and warrant to the District and the City that the portion of the Special Assessments allocated to each resulting Assessed Parcel, as described above, will cause each resulting Assessed Parcel to have Special Assessments allocated to it in proportion to, and not in excess of, the special benefits to be conferred on the resulting parcel or resulting parcels by the Authorized Improvements. Immediately upon any subdivision of the Property, (i) any reference to the Property contained in this Petition shall be deemed to be a reference to all of the Assessed Parcels; and (ii) the legal description of the Assessed Parcels shall be deemed to replace the legal description of the Property set forth in **Exhibit A**.

In consideration of the Authorized Improvements, each of the Petitioners, for itself and its grantees and other successors with respect to the Property, agrees to pay promptly all Special Assessments as they become due, and agrees that the determination by Council of the Special Assessments in accordance with the terms hereof will be final, conclusive and binding upon the Petitioner and the Property. In further consideration of the Authorized Improvements, each of the Petitioners covenants and agrees to disclose, upon the transfer of the Property or any portion of the Property to be assessed for the actual costs of the Authorized Improvements set forth in **Exhibit B**, in the deed to the transferee or in a separate instrument recorded with respect to the Property the existence of any outstanding Special Assessment for the Authorized Improvements and to require that transferee covenant to disclose the existence of any outstanding Special Assessment for the Authorized Improvements in any subsequent deed or in a separate instrument recorded with respect to the Property at the time of the subsequent transfer so long as the Special Assessments remain unpaid. As a condition to each subsequent transfer while the Special Assessments remain unpaid, each of the Petitioners further covenants and agrees to provide expressly in the deed to any transferee or in a separate instrument recorded with respect to the Property at the time of the subsequent transfer (i) for the acquisition by the transferee of the Property subject to any outstanding Special Assessment and the transferee's assumption of responsibility for payment thereof and for waiver by the transferee of any rights that the Petitioners have waived pursuant to this Petition, and (ii) the requirement that each transferee from time to time of the Property covenant to include in the deed to any subsequent transferee or in a separate instrument recorded with respect to the Property at the time of the subsequent transfer the conditions described in clause (i) so long as the Special Assessments remain unpaid.

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

The Petitioners hereby waive notice and publication of all resolutions, legal notices and hearings provided for in the Ohio Revised Code with respect to the Authorized Improvements and the Special Assessments, particularly those in Ohio Revised Code Chapters 727 and 1710, and consent to proceeding with the Authorized Improvements. Without limiting the foregoing,

the Petitioners specifically waive any notices and rights under the following Ohio Revised Code Sections:

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

The Petitioners, in accordance with Ohio Revised Code Section 1710.02(A), further agree that the Property may be included in more than one district formed under Ohio Revised Code Chapter 1710. The Petitioners further agree not to take any actions, or cause to be taken any actions, to place any of the Property in an agricultural district as provided for in Ohio Revised Code Chapter 929, and if any of the Property is in an agricultural district, the Petitioners, in accordance with Ohio Revised Code Section 929.03, hereby grant permission to collect any Special Assessments levied against such Property.

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

The Petitioners acknowledge that the Special Assessments set forth in this Petition and in the Exhibits to this Petition are based upon an estimate of costs, and that the final Special Assessments shall be calculated in the same manner, which, regardless of any statutory limitation on the Special Assessments, may be more or less than the respective estimated Special Assessments for the Authorized Improvements. In the event the final assessments exceed the estimated assessments, the Petitioners, without limitation of the other waivers contained in this Petition, also waives any rights it may now or in the future have to object to those assessments, any notice provided for in Ohio Revised Code Chapters 727 and 1710, and any rights of appeal provided for in such Chapters or otherwise. The Petitioners further acknowledge and represent that the respective final assessments may be levied at such time as determined by the City and

regardless of whether or not any of the parts or portions of the Authorized Improvements have been completed.

The Petitioners further acknowledge that the final Special Assessments for the Authorized Improvements, when levied against the Property, will be payable in cash within thirty (30) days from the date of passage of the ordinance confirming and levying the final assessments and that if any of such assessments are not paid in cash they will be certified to the Auditor of the County, as provided by law, to be placed on the tax list and duplicate and collected as other taxes are collected. Notwithstanding the foregoing, however, the Petitioners hereby waive the right to pay the final assessments for the Authorized Improvements in cash within thirty (30) days from the passage of the ordinance confirming and levying the final assessments and requests that the unpaid final assessments for the Authorized Improvements shall be payable in fifty-six (56) semi-annual installments.

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

The Petitioners further waive any and all questions as to the constitutionality of the laws under which the Authorized Improvements shall be acquired, installed, or constructed or the proceedings relating to the acquisition, installation, or construction of the Authorized Improvements, the jurisdiction of the City acting in connection with the acquisition, installation, or construction of the Authorized Improvements, all irregularities, errors and defects, if any, procedural or otherwise, in the levying of the assessments or the undertaking of the Authorized Improvements, and specifically waives any and all rights of appeal, including any right of appeal as provided in Ohio Revised Code Title 7, and specifically but without limitation, Ohio Revised Code Chapters 727 and 1710, as well as all such similar rights under the Constitution of the State of Ohio and the Charter of the City of Cincinnati, Ohio. The Petitioners represent that they will not contest, in a judicial or administrative proceeding, the undertaking of the Authorized Improvements, the estimated assessments, the final assessments, and any Special Assessments levied against the Property for the Authorized Improvements, or any other matters related to the foregoing.

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

[Balance of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the Petitioners have caused this petition to be executed by their respective undersigned duly authorized signatories.

The undersigned is the Petitioner with respect to portion of Property having Hamilton County Parcel ID Number 051-0002-0142-00 and located at the commonly used mailing address 3634 Madison Road, Cincinnati, Ohio.

MICHELENE M. BENNETT

Mich Bennett aka Benn
(Signature)

Address for notices to Petitioner:

Michelene M. Bennett

1771 Woodpine Lane
(Street Address)

Cincinnati, OH 45255
(City, State ZIP)

STATE OF Ohio)
)
COUNTY OF Hamilton)

SS:

On the 8 day of January, 2020, Micheleni Bennett, personally appeared before me, a notary public in and for the state and county stated above, who acknowledged the execution of the foregoing Petition and that the same was the free act and deed of such signer. The notarial act certified hereby is a jurat. An oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year aforesaid.

[SEAL]



Christina Scavone
Notary Public

IN WITNESS WHEREOF, the Petitioners have caused this petition to be executed by their respective undersigned duly authorized signatories.

The undersigned is the Petitioner with respect to portion of Property having Hamilton County Parcel ID Number 051-0002-0144-00 and located at the commonly used mailing address 3638 Madison Road, Cincinnati, Ohio.

WILBURN REALTY LIMITED

By: [Signature]
(Signature)
Name: Michael Scicolone
Title: President

Address for notices to Petitioner:

Wilburn Realty Limited

(Street Address)
2622 Streamside Court
Cincinnati, Ohio 45230
(City, State ZIP)

STATE OF Ohio)
) SS:
COUNTY OF Hamilton)

On the 7 day of January, 2020, Michael Scicolone, the President of Wilburn Realty Limited personally appeared before me, a notary public in and for the state and county stated above, who acknowledged the execution of the foregoing Petition and that the same was the free act and deed of such officer and such limited liability company. The notarial act certified hereby is a jurat. An oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year aforesaid.

[SEAL]

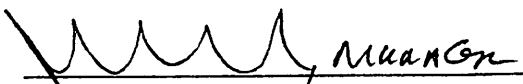


Christina Scavone
Notary Public
April 7/5/2025

IN WITNESS WHEREOF, Oakley Crossings Holdings, LLC, in anticipation of being the successor in interest of the Petitioners in the Property, hereby consents to the filing of the Petition with the City, confirms all of the information in this Petition, and agrees to perform the obligations of the Petitioner sat such times as it takes ownership of all or any portion the Property.

OAKLEY CROSSINGS HOLDINGS, LLC

Authorized Signatory

By: 
Name: Christopher R. Hildebrand
Title: MANA GOA

Address for notices to Petitioner:

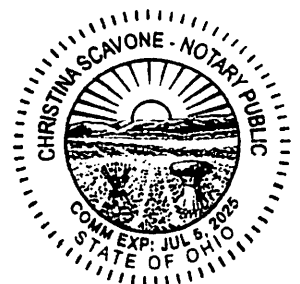
Oakley Crossings Holdings, LLC
8600 Governor's Hill Drive, Ste. 160
Cincinnati, Ohio 45249
Attention: Christopher Hildebrand

STATE OF Ohio)
)
COUNTY OF Hamilton) SS:

On the 8 day of January, 2020, Christopher Hildebrand, as the mana of Oakley Crossings Holdings, LLC, personally appeared before me, a notary public in and for the state and county stated above, who acknowledged the execution of the foregoing Petition on behalf of Oakley Crossings Holdings, LLC and that the same was the free act and deed of such officer and of such limited liability company. The notarial act certified hereby is a jurat. An oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year aforesaid.

[SEAL]



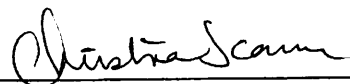

Notary Public

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

The real property subject to this Petition is located at the commonly used mailing address 3634-3638 Madison Road, Cincinnati, Ohio, having Hamilton County Auditor Parcel ID Nos. 051-0002-0142-00, 051-0002-0143-00, and 051-0002-0144-00, and the following legal descriptions:

Parcel 051-0002-142-00:

Situate in the City of Cincinnati and in Section 22, Township 4, Fractional Range 2 of the Miami Purchase, Columbia Township, Hamilton County, Ohio, and being part of Lot Number 4 as shown on the Plat in Partition of the Everson Estate as made in Case No. 98,500 in the Common Pleas Court, Hamilton County, Ohio, and more particularly described as follows:

Beginning at a point in the northwesterly line of Madison Road North 59 deg. 31' East, 715 feet from an iron rod at the intersection of said northwesterly line with the west line of said Lot No. 4; thence North 59 deg. 31' East along said northwesterly line of Madison Road 40 feet; thence North 30 deg. 29' West, 105 feet; thence South 59 deg. 31' West, 40 feet; thence South 30 deg. 29' East, 105 feet to the place of beginning.

Parcel 051-0002-0143-00:

The following described real estate located in Hamilton County, Ohio:

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

Situated in Section 22, Township 4, Fractional Range 2, Miami Purchase, and in the City of Cincinnati, Hamilton County, State of Ohio, and being a part of Lot No. Four (4) on the plat in partition of the Everson Estate made in Case 98500, Hamilton County, Ohio, Common Pleas Court.

Beginning at a point in the Northwesterly line of Madison Road, North 59 degrees 31' East, 755 feet from an iron rod at the intersection of said Northwesterly line with the West line of said Lot No. Four (4), thence North 59 degrees 31' East, along said Northwesterly line of Madison Road, 40 feet; thence North 30 degrees 29' West, 105 feet; thence South 59 degrees 31' West, 40 feet; thence South 30 degrees 29' East, 105 feet to the place of Beginning.

Parcel No: 051-0002-0143-00

Parcel 051-0002-0144-00

SITUATE IN THE CITY OF CINCINNATI AND IN SECTION 22, TOWNSHIP 4, PRACTIONAL RANGE 2 OF THE MIAMI PURCHASE, COLUMBIA TOWNSHIP, HAMILTON COUNTY, OHIO AND BEING PART OF LOT NO. 4 ON THE PLAT OF PARTITION OF THE EVERSON ESTATE MADE IN CASE NO. 98500, COMMON PLEASE COURT, HAMILTON COUNTY, OHIO AND MORE PARTICULARLY BEING DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE NORTHWESTERLY LINE OF MADISON ROAD, NORTH 59 DEGREES 31' EAST 795 FEET FROM AN IRON ROD AT THE INTERSECTION OF SAID NORTHWESTERLY LINE WITH THE WEST LINE OF SAID LOT NO. 4; THENCE NORTH 59 DEGREES 31' EAST ALONG THE NORTHWESTERLY LINE OF MADISON ROAD, 40 FEET; THENCE NORTH 40 DEGREES 29' WEST 105 FEET; THENCE SOUTH 59 DEGREES 31' WEST 40 FEET; THENCE SOUTH 30 DEGREES 29' EAST 105 FEET TO THE PLACE OF BEGINNING.

SUBJECT TO ANY EASEMENTS AND RESTRICTIONS OF RECORD, IF ANY.

PARCEL # 051-0002-0144-00

4/

**DESCRIPTION ACCEPTABLE
HAMILTON COUNTY ENGINEER**

Tax Map - 6/29/17 *[Signature]*

CAGIS - _____

EXHIBIT B

CITY OF CINCINNATI, OHIO ENERGY SPECIAL IMPROVEMENT DISTRICT PROGRAM PLAN

SUPPLEMENT TO PLAN FOR 3634-3638 MADISON ROAD PROJECT

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

Through a Petition submitted in connection with this Supplemental Plan, the undersigned (the "Property Owners") have requested and consented to certain special assessments by the District with respect to certain real property owned by the Property Owners and located at 3634-3638 Madison Road, Cincinnati, Ohio, having Hamilton County Auditor Parcel ID Nos. 051-0002-0142-00, 051-0002-0143-00, and 051-0002-0144-00 (the "Property"). A schedule for special assessments to be assessed against the Property to pay the costs of the Authorized Improvements is attached hereto as Attachment A.

Initially the special assessments shall be allocated among the parcels (each an "Original Parcel" and, collectively, the "Original Parcels") constituting the Property as follows:

In the event that at any time following the date of this Supplemental Plan the Property or any parcel contained in the Property is combined or subdivided into permanent parcels in the records of the County Auditor of Hamilton County, Ohio (the "County Auditor"), then the Property Owners hereby request that the Special Assessments be allocated among only the resulting parcels which will be improved with the approximately 11,000 square foot retail building into which the Authorized Improvements will be incorporated (the "Assessed Parcels"). No Special Assessments shall be allocated to any resulting parcels which will not have any portion of the approximately 11,000 square foot retail building constructed thereon (the "Non-Assessed Parcels"). The allocation among any resulting Assessed Parcels shall be made such that the Assessed Parcel or Assessed Parcels on which the approximately 11,000 square foot retail building is constructed and into which the Authorized Improvements will be incorporated (the "Assessed Building") shall be allocated a combined total of 100% of the Special Assessments. If the Property is combined or subdivided such that more than one Assessed Parcel is to receive an allocation of the Special Assessments in the percentage stated above, the Special Assessments to be allocated to those Assessed Parcels shall be allocated among them in proportion to the total square feet of improvements on each such Assessed Parcel divided by the total square feet of improvements on all such Assessed Parcels. The Property Owners hereby certify, represent, and warrant to the District and the City that the portion of the Special Assessments allocated to each resulting Assessed Parcel, and the fact that no Special Assessments will be allocated to any resulting Non-Assessed Parcel, all as described above, will cause each resulting Assessed Parcel

to have Special Assessments allocated to it in proportion to, and not in excess of, the special benefits to be conferred on the resulting parcel or resulting parcels by the Authorized Improvements identified in this Supplemental Plan.

The Authorized Improvements applicable to the Property will include energy efficiency electrical systems, HVAC improvements, lighting, building envelope improvements and related improvements. As required by Ohio Revised Code Section 1710.01(K), said Authorized Improvements are anticipated to reduce or support the reduction of energy consumption, allow for reduction in demand, or support the production of clean, renewable energy. A detailed description of the Authorized Improvements is attached to this Supplemental Plan as Attachment B. The Property Owners hereby acknowledge and agree that the special benefit to be provided to the Property under this Supplemental Plan is the consummation of the financing to pay, finance, and refinance costs of the Authorized Improvements, which shall be conferred immediately upon the consummation of the financing, and that the benefits are in proportion to and do not exceed the amount of the Special Assessments to be levied to pay the costs of the financing.

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

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

BY EXECUTING THIS SUPPLEMENTAL PLAN, THE PROPERTY OWNERS IDENTIFIED BELOW HEREBY AUTHORIZE AND CONSENT TO THIS SUPPLEMENTAL PLAN, AND ALL DISTRICT DOCUMENTS (AS DEFINED IN THE PLAN) AND AGREE TO PERFORM THE OBLIGATIONS OF THE PROPERTY OWNERS CONTAINED IN THIS SUPPLEMENTAL PLAN.

The undersigned is the Property Owner with respect to portion of Property having Hamilton County Parcel ID Number 051-0002-0142-00 and located at the commonly used mailing address 3634 Madison Road, Cincinnati, Ohio.

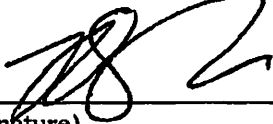
MICHELENE M. BENNETT


(Signature)

BY EXECUTING THIS SUPPLEMENTAL PLAN, THE PROPERTY OWNERS IDENTIFIED BELOW HEREBY AUTHORIZE AND CONSENT TO THIS SUPPLEMENTAL PLAN, AND ALL DISTRICT DOCUMENTS (AS DEFINED IN THE PLAN) AND AGREE TO PERFORM THE OBLIGATIONS OF THE PROPERTY OWNERS CONTAINED IN THIS SUPPLEMENTAL PLAN.

The undersigned is the Property Owner with respect to portion of Property having Hamilton County Parcel ID Number 051-0002-0143-00 and located at the commonly used mailing address 3636 Madison Road, Cincinnati, Ohio.

RYAN C. SCHWALLIE



(Signature)

BY EXECUTING THIS SUPPLEMENTAL PLAN, THE PROPERTY OWNERS IDENTIFIED BELOW HEREBY AUTHORIZE AND CONSENT TO THIS SUPPLEMENTAL PLAN, AND ALL DISTRICT DOCUMENTS (AS DEFINED IN THE PLAN) AND AGREE TO PERFORM THE OBLIGATIONS OF THE PROPERTY OWNERS CONTAINED IN THIS SUPPLEMENTAL PLAN.

The undersigned is the Property Owner with respect to portion of Property having Hamilton County Parcel ID Number 051-0002-0144-00 and located at the commonly used mailing address 3638 Madison Road, Cincinnati, Ohio.

WILBURN REALTY LIMITED

By: 
(Signature)

Name: Michael Scicolone

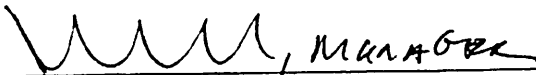
Title: President

BY EXECUTING THIS SUPPLEMENTAL PLAN, THE PROPERTY OWNERS IDENTIFIED BELOW HEREBY AUTHORIZE AND CONSENT TO THIS SUPPLEMENTAL PLAN, AND ALL DISTRICT DOCUMENTS (AS DEFINED IN THE PLAN) AND AGREE TO PERFORM THE OBLIGATIONS OF THE PROPERTY OWNERS CONTAINED IN THIS SUPPLEMENTAL PLAN.

Oakley Crossings Holdings, LLC, in anticipation of being the successor in interest of the Property Owners in the Property, hereby consents to the filing of the Supplemental Plan with the City, confirms all of the information in this Supplemental Plan, and agrees to perform the obligations of the Property Owners at such times as it takes ownership of all or any portion of the Property.

OAKLEY CROSSINGS HOLDINGS, LLC

Authorized Signatory

By: , MANAGER
Name: Christopher R. Hildebrand
Title: MANAGER

Address for notices to Petitioner:

Oakley Crossings Holdings, LLC
8600 Governor's Hill Drive, Ste. 160
Cincinnati, Ohio 45249
Attention: Christopher Hildebrand

Description of Real Property Subject to this Supplemental Plan:

The real property subject to this Petition is located at the commonly used mailing 3634-3646 Madison Road, Cincinnati, Ohio, having Hamilton County Auditor Parcel ID No[s]. [051-0002-0142-00], [051-0002-0143-00], and [051-0002-0144-00].

SUPPLEMENTAL PLAN—ATTACHMENT A

Schedule of Special Assessments

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

Total assessment costs:	\$3,755,431.68
Estimated semi-annual special assessments for 28 years:	\$67,061.28
Number of semi-annual assessments:	56
First semi-annual installment due:	January 31, 2023

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

Special Assessment Payment Date ¹	Total Special Assessment Installment Amount ²	Special Assessment Installment Amount for Parcel ID No. 051-0002-0142	Special Assessment Installment Amount for Parcel ID No. 051-0002-0143	Special Assessment Installment Amount for Parcel ID No. 051-0002-0144
1/31/2023	\$67,061.28	\$22,123.32	\$22,123.32	\$22,814.64
7/31/2023	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2024	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2024	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2025	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2025	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2026	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2026	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2027	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2027	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2028	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2028	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2029	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2029	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2030	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2030	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2031	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2031	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2032	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2032	67,061.28	22,123.32	22,123.32	22,814.64

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

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

Special Assessment Payment Date ¹	Total Special Assessment Installment Amount ²	Special Assessment Installment Amount for Parcel ID. No. 051-0002-0142	Special Assessment Installment Amount for Parcel ID No. 051-0002-0143	Special Assessment Installment Amount for Parcel ID No. 051-0002-0144
1/31/2033	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2033	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2034	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2034	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2035	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2035	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2036	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2036	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2037	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2037	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2038	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2038	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2039	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2039	67,061.28	22,123.32	22,123.32	22,814.64
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7/31/2041	67,061.28	22,123.32	22,123.32	22,814.64
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7/31/2042	67,061.28	22,123.32	22,123.32	22,814.64
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7/31/2045	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2046	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2046	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2047	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2047	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2048	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2048	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2049	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2049	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2050	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2050	67,061.28	22,123.32	22,123.32	22,814.64

SUPPLEMENTAL PLAN—ATTACHMENT B

Description of Authorized Improvements

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

Energy Project Name: Oakley Crossings Holdings, LLC Parcel ID: 051-0002-0140-00 (plus 10 others) County/State: Hamilton/Ohio						
	Improvement Description	Useful Life	Contractor	Improvement Cost (\$)	Baseline Energy Cost (\$)	Projected Energy Savings (\$)
1	Building Envelope	30	Morelia Group	\$1,256,380		See Envelope COMcheck
2	High Efficiency Rooftop Units	20	Morelia Group	\$176,493		See Mechanical COMcheck
3	High Efficiency Lighting	15	Bockrath	\$110,347		See Lighting COMcheck
4	Soft Costs	N/A		\$228,626	N/A	N/A
5						
6						
TOTALS:				\$1,771,846		

EXHIBIT C

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

[See Attached]

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

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

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

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

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

I. Purpose of the Program

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

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

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

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

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

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

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

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

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

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

III. Program Eligibility, Approvals, Financing, and Procurement

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

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

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

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

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

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

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

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

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

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

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

IV. Services Plan

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

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

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

V. Fees

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

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

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

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

VI. Energy Efficiency and Renewable Energy Regulations and Requirements

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

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

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

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

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

VII. Statutory Requirements

As provided in the District Documents:

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

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

VIII. Changes in State and Federal Law

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

IX. Releases and Indemnification

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

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

X. Changes in the Program Terms; Severability

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

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

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

XI. Disclosure of Property Owner Information

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

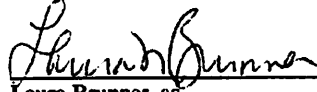
Each owner of real property located within the District acknowledges that the District is subject to Ohio public records laws, including Ohio Revised Code Section 149.43 *et seq.* Each property owner that executes this Plan agrees to the disclosure of certain property owner information as stated in this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

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

Date: July 23, 2014

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

Authorized Signatory



Laura Brunner, as
President and Chief Executive Officer

Address for notices to Property Owner:

Port of Greater Cincinnati Development
Authority

299 East Sixth Street, Suite 2A

Cincinnati, Ohio 45202

Description of Real Property Subject to this Plan:

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

Parcel One

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

Parcel Two

[Property Owner Consent to Plan]

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

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

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

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

[Property Owner Consent to Plan]

September 29, 2021

To: Mayor and Members of City Council **202102850**
From: Paula Boggs Muething, City Manager
Subject: DETERMINING TO PROCEED WITH THE PACE ASSESSMENT PROJECT FOR 3634-3638 MADISON ROAD

Attached is an Emergency Ordinance captioned as follows:

DETERMINING to proceed with the special assessment project at 3634-3638 Madison Road in the City of Cincinnati involving the City of Cincinnati, Ohio Energy Special Improvement District.

BACKGROUND/CURRENT CONDITIONS

The Ohio PACE (Property Assessed Clean Energy) program allows commercial property owners to opt into a special assessment which is added to the property tax bill to access long-term, fixed-rate financing for energy efficiency upgrades. The current owners, Michelene M. Bennett, Ryan C. Schwallie, and Wilburn Realty Limited, together with the future owner of the project site, Oakley Crossings Holdings, LLC, have requested to have their property added to the Energy Special Improvement District (ESID) and special assessments levied on the property, for the purpose of accessing PACE financing for energy efficient electrical systems, HVAC improvements, lighting, building envelope improvements and related improvements.

DEVELOPER INFORMATION

Michelene M. Bennett, Ryan C. Schwallie, and Wilburn Realty Limited are the current owners of the property. The anticipated purchaser is Oakley Crossings Holdings, LLC, which is affiliated with Morelia Group, LLC (Morelia). Morelia has experience producing high-quality developments in the Greater Cincinnati area, including within the neighborhood of Oakley.

In 2017, Morelia, through its affiliate entities, acquired from Crossroads Church an approximately five-acre site located on Madison Road in Oakley and constructed thereon the Oakley Connection and Encore of Oakley mixed-use developments that now count as occupants Starbucks, Condado Tacos, Crumbl Cookie, Great Clips, Top Nail Salon, Chicken Salad Chick, General Electric Credit Union, McAlister's Deli, Tropical Smoothie Café, Holtman's Donuts, Tide Dry Cleaners and All About Kids Child Care & Learning Center. Together, these developments were an approximately \$25,000,000 investment that created approximately 300 new jobs, increased the City's tax base, and enhanced the quality of life for Oakley residents.

PROJECT DESCRIPTION

The project will include the construction of approximately 17,300 square feet of commercial space. The total cost of the PACE eligible improvements is \$1,771,846.

PROPOSED INCENTIVE

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

PROJECT TEAM & TIMELINE

The project team (listed below) will make themselves available at the request of the councilmember(s).

- Assistant City Manager: Billy Weber (Ext. 3318)
- DCED Director: Markiea Carter (Ext. 1953)
- Project Attorney: Samantha Brandenburg (Ext. 4704)

The anticipated council timeline, which includes two Budget and Finance meetings if necessary is as follows:

- September 29, 2021: Introduction to City Council
- October 4, 2021: Budget and Finance (1)
- October 11, 2021: Budget and Finance (2)
- October 13, 2021: City Council for Final Approval

RECOMMENDATION

The Administration recommends approval of this Emergency Ordinance.

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

EMERGENCY

AWB

City of Cincinnati

An Ordinance No. _____

- 2021

DETERMINING to proceed with the special assessment project at 3634-3638 Madison Road in the City of Cincinnati involving the City of Cincinnati, Ohio Energy Special Improvement District.

WHEREAS, prior to the passage of this ordinance, this Council duly adopted a resolution declaring the necessity of the assessment project at 3634-3638 Madison Road in the City of Cincinnati (the "Resolution of Necessity"), which provides for the levying and collection of special assessments to be assessed on such property sufficient to pay the costs of the Authorized Improvements (as defined in the Resolution of Necessity); and

WHEREAS, all statutory procedural requirements for the imposition of special assessments on the assessed property, including, without limitation, the right to make claims for damages alleged to result from and objections to the Assessment Project (as defined in the Resolution of Necessity), have been waived by the owners of 100% of the affected property; now, therefore,

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

Section 1. That the recitals hereof are hereby incorporated by reference, and each capitalized term not otherwise defined herein or by reference to another document shall have the meaning assigned to it in the Resolution of Necessity, an unsigned copy of which is attached to this ordinance as Attachment A.

Section 2. That it is hereby determined to proceed with the Assessment Project described in the Resolution of Necessity. The Assessment Project shall be located entirely on the Assessed Property and shall be made in accordance with the provisions of the Resolution of Necessity, the Petition (a copy of which is attached to the Resolution of Necessity), and the plans, specifications, profiles, and estimates of cost previously approved and now on file with the Clerk of Council.

Section 3. That the assessment of the Special Assessments to pay costs of the Assessment Project shall be assessed against the Assessed Property in the manner and in the number of installments provided in the Petition. The Special Assessments shall be assessed against the Assessed Property commencing in tax year 2022 for collection in 2023 and shall continue through tax year 2049 for collection in 2050.

Section 4. That the estimated Special Assessments for costs of the Assessment Project prepared and filed in the office of the Clerk of Council and in the office of the City's Director of Finance, in accordance with the Resolution of Necessity, are hereby adopted.

Section 5. That all contracts for the construction of the Assessment Project will be let in the manner provided by law, subject to the provisions of the Ohio Revised Code and the Standing Assignment Agreement among the City, the Port of Greater Cincinnati Development Authority, and the City of Cincinnati, Ohio Energy Special Improvement District, Inc., and the costs of the Assessment Project shall be financed as provided in the Resolution of Necessity.

Section 6. That in compliance with Ohio Revised Code Section 319.61, the Clerk of Council is hereby directed to deliver a certified copy of this ordinance to the Hamilton County Auditor within fifteen (15) days after the date of passage.

Section 7. That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Ohio Revised Code Section 121.22.

Section 8. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the

terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is to ensure that the board of directors of the City of Cincinnati, Ohio Energy Special Improvement District, Inc. may proceed with the Assessment Project as soon as possible so that work thereon may commence or continue without delay.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

ATTACHMENT A

EMERGENCY

Legislative Resolution

RESOLUTION NO. _____ - 2021

DECLARING by legislative resolution the necessity of the special assessment project at 3634-3638 Madison Road in the City of Cincinnati, Ohio involving the City of Cincinnati, Ohio Energy Special Improvement District.

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

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

WHEREAS, Michelene M. Bennett, Ryan C. Schwallie, and Wilburn Realty Limited (collectively, and together with all future owners of the Project Site, as defined below, the “Owner”), as the owner of one hundred percent (100%) of the lots and lands, including air parcels, to be assessed for the improvements described in this Resolution, has executed and filed with this Council a *Petition for Special Assessments for Special Energy Improvement Projects* dated as of January 7, 2021 (the “Petition”), including a *Supplement to Plan for 3634-3638 Madison Road Project* (the “Supplemental Plan”), proposing the necessity of special assessments to pay the costs of special energy improvement projects (as more fully identified in the Petition and Supplemental Plan, the “Authorized Improvements”) to be located at 3634-3638 Madison Road in Cincinnati (the “Assessed Property”), and Oakley Crossings Holdings, LLC is the anticipated purchaser of the Assessed Property (“Oakley Crossings”); and

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

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

of the Authorized Improvements, and requests that the Authorized Improvements be undertaken cooperatively by the City, the ESID, the Owner, and Oakley Crossings in accordance with the Standing Assignment Agreement dated as of February 28, 2017 by and among the City, the Port of Greater Cincinnati Development Authority, and the ESID (the “Standing Assignment Agreement”); and

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

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

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

Section 1. That the recitals hereof are hereby incorporated by reference, and each capitalized term not otherwise defined in this Resolution or by reference to another document shall have the meaning assigned to it in the *Petition for Special Assessments for Special Energy Improvement Projects* dated January 7, 2021 (the “Petition”), which Petition, together with a *Supplement to Plan for 3634-3638 Madison Road Project* (the “Supplemental Plan”), are hereby approved and accepted, and copies of which are attached to this Resolution as Attachment A.

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

Section 3. That it is hereby declared necessary, and a vital and essential public purpose of the City, to improve the real property located at 3634-3638 Madison Road, Cincinnati, Ohio (the “Assessed Property”), by providing for special energy improvement projects as more fully identified in the Petition and Supplemental Plan (the “Authorized Improvements”) on the Assessed

Property, including any and all costs and expenses in connection with or otherwise related thereto as described in the Petition (collectively, the “Assessment Project”), which Assessment Project is described in the plans, specifications, profiles, and estimates of costs included in the Petition and on file in the office of the Clerk of Council.

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

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

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

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

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

Section 9. That the Special Assessments shall be levied and paid in fifty-six (56) semi-annual installments pursuant to the list of estimated Special Assessments set forth in the Petition. The Owner and Oakley Crossings have waived the right to pay the Special Assessment in cash within thirty (30) days after the first publication of the notice of the assessing ordinance.

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

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

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

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

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

Section 15. That this resolution shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms

of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is to ensure that the board of directors of the ESID may proceed with the Assessment Project as soon as possible so that work thereon may commence or continue without delay.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

ATTACHMENT A

RESOLUTION OF NECESSITY

[See Attached]

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

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

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

The undersigned are collectively the owners (collectively, the "Petitioners") are the owners of 100% of the property described on **Exhibit A** attached to this Petition (the "Property"). Oakley Crossings Holdings, LLC, a Delaware limited liability is the anticipated purchaser of the Property (the "Anticipated Purchaser"), and, following its acquisition of the Property, will implement special energy improvement projects on the Property (the "Authorized Improvements," as further described in **Exhibit B**).

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

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

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

As required by Ohio Revised Code Section 1710.02, the Petitioners, as the owners of the Property, being 100% of the area proposed to be added to the District and 100% of the area proposed to be assessed for the Authorized Improvements, hereby (a) petition the City Council to (i) approve the addition of the Property to the District and (ii) approve an amendment and supplement to the Plan by the Supplemental Plan to include the Authorized Improvements and

(b) request that (i) Authorized Improvements be undertaken by the District, and (ii) the total cost of those Authorized Improvements be assessed on the Property in proportion to the special benefits that will result from the Authorized Improvements.

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

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

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

Notwithstanding anything to the contrary contained herein, in the event that at any time following the date of this Petition the Property is combined or subdivided into permanent parcels in the records of the County Auditor of Hamilton County, Ohio (the "County Auditor"), the Petitioners and the Anticipated Purchaser hereby request that the Special Assessments be allocated only to the resulting parcels which will be improved with the approximately 11,000 square foot retail building into which the Authorized Improvements will be incorporated (the "Assessed Parcels"). The allocation among any resulting Assessed Parcels shall be made such that any Assessed Parcel or Assessed Parcels on which the approximately 11,000 square foot retail building into which the Authorized Improvements will be incorporated (the "Assessed Building") shall be allocated a total of 100% of the Special Assessments. If the Property is combined or subdivided such that more than one Assessed Parcel is to receive an allocation of

the Special Assessments, the Special Assessments to be allocated to those Assessed Parcels shall be allocated among them in proportion to the total square feet of improvements on each such Assessed Parcel divided by the total square feet of improvements on all such Assessed Parcels. The Petitioners hereby certify, represent, and warrant to the District and the City that the portion of the Special Assessments allocated to each resulting Assessed Parcel, as described above, will cause each resulting Assessed Parcel to have Special Assessments allocated to it in proportion to, and not in excess of, the special benefits to be conferred on the resulting parcel or resulting parcels by the Authorized Improvements. Immediately upon any subdivision of the Property, (i) any reference to the Property contained in this Petition shall be deemed to be a reference to all of the Assessed Parcels; and (ii) the legal description of the Assessed Parcels shall be deemed to replace the legal description of the Property set forth in **Exhibit A**.

In consideration of the Authorized Improvements, each of the Petitioners, for itself and its grantees and other successors with respect to the Property, agrees to pay promptly all Special Assessments as they become due, and agrees that the determination by Council of the Special Assessments in accordance with the terms hereof will be final, conclusive and binding upon the Petitioner and the Property. In further consideration of the Authorized Improvements, each of the Petitioners covenants and agrees to disclose, upon the transfer of the Property or any portion of the Property to be assessed for the actual costs of the Authorized Improvements set forth in **Exhibit B**, in the deed to the transferee or in a separate instrument recorded with respect to the Property the existence of any outstanding Special Assessment for the Authorized Improvements and to require that transferee covenant to disclose the existence of any outstanding Special Assessment for the Authorized Improvements in any subsequent deed or in a separate instrument recorded with respect to the Property at the time of the subsequent transfer so long as the Special Assessments remain unpaid. As a condition to each subsequent transfer while the Special Assessments remain unpaid, each of the Petitioners further covenants and agrees to provide expressly in the deed to any transferee or in a separate instrument recorded with respect to the Property at the time of the subsequent transfer (i) for the acquisition by the transferee of the Property subject to any outstanding Special Assessment and the transferee's assumption of responsibility for payment thereof and for waiver by the transferee of any rights that the Petitioners have waived pursuant to this Petition, and (ii) the requirement that each transferee from time to time of the Property covenant to include in the deed to any subsequent transferee or in a separate instrument recorded with respect to the Property at the time of the subsequent transfer the conditions described in clause (i) so long as the Special Assessments remain unpaid.

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

The Petitioners hereby waive notice and publication of all resolutions, legal notices and hearings provided for in the Ohio Revised Code with respect to the Authorized Improvements and the Special Assessments, particularly those in Ohio Revised Code Chapters 727 and 1710, and consent to proceeding with the Authorized Improvements. Without limiting the foregoing,

the Petitioners specifically waive any notices and rights under the following Ohio Revised Code Sections:

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

The Petitioners, in accordance with Ohio Revised Code Section 1710.02(A), further agree that the Property may be included in more than one district formed under Ohio Revised Code Chapter 1710. The Petitioners further agree not to take any actions, or cause to be taken any actions, to place any of the Property in an agricultural district as provided for in Ohio Revised Code Chapter 929, and if any of the Property is in an agricultural district, the Petitioners, in accordance with Ohio Revised Code Section 929.03, hereby grant permission to collect any Special Assessments levied against such Property.

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

The Petitioners acknowledge that the Special Assessments set forth in this Petition and in the Exhibits to this Petition are based upon an estimate of costs, and that the final Special Assessments shall be calculated in the same manner, which, regardless of any statutory limitation on the Special Assessments, may be more or less than the respective estimated Special Assessments for the Authorized Improvements. In the event the final assessments exceed the estimated assessments, the Petitioners, without limitation of the other waivers contained in this Petition, also waives any rights it may now or in the future have to object to those assessments, any notice provided for in Ohio Revised Code Chapters 727 and 1710, and any rights of appeal provided for in such Chapters or otherwise. The Petitioners further acknowledge and represent that the respective final assessments may be levied at such time as determined by the City and

regardless of whether or not any of the parts or portions of the Authorized Improvements have been completed.

The Petitioners further acknowledge that the final Special Assessments for the Authorized Improvements, when levied against the Property, will be payable in cash within thirty (30) days from the date of passage of the ordinance confirming and levying the final assessments and that if any of such assessments are not paid in cash they will be certified to the Auditor of the County, as provided by law, to be placed on the tax list and duplicate and collected as other taxes are collected. Notwithstanding the foregoing, however, the Petitioners hereby waive the right to pay the final assessments for the Authorized Improvements in cash within thirty (30) days from the passage of the ordinance confirming and levying the final assessments and requests that the unpaid final assessments for the Authorized Improvements shall be payable in fifty-six (56) semi-annual installments.

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

The Petitioners further waive any and all questions as to the constitutionality of the laws under which the Authorized Improvements shall be acquired, installed, or constructed or the proceedings relating to the acquisition, installation, or construction of the Authorized Improvements, the jurisdiction of the City acting in connection with the acquisition, installation, or construction of the Authorized Improvements, all irregularities, errors and defects, if any, procedural or otherwise, in the levying of the assessments or the undertaking of the Authorized Improvements, and specifically waives any and all rights of appeal, including any right of appeal as provided in Ohio Revised Code Title 7, and specifically but without limitation, Ohio Revised Code Chapters 727 and 1710, as well as all such similar rights under the Constitution of the State of Ohio and the Charter of the City of Cincinnati, Ohio. The Petitioners represent that they will not contest, in a judicial or administrative proceeding, the undertaking of the Authorized Improvements, the estimated assessments, the final assessments, and any Special Assessments levied against the Property for the Authorized Improvements, or any other matters related to the foregoing.

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

[Balance of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the Petitioners have caused this petition to be executed by their respective undersigned duly authorized signatories.

The undersigned is the Petitioner with respect to portion of Property having Hamilton County Parcel ID Number 051-0002-0142-00 and located at the commonly used mailing address 3634 Madison Road, Cincinnati, Ohio.

MICHELENE M. BENNETT

Mich Bennett nka Benn
(Signature)

Address for notices to Petitioner:

Michlene M. Bennett

1771 Woodpine Lane
(Street Address)

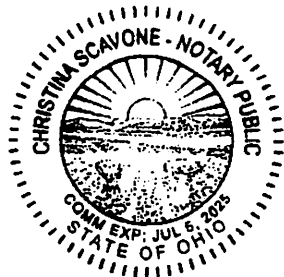
Cincinnati, OH 45255
(City, State ZIP)

STATE OF Ohio)
)
COUNTY OF Hamilton) SS:

On the 8 day of January, 2020, Michlene Bennett, personally appeared before me, a notary public in and for the state and county stated above, who acknowledged the execution of the foregoing Petition and that the same was the free act and deed of such signer. The notarial act certified hereby is a jurat. An oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year aforesaid.

[SEAL]



Christina Scavone
Notary Public

IN WITNESS WHEREOF, the Petitioners have caused this petition to be executed by their respective undersigned duly authorized signatories.

The undersigned is the Petitioner with respect to portion of Property having Hamilton County Parcel ID Number 051-0002-0143-00 and located at the commonly used mailing address 3636 Madison Road, Cincinnati, Ohio.

RYAN C. SCHWALLIE

[Handwritten Signature]
(Signature)

Address for notices to Petitioner:

Ryan C. Scwallie

3636 Madison Rd
(Street Address)

CINCINNATI, OH 45209
(City, State ZIP)

STATE OF OHIO)
)
COUNTY OF HAMILTON) SS:

On the 07 day of JANUARY 2021, 2020, Ryan C. Schwallie personally appeared before me, a notary public in and for the state and county stated above, who acknowledged the execution of the foregoing Petition and that the same was the free act and deed of such signer. The notarial act certified hereby is a jurat. An oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year aforesaid.



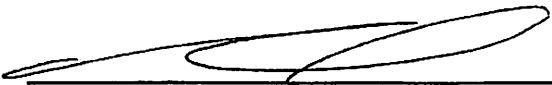
ARTHUR A. VOLMER
Notary Public, State of Ohio
My Commission Expires
July 23, 2024

[Handwritten Signature]
Notary Public

IN WITNESS WHEREOF, the Petitioners have caused this petition to be executed by their respective undersigned duly authorized signatories.

The undersigned is the Petitioner with respect to portion of Property having Hamilton County Parcel ID Number 051-0002-0144-00 and located at the commonly used mailing address 3638 Madison Road, Cincinnati, Ohio.

WILBURN REALTY LIMITED

By: 
 (Signature)

Name: Michael Scicolone

Title: President

Address for notices to Petitioner:

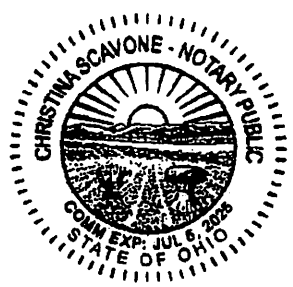
Wilburn Realty Limited
 (Street Address)
2622 Streamside Court
Cincinnati, Ohio 45230
 (City, State ZIP)

STATE OF Ohio)
) SS:
 COUNTY OF Hamilton)

On the 7 day of January, 2020, Michael Scicolone, the President of Wilburn Realty Limited personally appeared before me, a notary public in and for the state and county stated above, who acknowledged the execution of the foregoing Petition and that the same was the free act and deed of such officer and such limited liability company. The notarial act certified hereby is a jurat. An oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year aforesaid.

[SEAL]



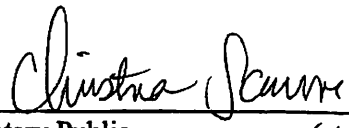

 Notary Public April 7/5/2025

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

The real property subject to this Petition is located at the commonly used mailing address 3634-3638 Madison Road, Cincinnati, Ohio, having Hamilton County Auditor Parcel ID Nos. 051-0002-0142-00, 051-0002-0143-00, and 051-0002-0144-00, and the following legal descriptions:

Parcel 051-0002-142-00:

Situate in the City of Cincinnati and in Section 22, Township 4, Fractional Range 2 of the Miami Purchase, Columbia Township, Hamilton County, Ohio, and being part of Lot Number 4 as shown on the Plat in Partition of the Everson Estate as made in Case No. 98,500 in the Common Pleas Court, Hamilton County, Ohio, and more particularly described as follows:

Beginning at a point in the northwesterly line of Madison Road North 59 deg. 31' East, 715 feet from an iron rod at the intersection of said northwesterly line with the west line of said Lot No. 4; thence North 59 deg. 31' East along said northwesterly line of Madison Road 40 feet; thence North 30 deg. 29' West, 105 feet; thence South 59 deg. 31' West, 40 feet; thence South 30 deg. 29' East, 105 feet to the place of beginning.

Parcel 051-0002-0143-00:

The following described real estate located in Hamilton County, Ohio:

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

Situated in Section 22, Township 4, Fractional Range 2, Miami Purchase, and in the City of Cincinnati, Hamilton County, State of Ohio, and being a part of Lot No. Four (4) on the plat in partition of the Everson Estate made in Case 98500, Hamilton County, Ohio, Common Pleas Court.

Beginning at a point in the Northwestery line of Madison Road, North 59 degrees 31' East, 755 feet from an iron rod at the Intersection of said Northwestery line with the West line of said Lot No. Four (4), thence North 59 degrees 31' East, along said Northwestery line of Madison Road, 40 feet; thence North 30 degrees 29' West, 105 feet; thence South 59 degrees 31' West, 40 feet; thence South 30 degrees 29' East, 105 feet to the place of Beginning.

Parcel No: 051-0002-0143-00

Parcel 051-0002-0144-00

SITUATE IN THE CITY OF CINCINNATI AND IN SECTION 22, TOWNSHIP 4, PRACTIONAL RANGE 2 OF THE MIAMI PURCHASE, COLUMBIA TOWNSHIP, HAMILTON COUNTY, OHIO AND BEING PART OF LOT NO. 4 ON THE PLAT OF PARTITION OF THE EVERSON ESTATE MADE IN CASE NO. 98500, COMMON PLEAS COURT, HAMILTON COUNTY, OHIO AND MORE PARTICULARLY BEING DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE NORTHWESTERLY LINE OF MADISON ROAD, NORTH 59 DEGREES 31' EAST 795 FEET FROM AN IRON ROD AT THE INTERSECTION OF SAID NORTHWESTERLY LINE WITH THE WEST LINE OF SAID LOT NO. 4; THENCE NORTH 59 DEGREES 31' EAST ALONG THE NORTHWESTERLY LINE OF MADISON ROAD, 40 FEET; THENCE NORTH 40 DEGREES 29' WEST 105 FEET; THENCE SOUTH 59 DEGREES 31' WEST 40 FEET; THENCE SOUTH 30 DEGREES 29' EAST 105 FEET TO THE PLACE OF BEGINNING.

SUBJECT TO ANY EASEMENTS AND RESTRICTIONS OF RECORD, IF ANY.

PARCEL # 051-0002-0144-00

4/

DESCRIPTION ACCEPTABLE
HAMILTON COUNTY ENGINEER

Tax Map - 6/29/77 *[Signature]*

CAGIS - _____

EXHIBIT B

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

SUPPLEMENT TO PLAN FOR 3634-3638 MADISON ROAD PROJECT

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

Through a Petition submitted in connection with this Supplemental Plan, the undersigned (the "Property Owners") have requested and consented to certain special assessments by the District with respect to certain real property owned by the Property Owners and located at 3634-3638 Madison Road, Cincinnati, Ohio, having Hamilton County Auditor Parcel ID Nos. 051-0002-0142-00, 051-0002-0143-00, and 051-0002-0144-00 (the "Property"). A schedule for special assessments to be assessed against the Property to pay the costs of the Authorized Improvements is attached hereto as Attachment A.

Initially the special assessments shall be allocated among the parcels (each an "Original Parcel" and, collectively, the "Original Parcels") constituting the Property as follows:

In the event that at any time following the date of this Supplemental Plan the Property or any parcel contained in the Property is combined or subdivided into permanent parcels in the records of the County Auditor of Hamilton County, Ohio (the "County Auditor"), then the Property Owners hereby request that the Special Assessments be allocated among only the resulting parcels which will be improved with the approximately 11,000 square foot retail building into which the Authorized Improvements will be incorporated (the "Assessed Parcels"). No Special Assessments shall be allocated to any resulting parcels which will not have any portion of the approximately 11,000 square foot retail building constructed thereon (the "Non-Assessed Parcels"). The allocation among any resulting Assessed Parcels shall be made such that the Assessed Parcel or Assessed Parcels on which the approximately 11,000 square foot retail building is constructed and into which the Authorized Improvements will be incorporated (the "Assessed Building") shall be allocated a combined total of 100% of the Special Assessments. If the Property is combined or subdivided such that more than one Assessed Parcel is to receive an allocation of the Special Assessments in the percentage stated above, the Special Assessments to be allocated to those Assessed Parcels shall be allocated among them in proportion to the total square feet of improvements on each such Assessed Parcel divided by the total square feet of improvements on all such Assessed Parcels. The Property Owners hereby certify, represent, and warrant to the District and the City that the portion of the Special Assessments allocated to each resulting Assessed Parcel, and the fact that no Special Assessments will be allocated to any resulting Non-Assessed Parcel, all as described above, will cause each resulting Assessed Parcel

to have Special Assessments allocated to it in proportion to, and not in excess of, the special benefits to be conferred on the resulting parcel or resulting parcels by the Authorized Improvements identified in this Supplemental Plan.

The Authorized Improvements applicable to the Property will include energy efficiency electrical systems, HVAC improvements, lighting, building envelope improvements and related improvements. As required by Ohio Revised Code Section 1710.01(K), said Authorized Improvements are anticipated to reduce or support the reduction of energy consumption, allow for reduction in demand, or support the production of clean, renewable energy. A detailed description of the Authorized Improvements is attached to this Supplemental Plan as Attachment B. The Property Owners hereby acknowledge and agree that the special benefit to be provided to the Property under this Supplemental Plan is the consummation of the financing to pay, finance, and refinance costs of the Authorized Improvements, which shall be conferred immediately upon the consummation of the financing, and that the benefits are in proportion to and do not exceed the amount of the Special Assessments to be levied to pay the costs of the financing.

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

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

BY EXECUTING THIS SUPPLEMENTAL PLAN, THE PROPERTY OWNERS IDENTIFIED BELOW HEREBY AUTHORIZE AND CONSENT TO THIS SUPPLEMENTAL PLAN, AND ALL DISTRICT DOCUMENTS (AS DEFINED IN THE PLAN) AND AGREE TO PERFORM THE OBLIGATIONS OF THE PROPERTY OWNERS CONTAINED IN THIS SUPPLEMENTAL PLAN.

The undersigned is the Property Owner with respect to portion of Property having Hamilton County Parcel ID Number 051-0002-0142-00 and located at the commonly used mailing address 3634 Madison Road, Cincinnati, Ohio.

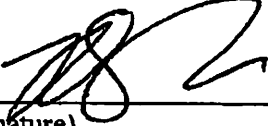
MICHELENE M. BENNETT


(Signature)

BY EXECUTING THIS SUPPLEMENTAL PLAN, THE PROPERTY OWNERS IDENTIFIED BELOW HEREBY AUTHORIZE AND CONSENT TO THIS SUPPLEMENTAL PLAN, AND ALL DISTRICT DOCUMENTS (AS DEFINED IN THE PLAN) AND AGREE TO PERFORM THE OBLIGATIONS OF THE PROPERTY OWNERS CONTAINED IN THIS SUPPLEMENTAL PLAN.

The undersigned is the Property Owner with respect to portion of Property having Hamilton County Parcel ID Number 051-0002-0143-00 and located at the commonly used mailing address 3636 Madison Road, Cincinnati, Ohio.

RYAN C. SCHWALLIE

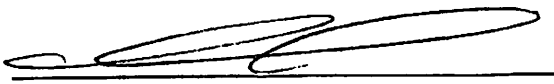


(Signature)

BY EXECUTING THIS SUPPLEMENTAL PLAN, THE PROPERTY OWNERS IDENTIFIED BELOW HEREBY AUTHORIZE AND CONSENT TO THIS SUPPLEMENTAL PLAN, AND ALL DISTRICT DOCUMENTS (AS DEFINED IN THE PLAN) AND AGREE TO PERFORM THE OBLIGATIONS OF THE PROPERTY OWNERS CONTAINED IN THIS SUPPLEMENTAL PLAN.

The undersigned is the Property Owner with respect to portion of Property having Hamilton County Parcel ID Number 051-0002-0144-00 and located at the commonly used mailing address 3638 Madison Road, Cincinnati, Ohio.

WILBURN REALTY LIMITED

By: 
(Signature)

Name: Michael Scorsone

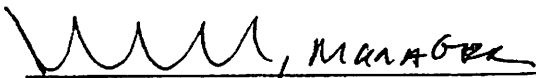
Title: President

BY EXECUTING THIS SUPPLEMENTAL PLAN, THE PROPERTY OWNERS IDENTIFIED BELOW HEREBY AUTHORIZE AND CONSENT TO THIS SUPPLEMENTAL PLAN, AND ALL DISTRICT DOCUMENTS (AS DEFINED IN THE PLAN) AND AGREE TO PERFORM THE OBLIGATIONS OF THE PROPERTY OWNERS CONTAINED IN THIS SUPPLEMENTAL PLAN.

Oakley Crossings Holdings, LLC, in anticipation of being the successor in interest of the Property Owners in the Property, hereby consents to the filing of the Supplemental Plan with the City, confirms all of the information in this Supplemental Plan, and agrees to perform the obligations of the Property Owners at such times as it takes ownership of all or any portion of the Property.

OAKLEY CROSSINGS HOLDINGS, LLC

Authorized Signatory

By: , MANAGER
Name: Christopher R. Hildebrant
Title: MANAGER

Address for notices to Petitioner:

Oakley Crossings Holdings, LLC
8600 Governor's Hill Drive, Ste. 160
Cincinnati, Ohio 45249
Attention: Christopher Hildebrant

Description of Real Property Subject to this Supplemental Plan:

The real property subject to this Petition is located at the commonly used mailing 3634-3646 Madison Road, Cincinnati, Ohio, having Hamilton County Auditor Parcel ID No[s]. [051-0002-0142-00], [051-0002-0143-00], and [051-0002-0144-00].

SUPPLEMENTAL PLAN—ATTACHMENT A

Schedule of Special Assessments

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

Total assessment costs:	\$3,755,431.68
Estimated semi-annual special assessments for 28 years:	\$67,061.28
Number of semi-annual assessments:	56
First semi-annual installment due:	January 31, 2023

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

Special Assessment Payment Date ¹	Total Special Assessment Installment Amount ²	Special Assessment Installment Amount for Parcel ID No. 051-0002-0142	Special Assessment Installment Amount for Parcel ID No. 051-0002-0143	Special Assessment Installment Amount for Parcel ID No. 051-0002-0144
1/31/2023	\$67,061.28	\$22,123.32	\$22,123.32	\$22,814.64
7/31/2023	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2024	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2024	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2025	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2025	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2026	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2026	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2027	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2027	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2028	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2028	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2029	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2029	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2030	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2030	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2031	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2031	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2032	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2032	67,061.28	22,123.32	22,123.32	22,814.64

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

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

Special Assessment Payment Date ¹	Total Special Assessment Installment Amount ²	Special Assessment Installment Amount for Parcel ID. No. 051-0002-0142	Special Assessment Installment Amount for Parcel ID No. 051-0002-0143	Special Assessment Installment Amount for Parcel ID No. 051-0002-0144
1/31/2033	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2033	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2034	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2034	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2035	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2035	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2036	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2036	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2037	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2037	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2038	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2038	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2039	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2039	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2040	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2040	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2041	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2041	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2042	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2042	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2043	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2043	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2044	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2044	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2045	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2045	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2046	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2046	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2047	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2047	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2048	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2048	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2049	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2049	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2050	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2050	67,061.28	22,123.32	22,123.32	22,814.64

SUPPLEMENTAL PLAN—ATTACHMENT B

Description of Authorized Improvements

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

Energy Project Name: Oakley Crossings Holdings, LLC Parcel ID: 051-0002-0140-00 (plus 10 others) County/State: Hamilton/Ohio						
	Improvement Description	Useful Life	Contractor	Improvement Cost (\$)	Baseline Energy Cost (\$)	Projected Energy Savings (\$)
1	Building Envelope	30	Morelia Group	\$1,256,380		See Envelope COMcheck
2	High Efficiency Rooftop Units	20	Morelia Group	\$176,493		See Mechanical COMcheck
3	High Efficiency Lighting	15	Bockrath	\$110,347		See Lighting COMcheck
4	Soft Costs	N/A		\$228,626	N/A	N/A
5						
6						
TOTALS:				\$1,771,846		

EXHIBIT C

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

[See Attached]

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

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

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

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

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

I. Purpose of the Program

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

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

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

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

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

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

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

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

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

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

III. Program Eligibility, Approvals, Financing, and Procurement

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

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

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

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

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

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

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

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

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

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

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

IV. Services Plan

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

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

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

V. Fees

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

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

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

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

VI. Energy Efficiency and Renewable Energy Regulations and Requirements

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

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

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

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

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

VII. Statutory Requirements

As provided in the District Documents:

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

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

VIII. Changes in State and Federal Law

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

IX. Releases and Indemnification

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

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

X. Changes in the Program Terms; Severability

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

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

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

XI. Disclosure of Property Owner Information

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

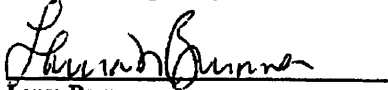
Each owner of real property located within the District acknowledges that the District is subject to Ohio public records laws, including Ohio Revised Code Section 149.43 *et seq.* Each property owner that executes this Plan agrees to the disclosure of certain property owner information as stated in this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

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

Date: July 23, 2014

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

Authorized Signatory



Laura Brunner, as
President and Chief Executive Officer

Address for notices to Property Owner:

Port of Greater Cincinnati Development
Authority

299 East Sixth Street, Suite 2A

Cincinnati, Ohio 45202

Description of Real Property Subject to this Plan:

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

Parcel One

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

Parcel Two

[Property Owner Consent to Plan]

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

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

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

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

[Property Owner Consent to Plan]

September 29, 2021

To: Mayor and Members of City Council **202102851**
From: Paula Boggs Muething, City Manager
**Subject: LEVYING SPECIAL ASSESSMENTS FOR THE PACE
ASSESSMENT PROJECT FOR 3634-3638 MADISON ROAD**

Attached is an Emergency Ordinance captioned as follows:

LEVYING special assessments for the purpose of the special assessment project at 3634-3638 Madison Road in the City of Cincinnati involving the City of Cincinnati, Ohio Energy Special Improvement District.

BACKGROUND/CURRENT CONDITIONS

The Ohio PACE (Property Assessed Clean Energy) program allows commercial property owners to opt into a special assessment which is added to the property tax bill to access long-term, fixed-rate financing for energy efficiency upgrades. The current owners, Michelene M. Bennett, Ryan C. Schwallie, and Wilburn Realty Limited, together with the future owner of the project site, Oakley Crossings Holdings, LLC, have requested to have their property added to the Energy Special Improvement District (ESID) and special assessments levied on the property, for the purpose of accessing PACE financing for energy efficient electrical systems, HVAC improvements, lighting, building envelope improvements and related improvements.

DEVELOPER INFORMATION

Michelene M. Bennett, Ryan C. Schwallie, and Wilburn Realty Limited are the current owners of the property. The anticipated purchaser is Oakley Crossings Holdings, LLC, which is affiliated with Morelia Group, LLC (Morelia). Morelia has experience producing high-quality developments in the Greater Cincinnati area, including within the neighborhood of Oakley.

In 2017, Morelia, through its affiliate entities, acquired from Crossroads Church an approximately five-acre site located on Madison Road in Oakley and constructed thereon the Oakley Connection and Encore of Oakley mixed-use developments that now count as occupants Starbucks, Condado Tacos, Crumbl Cookie, Great Clips, Top Nail Salon, Chicken Salad Chick, General Electric Credit Union, McAlister's Deli, Tropical Smoothie Café, Holtman's Donuts, Tide Dry Cleaners and All About Kids Child Care & Learning Center. Together, these developments were an approximately \$25,000,000 investment that created approximately 300 new jobs, increased the City's tax base, and enhanced the quality of life for Oakley residents.

PROJECT DESCRIPTION

The project will include the construction of approximately 17,300 square feet of commercial space. The total cost of the PACE eligible improvements is \$1,771,846.

PROPOSED INCENTIVE

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

PROJECT TEAM & TIMELINE

The project team (listed below) will make themselves available at the request of the councilmember(s).

- Assistant City Manager: Billy Weber (Ext. 3318)
- DCED Director: Markiea Carter (Ext. 1953)
- Project Attorney: Samantha Brandenburg (Ext. 4704)

The anticipated council timeline, which includes two Budget and Finance meetings if necessary is as follows:

- September 29, 2021: Introduction to City Council
- October 4, 2021: Budget and Finance (1)
- October 11, 2021: Budget and Finance (2)
- October 13, 2021: City Council for Final Approval

RECOMMENDATION

The Administration recommends approval of this Emergency Ordinance.

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

EMERGENCY

AWB

City of Cincinnati

An Ordinance No. _____ - 2021

LEVYING special assessments for the purpose of the special assessment project at 3634-3638 Madison Road in the City of Cincinnati involving the City of Cincinnati, Ohio Energy Special Improvement District.

WHEREAS, this Council duly adopted a legislative resolution declaring the necessity of an assessment project at 3634-3638 Madison Road in the City of Cincinnati (the “Resolution of Necessity”), which Resolution of Necessity also accepted and approved the Petition (as defined therein) requesting the improvements described in Section 3 of the Resolution of Necessity and an assessment for the cost thereof, all as set forth in the Petition; and

WHEREAS, this Council duly passed an ordinance determining to proceed with the Assessment Project (as defined in the Resolution of Necessity) and adopted the estimated Special Assessments filed with the Clerk of Council and the City’s Director of Finance pursuant to the Resolution of Necessity; now, therefore,

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

Section 1. That the recitals hereof are hereby incorporated by reference, and each capitalized term not otherwise defined herein or by reference to another document shall have the meaning assigned to it in the Resolution of Necessity, an unsigned copy of which is attached to this ordinance as Attachment B.

Section 2. That the Special Assessments for the costs and expenses of the Assessment Project, which are set forth in the Petition (a copy of which is attached to the Resolution of Necessity) and are on file with the Clerk of Council and the City’s Finance Director, are adopted and confirmed and are assessed against the Assessed Property in the manner and in the number of installments provided in the Resolution of Necessity and the Petition. The Special Assessments are assessed against the Assessed Property commencing in tax year 2022 for collection in 2023 and shall continue through tax year 2049 for collection in 2050. The list of

Special Assessments to be levied and assessed against the Assessed Property and the schedule of the Special Assessments are attached to this ordinance as Attachment A. The Assessment Project shall be located entirely on the Assessed Property, as set forth in the Resolution of Necessity and the Petition.

Section 3. That this Council hereby finds and determines that the Special Assessments are in proportion to the special benefits received by the Assessed Property as set forth in the Petition and are not in excess of any applicable statutory limitation. The Special Assessments against the Assessed Property shall be payable as set forth in the Resolution of Necessity and the Petition. All Special Assessments shall be certified by the City's Finance Director to the Hamilton County Auditor pursuant to the Petition and Ohio Revised Code Section 727.33, to be placed on the tax list and duplicate and collected with and in the same manner as real property taxes are collected and as set forth in the Petition. This Council hereby appropriates the Special Assessments collected to be used by the City to meet its obligations with respect to the Assessment Project in accordance with the Standing Assignment Agreement and the Addendum.

Section 4. That the Owner of the Assessed Property and Oakley Crossings Holdings, LLC, as the anticipated purchaser of the Assessed Property, have waived their right to pay the Special Assessments in cash, and all Special Assessments and installments thereof are to be certified by the City's Finance Director to the Hamilton County Auditor as provided by law to be placed by him or her on the tax list and duplicate and collected with and in the same manner as real property taxes are collected and as set forth in the Petition.

Section 5. That the City's Finance Director is authorized to keep the Special Assessments on file in the office of the Finance Director.

Section 6. That in compliance with Ohio Revised Code Section 319.61, the Clerk of the Council is hereby directed to deliver a certified copy of this ordinance to the Hamilton County Auditor within twenty (20) days after its passage.

Section 7. That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Ohio Revised Code Section 121.22.

Section 8. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is to ensure that the board of directors of the City of Cincinnati, Ohio Energy Special Improvement District, Inc. may proceed with the Assessment Project as soon as possible so that work thereon may commence or continue without delay.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

ATTACHMENT A

**LIST OF SPECIAL ASSESSMENTS AND
SCHEDULE OF SPECIAL ASSESSMENTS**

3634-3638 MADISON ROAD
LIST OF SPECIAL ASSESSMENTS

Name	Assessed Properties Description	Portion of Benefit and Special Assessment	Amount of Special Assessments
Micheline M. Bennett	Hamilton County Parcel Number: 051-0002-0142-00	33%	\$1,238,905.92
Ryan C. Schwallie	Hamilton County Parcel Number: 051-0002-0143-00	33%	\$1,238,905.92
Wilburn Realty Limited	Hamilton County Parcel Number: 051-0002-0144-00	34%	\$1,277,619.84

Schedule of Special Assessments

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

Total assessment costs:	\$3,755,431.68
Estimated semi-annual special assessments for 28 years:	\$67,061.28
Number of semi-annual assessments:	56
First semi-annual installment due:	January 31, 2023

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

Special Assessment Payment Date ¹	Total Special Assessment Installment Amount ²	Special Assessment Installment Amount for Parcel ID No. 051-0002-0142	Special Assessment Installment Amount for Parcel ID No. 051-0002-0143	Special Assessment Installment Amount for Parcel ID No. 051-0002-0144
1/31/2023	\$67,061.28	\$22,123.32	\$22,123.32	\$22,814.64
7/31/2023	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2024	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2024	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2025	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2025	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2026	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2026	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2027	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2027	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2028	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2028	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2029	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2029	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2030	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2030	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2031	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2031	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2032	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2032	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2033	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2033	67,061.28	22,123.32	22,123.32	22,814.64

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

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

Special Assessment Payment Date ¹	Total Special Assessment Installment Amount ²	Special Assessment Installment Amount for Parcel ID. No. 051-0002-0142	Special Assessment Installment Amount for Parcel ID No. 051-0002-0143	Special Assessment Installment Amount for Parcel ID No. 051-0002-0144
1/31/2034	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2034	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2035	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2035	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2036	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2036	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2037	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2037	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2038	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2038	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2039	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2039	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2040	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2040	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2041	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2041	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2042	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2042	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2043	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2043	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2044	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2044	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2045	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2045	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2046	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2046	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2047	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2047	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2048	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2048	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2049	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2049	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2050	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2050	67,061.28	22,123.32	22,123.32	22,814.64

ATTACHMENT B

RESOLUTION OF NECESSITY

[See Attached]

EMERGENCY

Legislative Resolution

RESOLUTION NO. _____ - 2021

DECLARING by legislative resolution the necessity of the special assessment project at 3634-3638 Madison Road in the City of Cincinnati, Ohio involving the City of Cincinnati, Ohio Energy Special Improvement District.

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

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

WHEREAS, Michelene M. Bennett, Ryan C. Schwallie, and Wilburn Realty Limited (collectively, and together with all future owners of the Project Site, as defined below, the "Owner"), as the owner of one hundred percent (100%) of the lots and lands, including air parcels, to be assessed for the improvements described in this Resolution, has executed and filed with this Council a *Petition for Special Assessments for Special Energy Improvement Projects* dated as of January 7, 2021 (the "Petition"), including a *Supplement to Plan for 3634-3638 Madison Road Project* (the "Supplemental Plan"), proposing the necessity of special assessments to pay the costs of special energy improvement projects (as more fully identified in the Petition and Supplemental Plan, the "Authorized Improvements") to be located at 3634-3638 Madison Road in Cincinnati (the "Assessed Property"), and Oakley Crossings Holdings, LLC is the anticipated purchaser of the Assessed Property ("Oakley Crossings"); and

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

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

of the Authorized Improvements, and requests that the Authorized Improvements be undertaken cooperatively by the City, the ESID, the Owner, and Oakley Crossings in accordance with the Standing Assignment Agreement dated as of February 28, 2017 by and among the City, the Port of Greater Cincinnati Development Authority, and the ESID (the “Standing Assignment Agreement”); and

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

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

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

Section 1. That the recitals hereof are hereby incorporated by reference, and each capitalized term not otherwise defined in this Resolution or by reference to another document shall have the meaning assigned to it in the *Petition for Special Assessments for Special Energy Improvement Projects* dated January 7, 2021 (the “Petition”), which Petition, together with a *Supplement to Plan for 3634-3638 Madison Road Project* (the “Supplemental Plan”), are hereby approved and accepted, and copies of which are attached to this Resolution as Attachment A.

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

Section 3. That it is hereby declared necessary, and a vital and essential public purpose of the City, to improve the real property located at 3634-3638 Madison Road, Cincinnati, Ohio (the “Assessed Property”), by providing for special energy improvement projects as more fully identified in the Petition and Supplemental Plan (the “Authorized Improvements”) on the Assessed

Property, including any and all costs and expenses in connection with or otherwise related thereto as described in the Petition (collectively, the "Assessment Project"), which Assessment Project is described in the plans, specifications, profiles, and estimates of costs included in the Petition and on file in the office of the Clerk of Council.

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

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

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

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

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

Section 9. That the Special Assessments shall be levied and paid in fifty-six (56) semi-annual installments pursuant to the list of estimated Special Assessments set forth in the Petition. The Owner and Oakley Crossings have waived the right to pay the Special Assessment in cash within thirty (30) days after the first publication of the notice of the assessing ordinance.

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

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

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

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

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

Section 15. That this resolution shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms

of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is to ensure that the board of directors of the ESID may proceed with the Assessment Project as soon as possible so that work thereon may commence or continue without delay.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

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

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

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

The undersigned are collectively the owners (collectively, the “Petitioners”) are the owners of 100% of the property described on **Exhibit A** attached to this Petition (the “Property”). Oakley Crossings Holdings, LLC, a Delaware limited liability is the anticipated purchaser of the Property (the “Anticipated Purchaser”), and, following its acquisition of the Property, will implement special energy improvement projects on the Property (the “Authorized Improvements,” as further described in **Exhibit B**).

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

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

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

As required by Ohio Revised Code Section 1710.02, the Petitioners, as the owners of the Property, being 100% of the area proposed to be added to the District and 100% of the area proposed to be assessed for the Authorized Improvements, hereby (a) petition the City Council to (i) approve the addition of the Property to the District and (ii) approve an amendment and supplement to the Plan by the Supplemental Plan to include the Authorized Improvements and

(b) request that (i) Authorized Improvements be undertaken by the District, and (ii) the total cost of those Authorized Improvements be assessed on the Property in proportion to the special benefits that will result from the Authorized Improvements.

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

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

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

Notwithstanding anything to the contrary contained herein, in the event that at any time following the date of this Petition the Property is combined or subdivided into permanent parcels in the records of the County Auditor of Hamilton County, Ohio (the "County Auditor"), the Petitioners and the Anticipated Purchaser hereby request that the Special Assessments be allocated only to the resulting parcels which will be improved with the approximately 11,000 square foot retail building into which the Authorized Improvements will be incorporated (the "Assessed Parcels"). The allocation among any resulting Assessed Parcels shall be made such that any Assessed Parcel or Assessed Parcels on which the approximately 11,000 square foot retail building into which the Authorized Improvements will be incorporated (the "Assessed Building") shall be allocated a total of 100% of the Special Assessments. If the Property is combined or subdivided such that more than one Assessed Parcel is to receive an allocation of

the Special Assessments, the Special Assessments to be allocated to those Assessed Parcels shall be allocated among them in proportion to the total square feet of improvements on each such Assessed Parcel divided by the total square feet of improvements on all such Assessed Parcels. The Petitioners hereby certify, represent, and warrant to the District and the City that the portion of the Special Assessments allocated to each resulting Assessed Parcel, as described above, will cause each resulting Assessed Parcel to have Special Assessments allocated to it in proportion to, and not in excess of, the special benefits to be conferred on the resulting parcel or resulting parcels by the Authorized Improvements. Immediately upon any subdivision of the Property, (i) any reference to the Property contained in this Petition shall be deemed to be a reference to all of the Assessed Parcels; and (ii) the legal description of the Assessed Parcels shall be deemed to replace the legal description of the Property set forth in **Exhibit A**.

In consideration of the Authorized Improvements, each of the Petitioners, for itself and its grantees and other successors with respect to the Property, agrees to pay promptly all Special Assessments as they become due, and agrees that the determination by Council of the Special Assessments in accordance with the terms hereof will be final, conclusive and binding upon the Petitioner and the Property. In further consideration of the Authorized Improvements, each of the Petitioners covenants and agrees to disclose, upon the transfer of the Property or any portion of the Property to be assessed for the actual costs of the Authorized Improvements set forth in **Exhibit B**, in the deed to the transferee or in a separate instrument recorded with respect to the Property the existence of any outstanding Special Assessment for the Authorized Improvements and to require that transferee covenant to disclose the existence of any outstanding Special Assessment for the Authorized Improvements in any subsequent deed or in a separate instrument recorded with respect to the Property at the time of the subsequent transfer so long as the Special Assessments remain unpaid. As a condition to each subsequent transfer while the Special Assessments remain unpaid, each of the Petitioners further covenants and agrees to provide expressly in the deed to any transferee or in a separate instrument recorded with respect to the Property at the time of the subsequent transfer (i) for the acquisition by the transferee of the Property subject to any outstanding Special Assessment and the transferee's assumption of responsibility for payment thereof and for waiver by the transferee of any rights that the Petitioners have waived pursuant to this Petition, and (ii) the requirement that each transferee from time to time of the Property covenant to include in the deed to any subsequent transferee or in a separate instrument recorded with respect to the Property at the time of the subsequent transfer the conditions described in clause (i) so long as the Special Assessments remain unpaid.

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

The Petitioners hereby waive notice and publication of all resolutions, legal notices and hearings provided for in the Ohio Revised Code with respect to the Authorized Improvements and the Special Assessments, particularly those in Ohio Revised Code Chapters 727 and 1710, and consent to proceeding with the Authorized Improvements. Without limiting the foregoing,

the Petitioners specifically waive any notices and rights under the following Ohio Revised Code Sections:

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

The Petitioners, in accordance with Ohio Revised Code Section 1710.02(A), further agree that the Property may be included in more than one district formed under Ohio Revised Code Chapter 1710. The Petitioners further agree not to take any actions, or cause to be taken any actions, to place any of the Property in an agricultural district as provided for in Ohio Revised Code Chapter 929, and if any of the Property is in an agricultural district, the Petitioners, in accordance with Ohio Revised Code Section 929.03, hereby grant permission to collect any Special Assessments levied against such Property.

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

The Petitioners acknowledge that the Special Assessments set forth in this Petition and in the Exhibits to this Petition are based upon an estimate of costs, and that the final Special Assessments shall be calculated in the same manner, which, regardless of any statutory limitation on the Special Assessments, may be more or less than the respective estimated Special Assessments for the Authorized Improvements. In the event the final assessments exceed the estimated assessments, the Petitioners, without limitation of the other waivers contained in this Petition, also waives any rights it may now or in the future have to object to those assessments, any notice provided for in Ohio Revised Code Chapters 727 and 1710, and any rights of appeal provided for in such Chapters or otherwise. The Petitioners further acknowledge and represent that the respective final assessments may be levied at such time as determined by the City and

regardless of whether or not any of the parts or portions of the Authorized Improvements have been completed.

The Petitioners further acknowledge that the final Special Assessments for the Authorized Improvements, when levied against the Property, will be payable in cash within thirty (30) days from the date of passage of the ordinance confirming and levying the final assessments and that if any of such assessments are not paid in cash they will be certified to the Auditor of the County, as provided by law, to be placed on the tax list and duplicate and collected as other taxes are collected. Notwithstanding the foregoing, however, the Petitioners hereby waive the right to pay the final assessments for the Authorized Improvements in cash within thirty (30) days from the passage of the ordinance confirming and levying the final assessments and requests that the unpaid final assessments for the Authorized Improvements shall be payable in fifty-six (56) semi-annual installments.

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

The Petitioners further waive any and all questions as to the constitutionality of the laws under which the Authorized Improvements shall be acquired, installed, or constructed or the proceedings relating to the acquisition, installation, or construction of the Authorized Improvements, the jurisdiction of the City acting in connection with the acquisition, installation, or construction of the Authorized Improvements, all irregularities, errors and defects, if any, procedural or otherwise, in the levying of the assessments or the undertaking of the Authorized Improvements, and specifically waives any and all rights of appeal, including any right of appeal as provided in Ohio Revised Code Title 7, and specifically but without limitation, Ohio Revised Code Chapters 727 and 1710, as well as all such similar rights under the Constitution of the State of Ohio and the Charter of the City of Cincinnati, Ohio. The Petitioners represent that they will not contest, in a judicial or administrative proceeding, the undertaking of the Authorized Improvements, the estimated assessments, the final assessments, and any Special Assessments levied against the Property for the Authorized Improvements, or any other matters related to the foregoing.

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

[Balance of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the Petitioners have caused this petition to be executed by their respective undersigned duly authorized signatories.

The undersigned is the Petitioner with respect to portion of Property having Hamilton County Parcel ID Number 051-0002-0142-00 and located at the commonly used mailing address 3634 Madison Road, Cincinnati, Ohio.

MICHELENE M. BENNETT

Michlene M. Bennett
(Signature)

Address for notices to Petitioner:

Michlene M. Bennett

1771 Woodpine Lane
(Street Address)

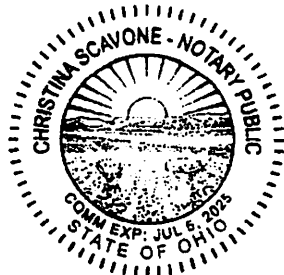
Cincinnati, OH 45255
(City, State ZIP)

STATE OF Ohio)
) SS:
COUNTY OF Hamilton)

On the 8 day of January, 2020, Michlene Bennett, personally appeared before me, a notary public in and for the state and county stated above, who acknowledged the execution of the foregoing Petition and that the same was the free act and deed of such signer. The notarial act certified hereby is a jurat. An oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year aforesaid.

[SEAL]




Christina Scavone
Notary Public

IN WITNESS WHEREOF, the Petitioners have caused this petition to be executed by their respective undersigned duly authorized signatories.

The undersigned is the Petitioner with respect to portion of Property having Hamilton County Parcel ID Number 051-0002-0143-00 and located at the commonly used mailing address 3636 Madison Road, Cincinnati, Ohio.

RYAN C. SCHWALLIE



(Signature)

Address for notices to Petitioner:

Ryan C. Scwallie

3636 Madison Rd
(Street Address)

CINCINNATI, OH 45209
(City, State ZIP)

STATE OF OHIO)
) SS:
COUNTY OF HAMILTON)

On the 07 day of JANUARY 2021, 2020, RYAN C. SCHWALLIE personally appeared before me, a notary public in and for the state and county stated above, who acknowledged the execution of the foregoing Petition and that the same was the free act and deed of such signer. The notarial act certified hereby is a jurat. An oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year aforesaid.



ARTHUR A. VOLMER
Notary Public, State of Ohio
My Commission Expires
July 23, 2024



Notary Public

IN WITNESS WHEREOF, the Petitioners have caused this petition to be executed by their respective undersigned duly authorized signatories.

The undersigned is the Petitioner with respect to portion of Property having Hamilton County Parcel ID Number 051-0002-0144-00 and located at the commonly used mailing address 3638 Madison Road, Cincinnati, Ohio.

WILBURN REALTY LIMITED

By: [Signature]
(Signature)

Name: Michael Scicolone

Title: President

Address for notices to Petitioner: Wilburn Realty Limited
(Street Address) 2622 Streamside Court
Cincinnati, Ohio 45230
(City, State ZIP)

STATE OF Ohio)
)
COUNTY OF Hamilton) SS:

On the 7 day of January, 2020, Michael Scicolone, the President of Wilburn Realty Limited personally appeared before me, a notary public in and for the state and county stated above, who acknowledged the execution of the foregoing Petition and that the same was the free act and deed of such officer and such limited liability company. The notarial act certified hereby is a jurat. An oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year aforesaid.

[SEAL]

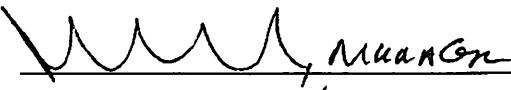


Christina Scavone
Notary Public April 7/5/2025

IN WITNESS WHEREOF, Oakley Crossings Holdings, LLC, in anticipation of being the successor in interest of the Petitioners in the Property, hereby consents to the filing of the Petition with the City, confirms all of the information in this Petition, and agrees to perform the obligations of the Petitioner sat such times as it takes ownership of all or any portion the Property.

OAKLEY CROSSINGS HOLDINGS, LLC

Authorized Signatory


By: 
Name: Christopher R. Hildebrand
Title: MANAGER

Address for notices to Petitioner: Oakley Crossings Holdings, LLC
8600 Governor's Hill Drive, Ste. 160
Cincinnati, Ohio 45249
Attention: Christopher Hildebrand

STATE OF Ohio)
) SS:
COUNTY OF Hamilton)

On the 8 day of January, 2020, Christopher Hildebrand, as the manager of Oakley Crossings Holdings, LLC, personally appeared before me, a notary public in and for the state and county stated above, who acknowledged the execution of the foregoing Petition on behalf of Oakley Crossings Holdings, LLC and that the same was the free act and deed of such officer and of such limited liability company. The notarial act certified hereby is a jurat. An oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year aforesaid.

[SEAL] 


Notary Public

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

The real property subject to this Petition is located at the commonly used mailing address 3634-3638 Madison Road, Cincinnati, Ohio, having Hamilton County Auditor Parcel ID Nos. 051-0002-0142-00, 051-0002-0143-00, and 051-0002-0144-00, and the following legal descriptions:

Parcel 051-0002-142-00:

Situate in the City of Cincinnati and in Section 22, Township 4, Fractional Range 2 of the Miami Purchase, Columbia Township, Hamilton County, Ohio, and being part of Lot Number 4 as shown on the Plat in Partition of the Everson Estate as made in Case No. 98,500 in the Common Pleas Court, Hamilton County, Ohio, and more particularly described as follows:

Beginning at a point in the northwesterly line of Madison Road North 59 deg. 31' East, 715 feet from an iron rod at the intersection of said northwesterly line with the west line of said Lot No. 4; thence North 59 deg. 31' East along said northwesterly line of Madison Road 40 feet; thence North 30 deg. 29' West, 105 feet; thence South 59 deg. 31' West, 40 feet; thence South 30 deg. 29' East, 105 feet to the place of beginning.

Parcel 051-0002-0143-00:

The following described real estate located in Hamilton County, Ohio:

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

Situated in Section 22, Township 4, Fractional Range 2, Miami Purchase, and in the City of Cincinnati, Hamilton County, State of Ohio, and being a part of Lot No. Four (4) on the plat in partition of the Everson Estate made in Case 98500, Hamilton County, Ohio, Common Pleas Court.

Beginning at a point in the Northwesterly line of Madison Road, North 59 degrees 31' East, 755 feet from an iron rod at the intersection of said Northwesterly line with the West line of said Lot No. Four (4), thence North 59 degrees 31' East, along said Northwesterly line of Madison Road, 40 feet; thence North 30 degrees 29' West, 105 feet; thence South 59 degrees 31' West, 40 feet; thence South 30 degrees 29' East, 105 feet to the place of Beginning.

Parcel No: 051-0002-0143-00

Parcel 051-0002-0144-00

SITUATE IN THE CITY OF CINCINNATI AND IN SECTION 22, TOWNSHIP 4, PRACTIONAL RANGE 2 OF THE MIAMI PURCHASE, COLUMBIA TOWNSHIP, HAMILTON COUNTY, OHIO AND BEING PART OF LOT NO. 4 ON THE PLAT OF PARTITION OF THE EVERSON ESTATE MADE IN CASE NO. 98500, COMMON PLEASE COURT, HAMILTON COUNTY, OHIO AND MORE PARTICULARLY BEING DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE NORTHWESTERLY LINE OF MADISON ROAD, NORTH 59 DEGREES 31' EAST 795 FEET FROM AN IRON ROD AT THE INTERSECTION OF SAID NORTHWESTERLY LINE WITH THE WEST LINE OF SAID LOT NO. 4; THENCE NORTH 59 DEGREES 31' EAST ALONG THE NORTHWESTERLY LINE OF MADISON ROAD, 40 FEET; THENCE NORTH 40 DEGREES 29' WEST 105 FEET; THENCE SOUTH 59 DEGREES 31' WEST 40 FEET; THENCE SOUTH 30 DEGREES 29' EAST 105 FEET TO THE PLACE OF BEGINNING.

SUBJECT TO ANY EASEMENTS AND RESTRICTIONS OF RECORD, IF ANY.

PARCEL # 051-0002-0144-00

4/

DESCRIPTION ACCEPTABLE
HAMILTON COUNTY ENGINEER

Tax Map -

6/29/17

CAGIS -

EXHIBIT B

CITY OF CINCINNATI, OHIO ENERGY SPECIAL IMPROVEMENT DISTRICT PROGRAM PLAN

SUPPLEMENT TO PLAN FOR 3634-3638 MADISON ROAD PROJECT

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

Through a Petition submitted in connection with this Supplemental Plan, the undersigned (the "Property Owners") have requested and consented to certain special assessments by the District with respect to certain real property owned by the Property Owners and located at 3634-3638 Madison Road, Cincinnati, Ohio, having Hamilton County Auditor Parcel ID Nos. 051-0002-0142-00, 051-0002-0143-00, and 051-0002-0144-00 (the "Property"). A schedule for special assessments to be assessed against the Property to pay the costs of the Authorized Improvements is attached hereto as Attachment A.

Initially the special assessments shall be allocated among the parcels (each an "Original Parcel" and, collectively, the "Original Parcels") constituting the Property as follows:

In the event that at any time following the date of this Supplemental Plan the Property or any parcel contained in the Property is combined or subdivided into permanent parcels in the records of the County Auditor of Hamilton County, Ohio (the "County Auditor"), then the Property Owners hereby request that the Special Assessments be allocated among only the resulting parcels which will be improved with the approximately 11,000 square foot retail building into which the Authorized Improvements will be incorporated (the "Assessed Parcels"). No Special Assessments shall be allocated to any resulting parcels which will not have any portion of the approximately 11,000 square foot retail building constructed thereon (the "Non-Assessed Parcels"). The allocation among any resulting Assessed Parcels shall be made such that the Assessed Parcel or Assessed Parcels on which the approximately 11,000 square foot retail building is constructed and into which the Authorized Improvements will be incorporated (the "Assessed Building") shall be allocated a combined total of 100% of the Special Assessments. If the Property is combined or subdivided such that more than one Assessed Parcel is to receive an allocation of the Special Assessments in the percentage stated above, the Special Assessments to be allocated to those Assessed Parcels shall be allocated among them in proportion to the total square feet of improvements on each such Assessed Parcel divided by the total square feet of improvements on all such Assessed Parcels. The Property Owners hereby certify, represent, and warrant to the District and the City that the portion of the Special Assessments allocated to each resulting Assessed Parcel, and the fact that no Special Assessments will be allocated to any resulting Non-Assessed Parcel, all as described above, will cause each resulting Assessed Parcel

to have Special Assessments allocated to it in proportion to, and not in excess of, the special benefits to be conferred on the resulting parcel or resulting parcels by the Authorized Improvements identified in this Supplemental Plan.

The Authorized Improvements applicable to the Property will include energy efficiency electrical systems, HVAC improvements, lighting, building envelope improvements and related improvements. As required by Ohio Revised Code Section 1710.01(K), said Authorized Improvements are anticipated to reduce or support the reduction of energy consumption, allow for reduction in demand, or support the production of clean, renewable energy. A detailed description of the Authorized Improvements is attached to this Supplemental Plan as Attachment B. The Property Owners hereby acknowledge and agree that the special benefit to be provided to the Property under this Supplemental Plan is the consummation of the financing to pay, finance, and refinance costs of the Authorized Improvements, which shall be conferred immediately upon the consummation of the financing, and that the benefits are in proportion to and do not exceed the amount of the Special Assessments to be levied to pay the costs of the financing.

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

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

BY EXECUTING THIS SUPPLEMENTAL PLAN, THE PROPERTY OWNERS IDENTIFIED BELOW HEREBY AUTHORIZE AND CONSENT TO THIS SUPPLEMENTAL PLAN, AND ALL DISTRICT DOCUMENTS (AS DEFINED IN THE PLAN) AND AGREE TO PERFORM THE OBLIGATIONS OF THE PROPERTY OWNERS CONTAINED IN THIS SUPPLEMENTAL PLAN.

The undersigned is the Property Owner with respect to portion of Property having Hamilton County Parcel ID Number 051-0002-0142-00 and located at the commonly used mailing address 3634 Madison Road, Cincinnati, Ohio.

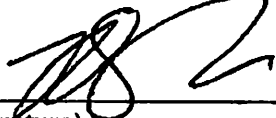
MICHELENE M. BENNETT


(Signature)

BY EXECUTING THIS SUPPLEMENTAL PLAN, THE PROPERTY OWNERS IDENTIFIED BELOW HEREBY AUTHORIZE AND CONSENT TO THIS SUPPLEMENTAL PLAN, AND ALL DISTRICT DOCUMENTS (AS DEFINED IN THE PLAN) AND AGREE TO PERFORM THE OBLIGATIONS OF THE PROPERTY OWNERS CONTAINED IN THIS SUPPLEMENTAL PLAN.

The undersigned is the Property Owner with respect to portion of Property having Hamilton County Parcel ID Number 051-0002-0143-00 and located at the commonly used mailing address 3636 Madison Road, Cincinnati, Ohio.

RYAN C. SCHWALLIE

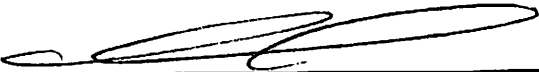


(Signature)

BY EXECUTING THIS SUPPLEMENTAL PLAN, THE PROPERTY OWNERS IDENTIFIED BELOW HEREBY AUTHORIZE AND CONSENT TO THIS SUPPLEMENTAL PLAN, AND ALL DISTRICT DOCUMENTS (AS DEFINED IN THE PLAN) AND AGREE TO PERFORM THE OBLIGATIONS OF THE PROPERTY OWNERS CONTAINED IN THIS SUPPLEMENTAL PLAN.

The undersigned is the Property Owner with respect to portion of Property having Hamilton County Parcel ID Number 051-0002-0144-00 and located at the commonly used mailing address 3638 Madison Road, Cincinnati, Ohio.

WILBURN REALTY LIMITED

By: 
(Signature)

Name: Michael Scicolone

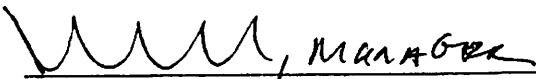
Title: President

BY EXECUTING THIS SUPPLEMENTAL PLAN, THE PROPERTY OWNERS IDENTIFIED BELOW HEREBY AUTHORIZE AND CONSENT TO THIS SUPPLEMENTAL PLAN, AND ALL DISTRICT DOCUMENTS (AS DEFINED IN THE PLAN) AND AGREE TO PERFORM THE OBLIGATIONS OF THE PROPERTY OWNERS CONTAINED IN THIS SUPPLEMENTAL PLAN.

Oakley Crossings Holdings, LLC, in anticipation of being the successor in interest of the Property Owners in the Property, hereby consents to the filing of the Supplemental Plan with the City, confirms all of the information in this Supplemental Plan, and agrees to perform the obligations of the Property Owners at such times as it takes ownership of all or any portion of the Property.

OAKLEY CROSSINGS HOLDINGS, LLC

Authorized Signatory

By:  MANAGER
Name: Christopher R. Hildebrand
Title: MANAGER

Address for notices to Petitioner:

Oakley Crossings Holdings, LLC
8600 Governor's Hill Drive, Ste. 160
Cincinnati, Ohio 45249
Attention: Christopher Hildebrand

Description of Real Property Subject to this Supplemental Plan:

The real property subject to this Petition is located at the commonly used mailing 3634-3646 Madison Road, Cincinnati, Ohio, having Hamilton County Auditor Parcel ID No[s]. [051-0002-0142-00], [051-0002-0143-00], and [051-0002-0144-00].

SUPPLEMENTAL PLAN—ATTACHMENT A

Schedule of Special Assessments

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

Total assessment costs:	\$3,755,431.68
Estimated semi-annual special assessments for 28 years:	\$67,061.28
Number of semi-annual assessments:	56
First semi-annual installment due:	January 31, 2023

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

Special Assessment Payment Date ¹	Total Special Assessment Installment Amount ²	Special Assessment Installment Amount for Parcel ID No. 051-0002-0142	Special Assessment Installment Amount for Parcel ID No. 051-0002-0143	Special Assessment Installment Amount for Parcel ID No. 051-0002-0144
1/31/2023	\$67,061.28	\$22,123.32	\$22,123.32	\$22,814.64
7/31/2023	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2024	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2024	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2025	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2025	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2026	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2026	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2027	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2027	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2028	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2028	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2029	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2029	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2030	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2030	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2031	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2031	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2032	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2032	67,061.28	22,123.32	22,123.32	22,814.64

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

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

Special Assessment Payment Date ¹	Total Special Assessment Installment Amount ²	Special Assessment Installment Amount for Parcel ID. No. 051-0002-0142	Special Assessment Installment Amount for Parcel ID No. 051-0002-0143	Special Assessment Installment Amount for Parcel ID No. 051-0002-0144
1/31/2033	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2033	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2034	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2034	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2035	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2035	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2036	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2036	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2037	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2037	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2038	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2038	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2039	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2039	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2040	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2040	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2041	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2041	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2042	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2042	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2043	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2043	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2044	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2044	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2045	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2045	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2046	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2046	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2047	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2047	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2048	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2048	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2049	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2049	67,061.28	22,123.32	22,123.32	22,814.64
1/31/2050	67,061.28	22,123.32	22,123.32	22,814.64
7/31/2050	67,061.28	22,123.32	22,123.32	22,814.64

SUPPLEMENTAL PLAN—ATTACHMENT B

Description of Authorized Improvements

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

Energy Project Name: Oakley Crossings Holdings, LLC						
Parcel ID: 051-0002-0140-00 (plus 10 others)						
County/State: Hamilton/Ohio						
	Improvement Description	Useful Life	Contractor	Improvement Cost (\$)	Baseline Energy Cost (\$)	Projected Energy Savings (\$)
1	Building Envelope	30	Morelia Group	\$1,256,380		See Envelope COMcheck
2	High Efficiency Rooftop Units	20	Morelia Group	\$176,493		See Mechanical COMcheck
3	High Efficiency Lighting	15	Bockrath	\$110,347		See Lighting COMcheck
4	Soft Costs	N/A		\$228,626	N/A	N/A
5						
6						
TOTALS:				\$1,771,846		

EXHIBIT C

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

[See Attached]

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

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

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

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

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

I. Purpose of the Program

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

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

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

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

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

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

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

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

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

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

III. Program Eligibility, Approvals, Financing, and Procurement

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

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

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

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

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

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

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

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

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

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

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

IV. Services Plan

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

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

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

V. Fees

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

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

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

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

VI. Energy Efficiency and Renewable Energy Regulations and Requirements

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

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

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

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

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

VII. Statutory Requirements

As provided in the District Documents:

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

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

VIII. Changes in State and Federal Law

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

IX. Releases and Indemnification

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

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

X. Changes in the Program Terms; Severability

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

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

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

XI. Disclosure of Property Owner Information

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

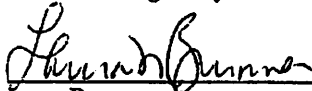
Each owner of real property located within the District acknowledges that the District is subject to Ohio public records laws, including Ohio Revised Code Section 149.43 *et seq.* Each property owner that executes this Plan agrees to the disclosure of certain property owner information as stated in this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

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

Date: July 23, 2014

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

Authorized Signatory



Laura Brunner, as
President and Chief Executive Officer

Address for notices to Property Owner:

Port of Greater Cincinnati Development
Authority
299 East Sixth Street, Suite 2A
Cincinnati, Ohio 45202

Description of Real Property Subject to this Plan:

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

Parcel One

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

Parcel Two

[Property Owner Consent to Plan]

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

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

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

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

[Property Owner Consent to Plan]

September 29, 2021

To: Mayor and Members of City Council 202102853
From: Paula Boggs Muething, City Manager
Subject: **Emergency Ordinance - Amending Ord. No. 0388-2020**

Attached is an Emergency Ordinance captioned:

AMENDING Ordinance No. 0388-2020 to correct the designated fund in which the Director of Finance is authorized to deposit proceeds received in connection with the grant of an easement authorized by said ordinance.

The Administration recommends passage of this Ordinance.

cc: Daniel Betts, Director

EMERGENCY

City of Cincinnati

CHM

AWB

An Ordinance No. _____

- 2021

AMENDING Ordinance No. 0388-2020 to correct the designated fund in which the Director of Finance is authorized to deposit proceeds received in connection with the grant of an easement authorized by said ordinance.

WHEREAS, on December 16, 2020, Council approved Ordinance No. 0388-2020 authorizing the City Manager to grant a utility easement in favor of Duke Energy Ohio, Inc. over a portion of the City-owned property generally located at 7215 Bridgetown Road in Miami Township, Hamilton County, Ohio ("Property"); and

WHEREAS, the property is under the management of the Cincinnati Recreation Commission; and

WHEREAS, Section 5 of Ordinance No. 0388-2020 authorized the Finance Director to deposit the proceeds from the grant of easement in an incorrect fund; and

WHEREAS, Council hereby amends Ordinance No. 0388-2020 to authorize the Finance Director to deposit the proceeds from the grant of easement in the correct fund; now, therefore,

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

Section 1. That Section 5 of Ordinance No. 0388-2020, approved by Council on December 16, 2020, is hereby amended as follows:

Section 5. That the proceeds from the grant of the easement shall be deposited into Property Management Fund 209 to pay the fees for services provided by the City's Real Estate Services Division in connection with the grant of the easement, and that the City's Finance Director is hereby authorized to deposit amounts in excess thereof, if any, into ~~Miscellaneous Permanent Improvement Fund 757~~ Recreation Permanent Improvement Fund 751.

Section 2. That existing Section 5 of Ordinance No. 0388-2020 is hereby repealed.

Section 3. That all terms of Ordinance No. 0388-2020 not amended in this ordinance remain in full force and effect.

Section 4. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to deposit the proceeds from the grant of easement authorized by Ordinance No. 0388-2020 into the correct fund.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

Deletions are struck through. Additions are underlined.

Date: September 29, 2021

To: Mayor and Members of City Council **202102854**

From: Paula Boggs Muething, City Manager

Subject: ORDINANCE – RESURFACING OF INTERSTATE 75 AND SIXTH STREET EXPRESSWAY

Attached is an ordinance captioned as follows:

AUTHORIZING the City Manager to take all necessary and proper actions to cooperate with the Director of the Ohio Department of Transportation to facilitate the resurfacing of certain rights-of-way that include the portion of Interstate 75 located between the Brent Spence Bridge and the Western Hills Viaduct and the Sixth Street Expressway Ramps to Interstate 75 in the City of Cincinnati.

The Ohio Department of Transportation (“ODOT”) has identified the need to resurface portions of certain rights-of-way that include the portion of Interstate 75 (“I-75”) located between the Brent Spence Bridge and the Western Hills Viaduct and the Sixth Street Expressway Ramps to I-75 (PID No. 94238) (the “Project”).

The City is the public entity bearing responsibility to maintain the Sixth Street Expressway Ramps to I-75; however ODOT has agreed to resurface the Sixth Street Expressway Ramps in connection with the Project.

ODOT will be the public agency leading and managing the Project, and the City will serve as the Local Public Agency (“LPA”).

The role of the City as LPA and its obligations related thereto must be authorized and defined by ordinance.

Except as needed for temporary access, no transfer of City right-of-way is required for the project, and no change in the use of City streets is expected to arise from the Project.

The State of Ohio will provide 100% of the eligible cost of the Project, with the City responsible for only the costs for future maintenance of the Sixth Street Expressway Ramps.

ODOT has requested that all necessary right-of-way in the Project area be made available for the Project in accordance with current state and federal regulations, and that the City give its consent to the completion of the Project.

The City’s Department of Transportation & Engineering has reviewed the proposed project.

Any changes to the street layout or right-of-way are subject to review and approval by the City Planning Commission, but no such changes have been identified at this stage of the Project.

Upon completion of the Project, ODOT and the City desire for the City to continue its existing maintenance responsibilities of the right-of-way in the Project area for public highway purposes, as applicable, and other duties required by applicable state and federal law.

The Administration recommends passage of the attached ordinance.

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

City of Cincinnati

JRS
AWB

An Ordinance No. _____ - 2021

AUTHORIZING the City Manager to take all necessary and proper actions to cooperate with the Director of the Ohio Department of Transportation to facilitate the resurfacing of certain rights-of-way that include the portion of Interstate 75 located between the Brent Spence Bridge and the Western Hills Viaduct and the Sixth Street Expressway Ramps to Interstate 75 in the City of Cincinnati.

WHEREAS, the Ohio Department of Transportation (“ODOT”) has identified the need to resurface portions of certain rights-of-way that include the portion of Interstate 75 (“I-75”) located between the Brent Spence Bridge and the Western Hills Viaduct and the Sixth Street Expressway Ramps to I-75 (PID No. 94238) (the “Project”); and

WHEREAS, the City is the public entity bearing the responsibility to maintain the Sixth Street Expressway Ramps to I-75; however, ODOT has agreed to resurface the Sixth Street Expressway Ramps in connection with the Project; and

WHEREAS, ODOT will be the public agency leading and managing the Project, and the City will serve as the Local Public Agency (“LPA”); and

WHEREAS, the role of the City as LPA and its obligations related thereto must be authorized and defined by ordinance; and

WHEREAS, except as needed for temporary access, no transfer of City right-of-way is required for the Project, and no change in the use of City streets is expected to arise from the Project; and

WHEREAS, the State of Ohio shall provide 100% of the eligible cost of the Project, with the City responsible for only the costs for future maintenance of the Sixth Street Expressway Ramps; and

WHEREAS, ODOT has requested that all necessary rights-of-way in the Project area be made available for the Project in accordance with current state and federal regulations and that the City give its consent to the completion of the Project; and

WHEREAS, the City’s Department of Transportation & Engineering has reviewed and approved the proposed Project; and

WHEREAS, the extent of City streets and changes in their use are subject to review and approval by the City Planning Commission, but no changes requiring the commission’s review have been identified at this stage of the Project; and

WHEREAS, upon completion of the Project, ODOT and the City desire for the City to continue its existing maintenance responsibilities for the right of way in the Project area, as applicable, and other duties required by applicable state and federal law; now, therefore,

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

Section 1. That the City of Cincinnati consents to and shall cooperate with the Director of the Ohio Department of Transportation (“ODOT”), on behalf of the State of Ohio, to facilitate the implementation of the resurfacing of certain rights-of-way that include the portion of Interstate 75 (“I-75”) located between the Brent Spence Bridge and the Western Hills Viaduct (designated by ODOT as Ham-75-0.22) and the Sixth Street Expressway Ramps to I-75, (PID No. 94238) (the “Project”), and that the City further finds the Project to be in the public interest.

Section 2. That the State of Ohio will assume and bear 100% of the cost of the improvements proposed as part of the Project.

Section 3. That the City shall bear 100% of the cost of those features, if any, requested by the City that ODOT and the Federal Highway Administration determine to be unnecessary for the Project; as of the date of this ordinance, no such features have been identified.

Section 4. That the City agrees to make available to ODOT all City-owned rights-of-way required for the Project, including utility relocation, in accordance with current state and federal regulations and subject to any additional City approvals required for the encumbrance or acquisition of City property or change in use of City streets. The City acknowledges that all utility accommodation, relocation, and reimbursement in connection with the Project will comply with the current provisions of 23 C.F.R. 645 and the ODOT Utilities Manual.

Section 5. That, from time to time, change orders and extra-work contracts may be required to fulfill the Project, and ODOT shall provide written notice to the City, which shall process such as needed and contribute the City’s share of the costs of those items; as of the date of this ordinance, no such costs have been identified.

Section 6. To the extent applicable and unless otherwise agreed, the City upon completion of the Project shall: (1) provide adequate maintenance for the Project in accordance with all applicable state and federal law, including, but not limited to, 23 U.S.C. Section 116; (2) provide ample financial provisions, as necessary, for any City maintenance responsibilities in connection with the Project; (3) to the extent required by state and federal law, maintain the right of way and keep it free of obstructions; and (4) hold said right of way inviolate for public highway purposes.

Section 7. That the City Manager is hereby authorized to enter into any agreements and process any change orders or extra-work orders connected thereto with the Director of ODOT, or ODOT-prequalified consultants, as necessary to complete the Project in accordance with the terms of this ordinance.

Section 8. That the City Manager is further authorized to execute any documents, upon the request of ODOT, necessary to allow ODOT to recover damages or exercise its rights and remedies under any contracts arising from any errors or omissions of any contractors or consultants.

Section 9. That the City Manager and the appropriate City officials are hereby authorized to take all necessary and proper actions to cooperate with the Director of ODOT to facilitate the Project.

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

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

202102955

Clerk of Council
801 Plum Street, Room 308
Cincinnati, Ohio 45202
(513) 352-3246

\$25.00 FILING FEE

LEGISLATIVE AGENT/EMPLOYER INITIAL REGISTRATION STATEMENT

This statement must be filed with the Clerk of Council within ten (10) days of engagement. Please read instructions and review Section 112-5 prior to filing. There is a \$25.00 fee for this filing. *Check or money order only made payable to "Clerk of Council"*. Upon termination of this engagement, there is an affirmative duty to notify the Clerk of Council within thirty (30) days) the form may be obtained from Clerk. **ANY PERSON WHO KNOWINGLY FILES A FALSE STATEMENT IS GUILTY OF FALSIFICATION UNDER SECTION 2921.13 OF THE OHIO REVISED CODE, WHICH IS A MISDEMEANOR OF THE FIRST DEGREE.**

A. LEGISLATIVE AGENT INFORMATION

- 1. Full Name Zachery McCune
- 2. Occupation Public Policy
- 3. Title/Position Associate Director of Public Policy
- 4. Business Address 1105 Schrock Rd., Suite 400
Street Suite Number
Columbus OH 43229
City State Zip(+4)
- 5. Telephone Number (614) 987-5525
- 6. Date of Engagement as Legislative Agent 7/28 and 8/19

B. EMPLOYER INFORMATION

- 1. Full name of company or organization Equitas Health
- 2. Type of Industry Healthcare
- 3. Business Address 1105 Schrock Rd., Suite 400
Street Suite Number
Columbus OH 43229
City State Zip(+4)

C. BRIEF DESCRIPTION OF THE TYPE OF LEGISLATION TO WHICH LEGISLATIVE AGENT'S ENGAGEMENT RELATES.

Meeting with City Council and City Manager to request support in the city carryover budget to help fund the development of a mobile outreach unit to meet the healthcare needs of those living with or at risk of HIV in Cincinnati.

80310582

D. CATEGORICAL LISTING OF PRINCIPAL BUSINESS OR ACTIVITY OF EMPLOYER. PLEASE CHECK ALL THAT ARE APPLICABLE.

- | | | |
|---|---|---|
| <input type="checkbox"/> Agriculture | <input type="checkbox"/> Environment | <input type="checkbox"/> Real Estate/Housing |
| <input type="checkbox"/> Alcohol/Tobacco | <input type="checkbox"/> Financial Institutions/Consumer Finance | <input type="checkbox"/> Retail and Commercial |
| <input type="checkbox"/> Arts/Entertainment | <input checked="" type="checkbox"/> Medical/Hospitals/Health Care | <input type="checkbox"/> Service Business |
| <input type="checkbox"/> Communications/Media | <input type="checkbox"/> Insurance | <input type="checkbox"/> Social Svs./Human Svs. |
| <input type="checkbox"/> Contractors/Construction | <input type="checkbox"/> Labor/Labor Organizations | <input type="checkbox"/> Science and Technology |
| <input type="checkbox"/> County/Local Government | <input type="checkbox"/> Legal | <input type="checkbox"/> State Employees |
| <input type="checkbox"/> Education | <input type="checkbox"/> Manufacturer | <input type="checkbox"/> State Government |
| <input type="checkbox"/> Energy/Utilities | <input type="checkbox"/> Public Interest | <input type="checkbox"/> Transportation |

CERTIFICATION: THE UNDERSIGNED HEREBY CERTIFY THAT ALL REASONABLE EFFORTS AND DUE DILIGENCE HAVE BEEN UNDERTAKEN IN THE PREPARATION AND COMPLETION OF THIS STATEMENT AND THAT THE CONTENTS ARE TRUE AND ACCURATE TO THE BEST OF HIS OR HER KNOWLEDGE.

ALL SIGNATURES MUST BE ORIGINAL AND SIGNED PERSONALLY BY THE NAMED INDIVIDUAL.

Zachery McCune

Type or Print Name of Legislative Agent




Signature of Legislative Agent

Date 9/20/21

Daphne Kackloudis

Type or Print Name of Persons Signing for Employer

BY: 

Signature for Employer

Chief Public Policy & Admin. Officer

Title

Date 9/20/2021

September 22, 2021

To: Mayor and Members of City Council 202102806
From: Paula Boggs Muething, City Manager
Subject: Emergency Ordinance – CRC: Moral Obligations for FY 2021 Transactions

Attached is an Emergency Ordinance captioned:

AUTHORIZING the payment of \$4,600 from the Recreation Department's non-personnel operating budget account no. 323x197x1760x7289 as a moral obligation to Diamond Pro Umpires Association for services rendered to the City of Cincinnati from March 2021 to July 2021; and **AUTHORIZING** the payment of \$9,700 from the Recreation Department's non-personnel operating budget account no. 308x199x5960x7279 as a moral obligation to Junior Achievement of OKI Partners for platform sharing, user support, and curriculum for the Mayor's Career Expo job fair in April 2021.

This Emergency Ordinance authorizes the payment of \$4,600 from the Recreation Department's Recreation Special Activities Fund non-personnel operating budget account no. 323x197x1760x7289 as a moral obligation to Diamond Pro Umpires Association for services rendered to the City of Cincinnati from March 2021 to July 2021 and \$9,700 from the Recreation Department's Citizens Summer Jobs Fund non-personnel operating budget account no. 308x199x5960x7279 as a moral obligation to Junior Achievement of OKI Partners for platform sharing, user support, and curriculum for the Mayor's Career Expo job fair in April 2021.

This Emergency Ordinance is necessary due to policies and processing of expenditures without a prior encumbrance. In the case of Diamond Pro Umpires Association, funds were not properly certified prior to the contract expiration date. In the case of OKI Partners, the Cincinnati Recreation Commission (CRC) mistakenly omitted Enterprise Technology Services (ETS) approval from the purchasing request. Accounting staff within the CRC have been instructed as to the issues that resulted in these errors, and steps have been taken to ensure that they are not repeated.

The reason for the emergency is the immediate need to pay the impacted vendors for their services in a timely manner.

The Administration recommends passage of this Emergency Ordinance.

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

Attachment

EMERGENCY

LES

- 2021

AUTHORIZING the payment of \$4,600 from the Recreation Department's non-personnel operating budget account no. 323x197x1760x7289 as a moral obligation to Diamond Pro Umpires Association for services rendered to the City of Cincinnati from March 2021 to July 2021; and **AUTHORIZING** the payment of \$9,700 from the Recreation Department's non-personnel operating budget account no. 308x199x5960x7279 as a moral obligation to Junior Achievement of OKI Partners for platform sharing, user support, and curriculum for the Mayor's Career Expo job fair in April 2021.

WHEREAS, from March 2021 through July 2021, Diamond Pro Umpires Association provided sports officiating services to the Recreation Department, funds for which were not properly certified prior to the expiration of the contract; and

WHEREAS, in April 2021, Junior Achievement of OKI Partners provided platform sharing, user support, and curriculum for the Mayor's Career Expo job fair, the purchasing request for which inadvertently omitted the approval of Enterprise Technology Services; and

WHEREAS, accounting staff within the Recreation Department have been advised regarding the issues that resulted in these errors, and steps have been taken to ensure that they are not repeated; and

WHEREAS, sufficient funds are available from Recreation Department non-personnel operating budget accounts to pay for the services provided by these vendors; and

WHEREAS, Cincinnati City Council desires to provide payment for such services in an amount totaling \$14,300; now, therefore,

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

Section 1. That the Finance Director is authorized to make a payment of \$4,600 from the Recreation Department's non-personnel operating budget account no. 323x197x1760x7289 as a moral obligation to Diamond Pro Umpires Association for services rendered to the City of Cincinnati from March 2021 to July 2021.

Section 2. That the Finance Director is authorized to make a payment of \$9,700 from the Recreation Department's non-personnel operating budget account no. 308x199x5960x7279 as a

moral obligation to Junior Achievement of OKI Partners for platform sharing, user support, and curriculum for the Mayor’s Career Expo job fair in April 2021.

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

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 pay the impacted vendors for their services in a timely manner .

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

September 22, 2021

To: Mayor and Members of City Council 202102807
From: Paula Boggs Muething, City Manager
Subject: **Emergency Ordinance – Police: Acceptance of Donated Narcan Kits from Talbert House Services**

Attached is an Emergency Ordinance captioned:

AUTHORIZING the City Manager to accept a donation from Talbert House Services of 500 unexpired Narcan kits to the Cincinnati Police Department valued at a total of \$42,000.

This Emergency Ordinance would authorize the City Manager to accept a donation from Talbert House Services of 500 unexpired Narcan Kits, valued at \$42,000, at no cost to the City.

The kits contain doses of Narcan, a medication useful in preventing death from opioid overdose. The Cincinnati Police Department (CPD) will deploy the kits with trained officers based on heroin overdose response data. The kits do not expire until 2023.

The reason for the emergency is the immediate need to accept the donated kits in a timely fashion to be able to respond to opioid overdoses.

The Administration recommends passage of this Emergency Ordinance.

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

Attachment

EMERGENCY

City of Cincinnati

AKS

AWB

An Ordinance No. _____ - 2021

AUTHORIZING the City Manager to accept a donation from Talbert House Services of 500 unexpired Narcan kits to the Cincinnati Police Department valued at a total of \$42,000.

WHEREAS, Talbert House Services has 500 unexpired kits that contain doses of Narcan, a medication useful in preventing death from opioid overdose that Talbert House Services would like to donate to the Cincinnati Police Department; and

WHEREAS, opioid overdoses are a significant public health issue nationwide, including in Cincinnati; and

WHEREAS, the kits do not expire until 2023; and

WHEREAS, the Cincinnati Police Department will deploy the kits with trained officers based on heroin overdose response data; 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 with gratitude a donation from Talbert House Services of 500 unexpired Narcan kits to the Cincinnati Police Department valued at a total of \$42,000.

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

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

of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to accept the donated kits in a timely fashion to be able to respond to opioid overdoses.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

Date: September 22, 2021

202102809

To: Mayor and Members of City Council
From: Paula Boggs Muething, City Manager
Subject: ORDINANCE – BARROW OUTLOT LLC PROPERTY SALE AGREEMENT

Attached is an ordinance captioned as follows:

AUTHORIZING the City Manager to execute a *Property Sale Agreement* with Barrow Outlot LLC for the sale of City-owned real property located at the northeast corner of the intersection of Ridge and Alamo Avenues in Oakley.

The City of Cincinnati owns certain real property located at the northeast corner of the intersection of Ridge Avenue and Alamo Avenue in the Oakley neighborhood (“Property”), which is under the management and control of the City’s Department of Transportation and Engineering (“DOTE”).

Barrow Outlot LLC (“Petitioners”) desires to purchase the Property from the City for consolidation with Petitioners’ adjoining real property.

The City Manager, upon consultation with DOTE, has determined that the Property is not needed for transportation or any other municipal purpose, that there is good cause to sell the Property, and that such sale will not be detrimental to the general interest.

The approximate fair market value of the Property is \$45,500, which Petitioners have agreed to pay.

The City Planning Commission approved the sale of the Property at its meeting on July 16, 2021.

The Administration recommends passage of the attached ordinance.

Attachment I – Property Sale Agreement

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

City of Cincinnati

CHM

AWB

An Ordinance No. _____ - 2021

AUTHORIZING the City Manager to execute a *Property Sale Agreement* with Barrow Outlot LLC for the sale of City-owned real property located at the northeast corner of the intersection of Ridge and Alamo Avenues in Oakley.

WHEREAS, the City owns certain real property located at the northeast corner of the intersection of Ridge and Alamo Avenues in Oakley, as more particularly described and depicted in the *Property Sale Agreement* attached to this ordinance as Attachment A and incorporated herein by reference (the “Property”), which Property is under the management and control of the City’s Department of Transportation and Engineering (“DOTE”); and

WHEREAS, Barrow Outlot LLC, an Ohio limited liability company (“Petitioner”), desires to purchase the Property from the City for consolidation with Petitioner’s adjoining real property; and

WHEREAS, pursuant to Cincinnati Municipal Code Section 331-1, the City may sell real property that is not needed for municipal purposes; and

WHEREAS, the City Manager, being the officer having the custody and control of the Property, and upon consultation with DOTE, has determined that the Property is not needed for transportation or any other municipal purpose; and

WHEREAS, the City’s Real Estate Services Division has determined, by professional appraisal, that the approximate fair market value of the Property is \$45,500, which Petitioner has agreed to pay; and

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

WHEREAS, City Planning Commission, having the authority to approve the change in the use of City-owned property, approved the sale of the Property at its meeting on July 16, 2021; now, therefore,

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

Section 1. That the City Manager is hereby authorized to execute a *Property Sale Agreement* with Barrow Outlot LLC, an Ohio limited liability company (“Petitioner”), in

substantially the form attached to this ordinance as Attachment A, pursuant to which the City of Cincinnati will sell to Petitioner certain real property designated as Hamilton County, Ohio Auditor Parcel ID Nos.: 051-0003-0162, 051-0003-0033, and 051-0003-0327, located at the northeast corner of the intersection of Ridge and Alamo Avenues in Oakley, as more particularly described on Attachment A and incorporated herein by reference (the "Property").

Section 2. That the Property is not needed for transportation or any other municipal purpose.

Section 3. That the fair market value of the Property, as determined by appraisal by the City's Real Estate Services Division, is approximately \$45,500, which Petitioner has agreed to pay.

Section 4. That eliminating competitive bidding in connection with the City's sale of the Property is in the best interest of the City because Petitioner owns an adjoining 0.5042-acre tract of land fronting Barrow Avenue, and, as a practical matter, no one other than an adjoining property owner would have any use for remnant parcels lacking access to, or frontage on, improved portions of Barrow Avenue.

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

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

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

Section 7. That the City Manager and other City officials are hereby authorized to take all necessary and proper actions to carry out the provisions of this ordinance, including, without limitation, executing any and all ancillary agreements, deeds, plats, and other documents to facilitate the vacation and sale of the Property to Petitioner, including the execution of a *Property Sale Agreement* in substantially the form attached to this ordinance as Attachment A and incorporated herein by reference.

Section 8. That the City Solicitor shall cause an authenticated copy of this ordinance to be duly recorded in the land records of Hamilton County, Ohio.

Section 9. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

ATTACHMENT A

Contract No. _____

Property: Ridge Ave and Barrow Ave Parcels

PROPERTY SALE AGREEMENT

This Property Sale Agreement (this "**Agreement**") is made and entered into on the Effective Date (as defined on the signature page hereof) by and between the **CITY OF CINCINNATI**, an Ohio municipal corporation, the address of which for purposes of this Agreement is 801 Plum Street, Cincinnati, OH 45202 (the "**City**") and **BARROW OUTLOT LLC**, an Ohio limited liability company whose tax mailing address is 7162 Reading Rd, Suite 730, Cincinnati, OH 45237 (the "**Purchaser**").

Recitals:

A. The City owns certain real property identified as Auditor's Parcel ID Nos.: 051-0003-0162, 051-0003-0033, and 051-0003-0327, more commonly known as 4904 Ridge Avenue, 4900 Ridge Avenue, and Barrow Avenue respectively, in the Oakley neighborhood of Cincinnati, Ohio, as described on Exhibit A (Legal Description- the Property) hereto (the "**Sale Property**"). The Sale Property consists of remnant parcels that were created as a result from the City's Kennedy Connector project and is under the management of the City's Department of Transportation and Engineering ("**DOT**").

B. Purchaser owns certain real property adjoining the Property to the north of the Sale Property ("**Purchaser's Property**"), and desires to purchase from the City the Sale Property to consolidate said Sale Property with Purchaser's Property.

C. The City Manager, in consultation with DOTE, has determined that the Sale Property is not needed for any municipal purpose.

D. The City's Real Estate Services Division has determined, by a professional appraisal, that the fair market value of the Sale Property is \$45,500.00.

E. The City has determined that eliminating competitive bidding in connection with the City's sale of the Sale Property is justified because Purchaser owns an adjoining 0.5042-acre tract of land fronting Barrow Avenue, and as a practical matter no one other than an adjoining property owner would have any use for the remnant parcels lacking access to, or frontage on, Barrow Avenue.

F. City Planning Commission, having the authority to approve the change in the use of City-owned property, approved the sale of the Sale Property to Purchaser at its meeting on July 16, 2021.

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

NOW, THEREFORE, the parties agree as follows:

1. **Purchase Price.** Subject to the terms and conditions set forth herein, the City hereby agrees to sell the Sale Property to Purchaser, and Purchaser hereby agrees to purchase the Sale Property from the City for \$45,500.00 (the "**Purchase Price**"). Purchaser acknowledges that it is familiar with the condition of the Sale Property and, at Closing (as defined below), the City shall convey the Sale Property to Purchaser in "as is" condition. The City makes no representations or warranties to Purchaser with respect to the condition of the Sale Property and, from and after the Closing, the City shall have no liability of any kind to Purchaser for any defects, adverse environmental condition, or any other matters affecting the Sale Property.

{00344089-2}

2. Closing.

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

- (i) Title & Survey: Purchaser's approval of title to the Sale Property and, if obtained by Purchaser, an ALTA property survey of the Sale Property;
- (ii) Inspections, Utilities & Zoning/Building Code Requirements: Purchaser's approval of inspections of the Sale Property, including without limitation environmental assessments and soil assessments, all matters pertaining to utility service for the Sale Property, and all zoning and building code requirements that are applicable to the Sale Property;
- (iii) Plats and Legal Descriptions: Purchaser shall have provided the City with all plats and legal descriptions as required by DOTE, the City Planning Department, and the Hamilton County Auditor and Recorder in connection with the City's sale of the Sale Property;
- (iv) Coordinated Report Conditions (CR #20-2021):

(a) DOTE:

- 1. Any existing utilities must be granted easements or relocated at Purchaser's expense.
- 2. Abutting property owners must agree to the sale in writing.
- 3. No Auditor's parcels shall be landlocked by this vacation/sale. If possible, potential landlocked parcels should be consolidated with parcels having legal street frontage.

(b) MSDGC:

- 1. A MSDGC Request for Availability for Sewer Service (RASS) will be required by a project to develop or redevelop these parcels early in its planning process and advisably prior to applying for project permits through the Building and Inspection's Department to avoid project schedule delays. The MSDGC RASS will outline any additional project requirements, such as the need to obtain any MSDGC tap permits, Ohio EPA Permit to Install (if necessary), utilization of licensed and bonded sewer tappers with MSDGC detention requirements and a reminder for the project to coordinate with Storm Water Management Utility (SMU) for additional City of Cincinnati storm water requirements.

(c) GCWW:

- 1. Within the Sale Property, there are two inactive water service lines (H-74110-3/4" and H-78740-5/8") associated with parcels 051-0003-0162 and 051-0003-0127 and one active water service line (H-83527-3/4" associated with parcel 051-0003-0033. Water Works records indicate that the branch material within the right-of-way is copper and the branch materials within the property is lead. In accordance with Cincinnati Municipal Code Chapter 401

{00344089-2}

Division M, lead service lines within this property must be replaced with copper service lines. Please contact the Greater Cincinnati Water Works Lead Service Line Coordinator at 513-591-5068.

2. If in the future, the Purchaser or their agents determine the existing water system does not meet their fire and/or domestic water demands, then the Purchaser may need to upgrade the water mains in their area to meet their future water demands. The Water Works approval of this Coordinate Report for the sale of the subject Sale Property in no way relieves the Purchaser of their responsibility to potentially upgrade the water system to meet their future fire and domestic water demands. This work will be performed at the expense of the Purchaser and not at the expense of the Water Works.
3. All conditions of water service to the Sale Property, including the location of attachment to the public water system, and abandonment of any existing water service branches that presently serve the subject premises, will be determined upon submission of final plans and application for service. Water service to the Sale Property is subject to all rules, regulations, and current practices and policies of the Cincinnati Water Works.

(d) Duke Energy:

1. Duke Energy currently has a distribution easement in the location of the Sale Property that will need to be maintained.
2. Duke Electric has a mainline running near these parcels, at the western border and the easement in place will need to be maintained.

(e) Buildings & Inspections:

1. Ensure 4916 Barrow is used for all correspondence (per CPRE).
2. Comply with the recommendations of the Coordinated Site Review.
3. It is required that the Purchaser immediately records a Consolidation Plat adding the Sale Property with all of the Purchaser's Property. No Building Permits for any development can be approved until the Consolidation Plat is recorded.

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

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

(D) Closing Costs and Closing Documents. At the Closing, (i) Purchaser shall pay the Purchase Price in full, and (ii) the City shall convey all of its right, title and interest in and to the Sale Property to Purchaser by *Quitclaim Deed* in the form of Exhibit C (Form of Quitclaim Deed), provided however that in the event the Purchaser has located all existing utilities on the Property and recorded easements exist for such utilities pursuant to Section 2(A)(iv)(a)(1) above, the blanket reservation to grant easements in the Form of Quitclaim Deed shall be removed. Purchaser shall pay all Hamilton County,

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

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

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

(i) Purchaser is an Ohio limited liability company duly organized and validly existing under the laws of the State of Ohio, is authorized to transact business in 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 relevant to the transactions contemplated by this Agreement.

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

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

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

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

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

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

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5. General Provisions.

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

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

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

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

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

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

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

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

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

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

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

(L) Counterparts; E-Signature. This Agreement may be executed via electronic signature and in one or more counterparts, each of which shall be deemed an original and all of which taken together shall constitute but one and the same instrument.

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6. **Exhibits.** The following exhibits are attached hereto and made a part hereof:
Exhibit A – *Legal Description -the Property*
Exhibit B – *Form of Quit Claim Deed*

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

BARROW OUTLOT LLC,
an Ohio limited liability company

By: _____

Printed Name: _____

Date: _____, 2021

[City signatures on the following page]

CITY OF CINCINNATI

By: _____

Printed Name: _____

Title: _____

Date: _____, 2021

Recommended by:

John S. Brazina, Director
Department of Transportation and Engineering

Approved as to Form:

Assistant City Solicitor

Certified Date: _____

Fund/Code: _____

Amount: _____

By: _____
Karen Alder, City Finance Director

EXHIBIT A
to Property Sale Agreement

Legal Description -the Property

Tract 1:

Auditor's Parcel ID No.: 051-0003-0162
Commonly Known as: 4904 Ridge Avenue

Situated in the State of Ohio, County of Hamilton, City of Cincinnati, Section 22, Township 4, Fractional Range 2, Between the Miamis, being the remaining 0.0732 acre tract of land located in that tract of land as described in a deed to The City of Cincinnati, of record in Official Record 11162, Page 1633 and being a portion of Lot 18 as shown and delineated upon the plat "B.D. Barton's Subdivision", a subdivision of record in Plat Book 3, Page 183, all references herein being to the records located in the Recorder's Office, Hamilton County, Ohio and being more particularly described as follows;

Beginning for REFERENCE at a point at the northwesterly corner of said Lot 18 of B.D. Barton's Subdivision and the southwesterly corner of Lot 19 and that tract of land, as described in a deed to Frederick E. and Donna R. Debra, Trustees, of record in Official Record 10401, Page 2738 and being the TRUE PLACE OF BEGINNING;

Thence South 84°23'53" East, along the northerly line of said City of Cincinnati tract and the southerly line of said Debra tract, a distance of 107.70 feet to an iron pin set;

Thence with a new division line through said City of Cincinnati tract, with the arc of a curve to the right, having a radius of 141.77 feet, a central angle of 17°18'33", an arc length of 42.83 feet, the chord of which bears South 44°13'39" West, a chord distance of 42.67 feet to an iron pin set in the southerly line of said City of Cincinnati tract and the northerly line of that tract of land, as described in a deed to City of Cincinnati, of record in Official Record 11146, Page 1822;

Thence along said southerly line and northerly line, North 84°23'51" West, a distance of 80.77 feet to a point at said easterly right of way line of Ridge Road;

Thence North 05°05'23 East, a distance of 33.33 feet to the TRUE PLACE OF BEGINNING and containing 0.0732 acre of land.

Bearings herein are based on ties to the City of Cincinnati control monuments 2509 and 2510 as set forth in a plat of survey of record in Plat Book 350, Page 45.

Iron pins set, per recorded plat, consist of a 5/8" x 30" rebar with a plastic cap inscribed "M-E COMP S-6872."

This description was prepared by M•E Companies, Civil Engineering Group, Cincinnati, Ohio by Patrick Finn, P.S. No. 7181, per recorded plat, and is based on a field survey performed under the direction of Robert Wynd, P.S. No. 6872, in April, 2008.

Tract 2:

Auditor's Parcel ID No.: 051-0003-0033
Commonly Known as: 4900 Ridge Avenue

Situated in the State of Ohio, County of Hamilton, City of Cincinnati, Section 22, Township 4, Fractional Range 2, Between the Miamis, being the remaining 0.0411 acre tract of land located in that tract of land as described in deed to The City of Cincinnati, of record in Official Record 11146, Page 1822 and being portions of Lots 17 and 18 as shown and delineated upon the plat "B.D. Barton's Subdivision", a subdivision of record in Plat Book 3, Page 183, all references herein being to the records located in the Recorder's Office, Hamilton County, Ohio and being more particularly described as follows;

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Beginning for REFERENCE at a point being the northwesterly corner of said Lot 17 of B.D. Barton's Subdivision and the TRUE PLACE OF BEGINNING;

Thence North 05°05'23" East, along the easterly right of way line of said Ridge Avenue, a distance of 16.67 feet to a point being the northwesterly corner of said City of Cincinnati tract also being the southwest corner of that tract of land, as described in a deed to City of Cincinnati, of record in Official Record 11162, Page 1633;

Thence South 84°23'51" East, along the northerly line and southerly line of said City of Cincinnati tracts, a distance of 80.77 feet to an iron pin set;

Thence with a new division line through said City of Cincinnati tract, with the arc of a curve to the right, having a radius of 141.77 feet, a central angle of 28°36'00", an arc length of 70.77 feet, the chord of which bears South 67°10'56" West, a chord distance of 70.03 feet to an iron pin set in the southerly line of said City of Cincinnati tract and the northerly line of that tract of land, as described in a deed to City of Cincinnati, of record in Official Record 11185, Page 1620;

Thence North 61°11'31" West, with a new division line through said City of Cincinnati tract, a distance of 20.62 feet to an iron pin set in said easterly right of way line of Ridge Road;

Thence North 05°05'23" East, along said easterly right of way line of Ridge Road, a distance of 8.54 feet to the TRUE PLACE OF BEGINNING and containing 0.0411 acre of land.

Bearings herein are based on ties to the City of Cincinnati control monuments 2509 and 2510 as set forth in a plat of survey of record in Plat Book 350, Page 45.

Iron pins set, per recorded plat, consist of a 5/8" x 30" rebar with a plastic cap inscribed "M-E COMP S-6872."

This description was prepared by M•E Companies, Civil Engineering Group, Cincinnati, Ohio by Patrick Finn, P.S. No. 7181, per recorded plat, and is based on a field survey performed under the direction of Robert Wynd, P.S. No. 6872, in April, 2008.

Tract 3:

Auditor's Parcel ID No.: 051-0003-0327

Commonly Known as: Barrow Avenue

Situated in the State of Ohio, County of Hamilton, City of Cincinnati, Section 22, Township 4, Fractional Range 2, Between the Miamis, being a 0.0018 acre tract of land located in that tract of land as described in a deed to The City of Cincinnati, of record in Official Record 11146, Page 1822 and being a portion of Lot 17 as shown and delineated upon the plat "B.D. Barton's Subdivision", a subdivision of record in Plat Book 3, Page 183, all references herein being to the records located in the Recorder's Office, Hamilton County, Ohio and being more particularly described as follows;

Beginning for REFERENCE at a point at the northwesterly corner of said Lot 17 of B.D. Barton's Subdivision; Thence South 05°05'23" West, along the easterly right of way line of said Ridge Avenue, a distance of 8.54 feet to an iron pin set being the TRUE PLACE OF BEGINNING;

Thence South 61°11'31" East, through said City of Cincinnati tract with a new division line, a distance of 20.62 feet to an iron pin set in the southerly line of said City of Cincinnati tract and the northerly line of that tract of land, as described in a deed to City of Cincinnati, of record in Official Record 11185, Page 1620;

Thence North 84°23'51" West, along said northerly line and southerly line, a distance of 18.88 feet to a point at said easterly right of way line of Ridge Avenue;

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Thence North 05°05'23" East, along said easterly right of way line of Ridge Avenue, a distance of 8.12 feet to the TRUE PLACE OF BEGINNING and containing 0.0018 acre of land.

Bearings herein are based on ties to the City of Cincinnati control monuments 2509 and 2510 as set forth in a plat of survey of record in Plat Book 350, Page 45.

Iron pins set, per recorded plat, consist of a 5/8" x 30" rebar with a plastic cap inscribed "M-E COMP S-6872."

This description was prepared by M•E Companies, Civil Engineering Group, Cincinnati, Ohio by Patrick Finn, P.S. No. 7181, per recorded plat, and is based on a field survey performed under the direction of Robert Wynd, P.S. No. 6872, in April, 2008.

EXHIBIT B
to Property Sale Agreement
to Property Sale Agreement
Form of Quitclaim Deed

[SEE ATTACHED]

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

QUITCLAIM DEED

The **CITY OF CINCINNATI**, an Ohio municipal corporation (the "City"), for valuable consideration paid, hereby grants and conveys to **BARROW OUTLOT LLC**, an Ohio limited liability company, whose tax mailing address is 7162 Reading Rd., Cincinnati, OH 45237, ("**Grantee**"), all of the City's right, title and interest in and to the real property described on Exhibit A (*Legal Description*) hereto (the "**Property**").

Property Address: 4904 Ridge Ave, 4900 Ridge Ave, & approx. 0.0018 acre on Barrow Avenue, Cincinnati, OH 45209;
Auditor's Parcel ID Nos.: 051-0003-0162, 051-0003-0033, & 051-0003-0327;
Prior instrument reference: O.R. 12806, Pg. 1076, Hamilton County, Ohio Records.

Creation of Utility Easement: The City hereby reserves and creates a public utility easement on, over, or under any portion of the Property encumbered by utility facilities such that any public utility affected by this conveyance shall be deemed to have a permanent easement in such portions of the Property for the purpose of maintaining, operating, renewing, reconstructing, and removing said utility facilities and for purposes of access to said facilities. [NOTE – TO BE REMOVED IF CONDITIONS REQUIRING LOCATION AND RECORDING OF ALL EXISTING EASEMENTS IN PURCHASE AGREEMENT SATISFIED]

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

[SIGNATURE PAGE FOLLOWS]

{00344089-2}

Executed on _____, 2021.

CITY OF CINCINNATI

By: _____

Printed Name: _____

Title: _____

STATE OF OHIO)
) SS:
COUNTY OF HAMILTON)

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

Notary Public
My commission expires: _____

Approved by:

John S. Brazina, Director
Department of Transportation and Engineering

Approved as to Form:

Assistant City Solicitor

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

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Exhibit A
to Quitclaim Deed
Legal Description

Tract 1:

Auditor's Parcel ID No.: 051-0003-0162
Commonly Known as: 4904 Ridge Avenue

Situated in the State of Ohio, County of Hamilton, City of Cincinnati, Section 22, Township 4, Fractional Range 2, Between the Miamis, being the remaining 0.0732 acre tract of land located in that tract of land as described in a deed to The City of Cincinnati, of record in Official Record 11162, Page 1633 and being a portion of Lot 18 as shown and delineated upon the plat "B.D. Barton's Subdivision", a subdivision of record in Plat Book 3, Page 183, all references herein being to the records located in the Recorder's Office, Hamilton County, Ohio and being more particularly described as follows;

Beginning for REFERENCE at a point at the northwesterly corner of said Lot 18 of B.D. Barton's Subdivision and the southwesterly corner of Lot 19 and that tract of land, as described in a deed to Frederick E. and Donna R. Debra, Trustees, of record in Official Record 10401, Page 2738 and being the TRUE PLACE OF BEGINNING;

Thence South 84°23'53" East, along the northerly line of said City of Cincinnati tract and the southerly line of said Debra tract, a distance of 107.70 feet to an iron pin set;

Thence with a new division line through said City of Cincinnati tract, with the arc of a curve to the right, having a radius of 141.77 feet, a central angle of 17°18'33", an arc length of 42.83 feet, the chord of which bears South 44°13'39" West, a chord distance of 42.67 feet to an iron pin set in the southerly line of said City of Cincinnati tract and the northerly line of that tract of land, as described in a deed to City of Cincinnati, of record in Official Record 11146, Page 1822;

Thence along said southerly line and northerly line, North 84°23'51" West, a distance of 80.77 feet to a point at said easterly right of way line of Ridge Road;

Thence North 05°05'23 East, a distance of 33.33 feet to the TRUE PLACE OF BEGINNING and containing 0.0732 acre of land.

Bearings herein are based on ties to the City of Cincinnati control monuments 2509 and 2510 as set forth in a plat of survey of record in Plat Book 350, Page 45.

Iron pins set, per recorded plat, consist of a 5/8" x 30" rebar with a plastic cap inscribed "M-E COMP S-6872."

This description was prepared by M•E Companies, Civil Engineering Group, Cincinnati, Ohio by Patrick Finn, P.S. No. 7181, per recorded plat, and is based on a field survey performed under the direction of Robert Wynd, P.S. No. 6872, in April, 2008.

Tract 2:

Auditor's Parcel ID No.: 051-0003-0033
Commonly Known as: 4900 Ridge Avenue

Situated in the State of Ohio, County of Hamilton, City of Cincinnati, Section 22, Township 4, Fractional Range 2, Between the Miamis, being the remaining 0.0411 acre tract of land located in that

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tract of land as described in deed to The City of Cincinnati, of record in Official Record 11146, Page 1822 and being portions of Lots 17 and 18 as shown and delineated upon the plat "B.D. Barton's Subdivision", a subdivision of record in Plat Book 3, Page 183, all references herein being to the records located in the Recorder's Office, Hamilton County, Ohio and being more particularly described as follows;

Beginning for REFERENCE at a point being the northwesterly corner of said Lot 17 of B.D. Barton's Subdivision and the TRUE PLACE OF BEGINNING;

Thence North 05°05'23" East, along the easterly right of way line of said Ridge Avenue, a distance of 16.67 feet to a point being the northwesterly corner of said City of Cincinnati tract also being the southwesterly corner of that tract of land, as described in a deed to City of Cincinnati, of record in Official Record 11162, Page 1633;

Thence South 84°23'51" East, along the northerly line and southerly line of said City of Cincinnati tracts, a distance of 80.77 feet to an iron pin set;

Thence with a new division line through said City of Cincinnati tract, with the arc of a curve to the right, having a radius of 141.77 feet, a central angle of 28°36'00", an arc length of 70.77 feet, the chord of which bears South 67°10'56" West, a chord distance of 70.03 feet to an iron pin set in the southerly line of said City of Cincinnati tract and the northerly line of that tract of land, as described in a deed to City of Cincinnati, of record in Official Record 11185, Page 1620;

Thence North 61°11'31" West, with a new division line through said City of Cincinnati tract, a distance of 20.62 feet to an iron pin set in said easterly right of way line of Ridge Road;

Thence North 05°05'23" East, along said easterly right of way line of Ridge Road, a distance of 8.54 feet to the TRUE PLACE OF BEGINNING and containing 0.0411 acre of land.

Bearings herein are based on ties to the City of Cincinnati control monuments 2509 and 2510 as set forth in a plat of survey of record in Plat Book 350, Page 45.

Iron pins set, per recorded plat, consist of a 5/8" x 30" rebar with a plastic cap inscribed "M-E COMP S-6872."

This description was prepared by M•E Companies, Civil Engineering Group, Cincinnati, Ohio by Patrick Finn, P.S. No. 7181, per recorded plat, and is based on a field survey performed under the direction of Robert Wynd, P.S. No. 6872, in April, 2008.

Tract 3:

Auditor's Parcel ID No.: 051-0003-0327
Commonly Known as: Barrow Avenue

Situated in the State of Ohio, County of Hamilton, City of Cincinnati, Section 22, Township 4, Fractional Range 2, Between the Miamis, being a 0.0018 acre tract of land located in that tract of land as described in a deed to The City of Cincinnati, of record in Official Record 11146, Page 1822 and being a portion of Lot 17 as shown and delineated upon the plat "B.D. Barton's Subdivision", a subdivision of record in Plat Book 3, Page 183, all references herein being to the records located in the Recorder's Office, Hamilton County, Ohio and being more particularly described as follows;

Beginning for REFERENCE at a point at the northwesterly corner of said Lot 17 of B.D. Barton's Subdivision; Thence South 05°05'23" West, along the easterly right of way line of said Ridge Avenue, a distance of 8.54 feet to an iron pin set being the TRUE PLACE OF BEGINNING;

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Thence South 61°11'31" East, through said City of Cincinnati tract with a new division line, a distance of 20.62 feet to an iron pin set in the southerly line of said City of Cincinnati tract and the northerly line of that tract of land, as described in a deed to City of Cincinnati, of record in Official Record 11185, Page 1620;

Thence North 84°23'51" West, along said northerly line and southerly line, a distance of 18.88 feet to a point at said easterly right of way line of Ridge Avenue;

Thence North 05°05'23" East, along said easterly right of way line of Ridge Avenue, a distance of 8.12 feet to the TRUE PLACE OF BEGINNING and containing 0.0018 acre of land.

Bearings herein are based on ties to the City of Cincinnati control monuments 2509 and 2510 as set forth in a plat of survey of record in Plat Book 350, Page 45.

Iron pins set, per recorded plat, consist of a 5/8" x 30" rebar with a plastic cap inscribed "M-E COMP S-6872."

This description was prepared by M•E Companies, Civil Engineering Group, Cincinnati, Ohio by Patrick Finn, P.S. No. 7181, per recorded plat, and is based on a field survey performed under the direction of Robert Wynd, P.S. No. 6872, in April, 2008.

Contract No. _____

Property: Ridge Ave and Barrow Ave Parcels

PROPERTY SALE AGREEMENT

This Property Sale Agreement (this "**Agreement**") is made and entered into on the Effective Date (as defined on the signature page hereof) by and between the **CITY OF CINCINNATI**, an Ohio municipal corporation, the address of which for purposes of this Agreement is 801 Plum Street, Cincinnati, OH 45202 (the "**City**") and **BARROW OUTLOT LLC**, an Ohio limited liability company whose tax mailing address is 7162 Reading Rd, Suite 730, Cincinnati, OH 45237 (the "**Purchaser**").

Recitals:

A. The City owns certain real property identified as Auditor's Parcel ID Nos.: 051-0003-0162, 051-0003-0033, and 051-0003-0327, more commonly known as 4904 Ridge Avenue, 4900 Ridge Avenue, and Barrow Avenue respectively, in the Oakley neighborhood of Cincinnati, Ohio, as described on Exhibit A (Legal Description- the Property) hereto (the "**Sale Property**"). The Sale Property consists of remnant parcels that were created as a result from the City's Kennedy Connector project and is under the management of the City's Department of Transportation and Engineering ("**DOT**").

B. Purchaser owns certain real property adjoining the Property to the north of the Sale Property ("**Purchaser's Property**"), and desires to purchase from the City the Sale Property to consolidate said Sale Property with Purchaser's Property.

C. The City Manager, in consultation with DOTE, has determined that the Sale Property is not needed for any municipal purpose.

D. The City's Real Estate Services Division has determined, by a professional appraisal, that the fair market value of the Sale Property is \$45,500.00.

E. The City has determined that eliminating competitive bidding in connection with the City's sale of the Sale Property is justified because Purchaser owns an adjoining 0.5042-acre tract of land fronting Barrow Avenue, and as a practical matter no one other than an adjoining property owner would have any use for the remnant parcels lacking access to, or frontage on, Barrow Avenue.

F. City Planning Commission, having the authority to approve the change in the use of City-owned property, approved the sale of the Sale Property to Purchaser at its meeting on July 16, 2021.

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

NOW, THEREFORE, the parties agree as follows:

1. **Purchase Price.** Subject to the terms and conditions set forth herein, the City hereby agrees to sell the Sale Property to Purchaser, and Purchaser hereby agrees to purchase the Sale Property from the City for \$45,500.00 (the "**Purchase Price**"). Purchaser acknowledges that it is familiar with the condition of the Sale Property and, at Closing (as defined below), the City shall convey the Sale Property to Purchaser in "as is" condition. The City makes no representations or warranties to Purchaser with respect to the condition of the Sale Property and, from and after the Closing, the City shall have no liability of any kind to Purchaser for any defects, adverse environmental condition, or any other matters affecting the Sale Property.

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2. Closing.

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

- (i) Title & Survey: Purchaser's approval of title to the Sale Property and, if obtained by Purchaser, an ALTA property survey of the Sale Property;
- (ii) Inspections, Utilities & Zoning/Building Code Requirements: Purchaser's approval of inspections of the Sale Property, including without limitation environmental assessments and soil assessments, all matters pertaining to utility service for the Sale Property, and all zoning and building code requirements that are applicable to the Sale Property;
- (iii) Plats and Legal Descriptions: Purchaser shall have provided the City with all plats and legal descriptions as required by DOTE, the City Planning Department, and the Hamilton County Auditor and Recorder in connection with the City's sale of the Sale Property;
- (iv) Coordinated Report Conditions (CR #20-2021):

(a) DOTE:

- 1. Any existing utilities must be granted easements or relocated at Purchaser's expense.
- 2. Abutting property owners must agree to the sale in writing.
- 3. No Auditor's parcels shall be landlocked by this vacation/sale. If possible, potential landlocked parcels should be consolidated with parcels having legal street frontage.

(b) MSDGC:

- 1. A MSDGC Request for Availability for Sewer Service (RASS) will be required by a project to develop or redevelop these parcels early in its planning process and advisably prior to applying for project permits through the Building and Inspection's Department to avoid project schedule delays. The MSDGC RASS will outline any additional project requirements, such as the need to obtain any MSDGC tap permits, Ohio EPA Permit to Install (if necessary), utilization of licensed and bonded sewer tappers with MSDGC detention requirements and a reminder for the project to coordinate with Storm Water Management Utility (SMU) for additional City of Cincinnati storm water requirements.

(c) GCWW:

- 1. Within the Sale Property, there are two inactive water service lines (H-74110-3/4" and H-78740-5/8") associated with parcels 051-0003-0162 and 051-0003-0127 and one active water service line (H-83527-3/4" associated with parcel 051-0003-0033. Water Works records indicate that the branch material within the right-of-way is copper and the branch materials within the property is lead. In accordance with Cincinnati Municipal Code Chapter 401

{00344089-2}

Division M, lead service lines within this property must be replaced with copper service lines. Please contact the Greater Cincinnati Water Works Lead Service Line Coordinator at 513-591-5068.

2. If in the future, the Purchaser or their agents determine the existing water system does not meet their fire and/or domestic water demands, then the Purchaser may need to upgrade the water mains in their area to meet their future water demands. The Water Works approval of this Coordinate Report for the sale of the subject Sale Property in no way relieves the Purchaser of their responsibility to potentially upgrade the water system to meet their future fire and domestic water demands. This work will be performed at the expense of the Purchaser and not at the expense of the Water Works.
3. All conditions of water service to the Sale Property, including the location of attachment to the public water system, and abandonment of any existing water service branches that presently serve the subject premises, will be determined upon submission of final plans and application for service. Water service to the Sale Property is subject to all rules, regulations, and current practices and policies of the Cincinnati Water Works.

(d) Duke Energy:

1. Duke Energy currently has a distribution easement in the location of the Sale Property that will need to be maintained.
2. Duke Electric has a mainline running near these parcels, at the western border and the easement in place will need to be maintained.

(e) Buildings & Inspections:

1. Ensure 4916 Barrow is used for all correspondence (per CPRE).
2. Comply with the recommendations of the Coordinated Site Review.
3. It is required that the Purchaser immediately records a Consolidation Plat adding the Sale Property with all of the Purchaser's Property. No Building Permits for any development can be approved until the Consolidation Plat is recorded.

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

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

(D) Closing Costs and Closing Documents. At the Closing, (i) Purchaser shall pay the Purchase Price in full, and (ii) the City shall convey all of its right, title and interest in and to the Sale Property to Purchaser by *Quitclaim Deed* in the form of Exhibit C (Form of Quitclaim Deed), provided however that in the event the Purchaser has located all existing utilities on the Property and recorded easements exist for such utilities pursuant to Section 2(A)(iv)(a)(1) above, the blanket reservation to grant easements in the Form of Quitclaim Deed shall be removed. Purchaser shall pay all Hamilton County,

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

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

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

(i) Purchaser is an Ohio limited liability company duly organized and validly existing under the laws of the State of Ohio, is authorized to transact business in 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 relevant to the transactions contemplated by this Agreement.

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

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

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

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

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

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

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5. General Provisions.

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

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

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

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

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

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

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

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

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

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

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

(L) Counterparts; E-Signature. This Agreement may be executed via electronic signature and in one or more counterparts, each of which shall be deemed an original and all of which taken together shall constitute but one and the same instrument.

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6. **Exhibits.** The following exhibits are attached hereto and made a part hereof:
Exhibit A – *Legal Description -the Property*
Exhibit B – *Form of Quit Claim Deed*

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

BARROW OUTLOT LLC,
an Ohio limited liability company

By: _____

Printed Name: _____

Date: _____, 2021

[City signatures on the following page]

CITY OF CINCINNATI

By: _____

Printed Name: _____

Title: _____

Date: _____, 2021

Recommended by:

John S. Brazina, Director
Department of Transportation and Engineering

Approved as to Form:

Assistant City Solicitor

Certified Date: _____

Fund/Code: _____

Amount: _____

By: _____
Karen Alder, City Finance Director

EXHIBIT A
to Property Sale Agreement

Legal Description -the Property

Tract 1:

Auditor's Parcel ID No.: 051-0003-0162

Commonly Known as: 4904 Ridge Avenue

Situated in the State of Ohio, County of Hamilton, City of Cincinnati, Section 22, Township 4, Fractional Range 2, Between the Miamis, being the remaining 0.0732 acre tract of land located in that tract of land as described in a deed to The City of Cincinnati, of record in Official Record 11162, Page 1633 and being a portion of Lot 18 as shown and delineated upon the plat "B.D. Barton's Subdivision", a subdivision of record in Plat Book 3, Page 183, all references herein being to the records located in the Recorder's Office, Hamilton County, Ohio and being more particularly described as follows;

Beginning for REFERENCE at a point at the northwesterly corner of said Lot 18 of B.D. Barton's Subdivision and the southwesterly corner of Lot 19 and that tract of land, as described in a deed to Frederick E. and Donna R. Debra, Trustees, of record in Official Record 10401, Page 2738 and being the TRUE PLACE OF BEGINNING;

Thence South 84°23'53" East, along the northerly line of said City of Cincinnati tract and the southerly line of said Debra tract, a distance of 107.70 feet to an iron pin set;

Thence with a new division line through said City of Cincinnati tract, with the arc of a curve to the right, having a radius of 141.77 feet, a central angle of 17°18'33", an arc length of 42.83 feet, the chord of which bears South 44°13'39" West, a chord distance of 42.67 feet to an iron pin set in the southerly line of said City of Cincinnati tract and the northerly line of that tract of land, as described in a deed to City of Cincinnati, of record in Official Record 11146, Page 1822;

Thence along said southerly line and northerly line, North 84°23'51" West, a distance of 80.77 feet to a point at said easterly right of way line of Ridge Road;

Thence North 05°05'23 East, a distance of 33.33 feet to the TRUE PLACE OF BEGINNING and containing 0.0732 acre of land.

Bearings herein are based on ties to the City of Cincinnati control monuments 2509 and 2510 as set forth in a plat of survey of record in Plat Book 350, Page 45.

Iron pins set, per recorded plat, consist of a 5/8" x 30" rebar with a plastic cap inscribed "M-E COMP S-6872."

This description was prepared by M•E Companies, Civil Engineering Group, Cincinnati, Ohio by Patrick Finn, P.S. No. 7181, per recorded plat, and is based on a field survey performed under the direction of Robert Wynd, P.S. No. 6872, in April, 2008.

Tract 2:

Auditor's Parcel ID No.: 051-0003-0033

Commonly Known as: 4900 Ridge Avenue

Situated in the State of Ohio, County of Hamilton, City of Cincinnati, Section 22, Township 4, Fractional Range 2, Between the Miamis, being the remaining 0.0411 acre tract of land located in that tract of land as described in deed to The City of Cincinnati, of record in Official Record 11146, Page 1822 and being portions of Lots 17 and 18 as shown and delineated upon the plat "B.D. Barton's Subdivision", a subdivision of record in Plat Book 3, Page 183, all references herein being to the records located in the Recorder's Office, Hamilton County, Ohio and being more particularly described as follows;

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Beginning for REFERENCE at a point being the northwesterly corner of said Lot 17 of B.D. Barton's Subdivision and the TRUE PLACE OF BEGINNING;

Thence North 05°05'23" East, along the easterly right of way line of said Ridge Avenue, a distance of 16.67 feet to a point being the northwesterly corner of said City of Cincinnati tract also being the southwesterly corner of that tract of land, as described in a deed to City of Cincinnati, of record in Official Record 11162, Page 1633;

Thence South 84°23'51" East, along the northerly line and southerly line of said City of Cincinnati tracts, a distance of 80.77 feet to an iron pin set;

Thence with a new division line through said City of Cincinnati tract, with the arc of a curve to the right, having a radius of 141.77 feet, a central angle of 28°36'00", an arc length of 70.77 feet, the chord of which bears South 67°10'56" West, a chord distance of 70.03 feet to an iron pin set in the southerly line of said City of Cincinnati tract and the northerly line of that tract of land, as described in a deed to City of Cincinnati, of record in Official Record 11185, Page 1620;

Thence North 61°11'31" West, with a new division line through said City of Cincinnati tract, a distance of 20.62 feet to an iron pin set in said easterly right of way line of Ridge Road;

Thence North 05°05'23" East, along said easterly right of way line of Ridge Road, a distance of 8.54 feet to the TRUE PLACE OF BEGINNING and containing 0.0411 acre of land.

Bearings herein are based on ties to the City of Cincinnati control monuments 2509 and 2510 as set forth in a plat of survey of record in Plat Book 350, Page 45.

Iron pins set, per recorded plat, consist of a 5/8" x 30" rebar with a plastic cap inscribed "M-E COMP S-6872."

This description was prepared by M•E Companies, Civil Engineering Group, Cincinnati, Ohio by Patrick Finn, P.S. No. 7181, per recorded plat, and is based on a field survey performed under the direction of Robert Wynd, P.S. No. 6872, in April, 2008.

Tract 3:

Auditor's Parcel ID No.: 051-0003-0327

Commonly Known as: Barrow Avenue

Situated in the State of Ohio, County of Hamilton, City of Cincinnati, Section 22, Township 4, Fractional Range 2, Between the Miamis, being a 0.0018 acre tract of land located in that tract of land as described in a deed to The City of Cincinnati, of record in Official Record 11146, Page 1822 and being a portion of Lot 17 as shown and delineated upon the plat "B.D. Barton's Subdivision", a subdivision of record in Plat Book 3, Page 183, all references herein being to the records located in the Recorder's Office, Hamilton County, Ohio and being more particularly described as follows;

Beginning for REFERENCE at a point at the northwesterly corner of said Lot 17 of B.D. Barton's Subdivision; Thence South 05°05'23" West, along the easterly right of way line of said Ridge Avenue, a distance of 8.54 feet to an iron pin set being the TRUE PLACE OF BEGINNING;

Thence South 61°11'31" East, through said City of Cincinnati tract with a new division line, a distance of 20.62 feet to an iron pin set in the southerly line of said City of Cincinnati tract and the northerly line of that tract of land, as described in a deed to City of Cincinnati, of record in Official Record 11185, Page 1620;

Thence North 84°23'51" West, along said northerly line and southerly line, a distance of 18.88 feet to a point at said easterly right of way line of Ridge Avenue;

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Thence North 05°05'23" East, along said easterly right of way line of Ridge Avenue, a distance of 8.12 feet to the TRUE PLACE OF BEGINNING and containing 0.0018 acre of land.

Bearings herein are based on ties to the City of Cincinnati control monuments 2509 and 2510 as set forth in a plat of survey of record in Plat Book 350, Page 45.

Iron pins set, per recorded plat, consist of a 5/8" x 30" rebar with a plastic cap inscribed "M-E COMP S-6872."

This description was prepared by M•E Companies, Civil Engineering Group, Cincinnati, Ohio by Patrick Finn, P.S. No. 7181, per recorded plat, and is based on a field survey performed under the direction of Robert Wynd, P.S. No. 6872, in April, 2008.

EXHIBIT B
to Property Sale Agreement
to Property Sale Agreement
Form of Quitclaim Deed

[SEE ATTACHED]

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

QUITCLAIM DEED

The **CITY OF CINCINNATI**, an Ohio municipal corporation (the “**City**”), for valuable consideration paid, hereby grants and conveys to **BARROW OUTLOT LLC**, an Ohio limited liability company, whose tax mailing address is 7162 Reading Rd., Cincinnati, OH 45237, (“**Grantee**”), all of the City’s right, title and interest in and to the real property described on Exhibit A (*Legal Description*) hereto (the “**Property**”).

Property Address: 4904 Ridge Ave, 4900 Ridge Ave, & approx. 0.0018 acre on Barrow Avenue, Cincinnati, OH 45209;
Auditor’s Parcel ID Nos.: 051-0003-0162, 051-0003-0033, & 051-0003-0327;
Prior instrument reference: O.R. 12806, Pg. 1076, Hamilton County, Ohio Records.

Creation of Utility Easement: The City hereby reserves and creates a public utility easement on, over, or under any portion of the Property encumbered by utility facilities such that any public utility affected by this conveyance shall be deemed to have a permanent easement in such portions of the Property for the purpose of maintaining, operating, renewing, reconstructing, and removing said utility facilities and for purposes of access to said facilities. [NOTE – TO BE REMOVED IF CONDITIONS REQUIRING LOCATION AND RECORDING OF ALL EXISTING EASEMENTS IN PURCHASE AGREEMENT SATISFIED]

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

[SIGNATURE PAGE FOLLOWS]

Executed on _____, 2021.

CITY OF CINCINNATI

By: _____

Printed Name: _____

Title: _____

STATE OF OHIO)
) SS:
COUNTY OF HAMILTON)

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

Notary Public
My commission expires: _____

Approved by:

John S. Brazina, Director
Department of Transportation and Engineering

Approved as to Form:

Assistant City Solicitor

This instrument prepared by:

City of Cincinnati Law Department,
801 Plum Street, Suite 214,
Cincinnati, Ohio 45202

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Exhibit A
to Quitclaim Deed
Legal Description

Tract 1:

Auditor's Parcel ID No.: 051-0003-0162
Commonly Known as: 4904 Ridge Avenue

Situated in the State of Ohio, County of Hamilton, City of Cincinnati, Section 22, Township 4, Fractional Range 2, Between the Miamis, being the remaining 0.0732 acre tract of land located in that tract of land as described in a deed to The City of Cincinnati, of record in Official Record 11162, Page 1633 and being a portion of Lot 18 as shown and delineated upon the plat "B.D. Barton's Subdivision", a subdivision of record in Plat Book 3, Page 183, all references herein being to the records located in the Recorder's Office, Hamilton County, Ohio and being more particularly described as follows;

Beginning for REFERENCE at a point at the northwesterly corner of said Lot 18 of B.D. Barton's Subdivision and the southwesterly corner of Lot 19 and that tract of land, as described in a deed to Frederick E. and Donna R. Debra, Trustees, of record in Official Record 10401, Page 2738 and being the TRUE PLACE OF BEGINNING;

Thence South 84°23'53" East, along the northerly line of said City of Cincinnati tract and the southerly line of said Debra tract, a distance of 107.70 feet to an iron pin set;

Thence with a new division line through said City of Cincinnati tract, with the arc of a curve to the right, having a radius of 141.77 feet, a central angle of 17°18'33", an arc length of 42.83 feet, the chord of which bears South 44°13'39" West, a chord distance of 42.67 feet to an iron pin set in the southerly line of said City of Cincinnati tract and the northerly line of that tract of land, as described in a deed to City of Cincinnati, of record in Official Record 11146, Page 1822;

Thence along said southerly line and northerly line, North 84°23'51" West, a distance of 80.77 feet to a point at said easterly right of way line of Ridge Road;

Thence North 05°05'23 East, a distance of 33.33 feet to the TRUE PLACE OF BEGINNING and containing 0.0732 acre of land.

Bearings herein are based on ties to the City of Cincinnati control monuments 2509 and 2510 as set forth in a plat of survey of record in Plat Book 350, Page 45.

Iron pins set, per recorded plat, consist of a 5/8" x 30" rebar with a plastic cap inscribed "M-E COMP S-6872."

This description was prepared by M•E Companies, Civil Engineering Group, Cincinnati, Ohio by Patrick Finn, P.S. No. 7181, per recorded plat, and is based on a field survey performed under the direction of Robert Wynd, P.S. No. 6872, in April, 2008.

Tract 2:

Auditor's Parcel ID No.: 051-0003-0033
Commonly Known as: 4900 Ridge Avenue

Situated in the State of Ohio, County of Hamilton, City of Cincinnati, Section 22, Township 4, Fractional Range 2, Between the Miamis, being the remaining 0.0411 acre tract of land located in that

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tract of land as described in deed to The City of Cincinnati, of record in Official Record 11146, Page 1822 and being portions of Lots 17 and 18 as shown and delineated upon the plat "B.D. Barton's Subdivision", a subdivision of record in Plat Book 3, Page 183, all references herein being to the records located in the Recorder's Office, Hamilton County, Ohio and being more particularly described as follows;

Beginning for REFERENCE at a point being the northwesterly corner of said Lot 17 of B.D. Barton's Subdivision and the TRUE PLACE OF BEGINNING;

Thence North 05°05'23 East, along the easterly right of way line of said Ridge Avenue, a distance of 16.67 feet to a point being the northwesterly corner of said City of Cincinnati tract also being the southwesterly corner of that tract of land, as described in a deed to City of Cincinnati, of record in Official Record 11162, Page 1633;

Thence South 84°23'51" East, along the northerly line and southerly line of said City of Cincinnati tracts, a distance of 80.77 feet to an iron pin set;

Thence with a new division line through said City of Cincinnati tract, with the arc of a curve to the right, having a radius of 141.77 feet, a central angle of 28°36'00", an arc length of 70.77 feet, the chord of which bears South 67°10'56" West, a chord distance of 70.03 feet to an iron pin set in the southerly line of said City of Cincinnati tract and the northerly line of that tract of land, as described in a deed to City of Cincinnati, of record in Official Record 11185, Page 1620;

Thence North 61°11'31" West, with a new division line through said City of Cincinnati tract, a distance of 20.62 feet to an iron pin set in said easterly right of way line of Ridge Road;

Thence North 05°05'23" East, along said easterly right of way line of Ridge Road, a distance of 8.54 feet to the TRUE PLACE OF BEGINNING and containing 0.0411 acre of land.

Bearings herein are based on ties to the City of Cincinnati control monuments 2509 and 2510 as set forth in a plat of survey of record in Plat Book 350, Page 45.

Iron pins set, per recorded plat, consist of a 5/8" x 30" rebar with a plastic cap inscribed "M-E COMP S-6872."

This description was prepared by M•E Companies, Civil Engineering Group, Cincinnati, Ohio by Patrick Finn, P.S. No. 7181, per recorded plat, and is based on a field survey performed under the direction of Robert Wynd, P.S. No. 6872, in April, 2008.

Tract 3:

Auditor's Parcel ID No.: 051-0003-0327
Commonly Known as: Barrow Avenue

Situated in the State of Ohio, County of Hamilton, City of Cincinnati, Section 22, Township 4, Fractional Range 2, Between the Miamis, being a 0.0018 acre tract of land located in that tract of land as described in a deed to The City of Cincinnati, of record in Official Record 11146, Page 1822 and being a portion of Lot 17 as shown and delineated upon the plat "B.D. Barton's Subdivision", a subdivision of record in Plat Book 3, Page 183, all references herein being to the records located in the Recorder's Office, Hamilton County, Ohio and being more particularly described as follows;

Beginning for REFERENCE at a point at the northwesterly corner of said Lot 17 of B.D. Barton's Subdivision; Thence South 05°05'23" West, along the easterly right of way line of said Ridge Avenue, a distance of 8.54 feet to an iron pin set being the TRUE PLACE OF BEGINNING;

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Thence South 61°11'31" East, through said City of Cincinnati tract with a new division line, a distance of 20.62 feet to an iron pin set in the southerly line of said City of Cincinnati tract and the northerly line of that tract of land, as described in a deed to City of Cincinnati, of record in Official Record 11185, Page 1620;

Thence North 84°23'51" West, along said northerly line and southerly line, a distance of 18.88 feet to a point at said easterly right of way line of Ridge Avenue;

Thence North 05°05'23" East, along said easterly right of way line of Ridge Avenue, a distance of 8.12 feet to the TRUE PLACE OF BEGINNING and containing 0.0018 acre of land.

Bearings herein are based on ties to the City of Cincinnati control monuments 2509 and 2510 as set forth in a plat of survey of record in Plat Book 350, Page 45.

Iron pins set, per recorded plat, consist of a 5/8" x 30" rebar with a plastic cap inscribed "M-E COMP S-6872."

This description was prepared by M•E Companies, Civil Engineering Group, Cincinnati, Ohio by Patrick Finn, P.S. No. 7181, per recorded plat, and is based on a field survey performed under the direction of Robert Wynd, P.S. No. 6872, in April, 2008.

Date: September 29, 2021

To: Mayor and Members of City Council 202102862
From: Paula Boggs Muething, City Manager
Subject: EMERGENCY ORDINANCE – BARROW OUTLOT LLC PROPERTY SALE
AGREEMENT – B VERSION

Attached is an emergency ordinance captioned as follows:

AUTHORIZING the City Manager to execute a *Property Sale Agreement* with Barrow Outlot LLC for the sale of City-owned real property located at the northeast corner of the intersection of Ridge and Alamo Avenues in Oakley.

The City of Cincinnati owns certain real property located at the northeast corner of the intersection of Ridge Avenue and Alamo Avenue in the Oakley neighborhood (“Property”), which is under the management and control of the City’s Department of Transportation and Engineering (“DOTE”).

Barrow Outlot LLC (“Petitioners”) desires to purchase the Property from the City for consolidation with Petitioners’ adjoining real property.

The City Manager, upon consultation with DOTE, has determined that the Property is not needed for transportation or any other municipal purpose, that there is good cause to sell the Property, and that such sale will not be detrimental to the general interest.

The approximate fair market value of the Property is \$45,500, which Petitioners have agreed to pay.

The City Planning Commission approved the sale of the Property at its meeting on July 16, 2021.

The reason of the emergency is the immediate need to allow the shovel-ready project to move forward so that the City of Cincinnati may receive the economic and noneconomic benefits at the earliest time.

The Administration recommends passage of the attached ordinance.

Attachment I – Property Sale Agreement

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

EMERGENCY
City of Cincinnati

CHM/B

AWB

An Ordinance No. _____ - 2021

AUTHORIZING the City Manager to execute a *Property Sale Agreement* with Barrow Outlot LLC for the sale of City-owned real property located at the northeast corner of the intersection of Ridge and Alamo Avenues in Oakley.

WHEREAS, the City owns certain real property located at the northeast corner of the intersection of Ridge and Alamo Avenues in Oakley, as more particularly described and depicted in the *Property Sale Agreement* attached to this ordinance as Attachment A and incorporated herein by reference (the "Property"), which Property is under the management and control of the City's Department of Transportation and Engineering ("DOTE"); and

WHEREAS, Barrow Outlot LLC, an Ohio limited liability company ("Petitioner"), desires to purchase the Property from the City for consolidation with Petitioner's adjoining real property; and

WHEREAS, pursuant to Cincinnati Municipal Code Section 331-1, the City may sell real property that is not needed for municipal purposes; and

WHEREAS, the City Manager, being the officer having the custody and control of the Property, and upon consultation with DOTE, has determined that the Property is not needed for transportation or any other municipal purpose; and

WHEREAS, the City's Real Estate Services Division has determined, by professional appraisal, that the approximate fair market value of the Property is \$45,500, which Petitioner has agreed to pay; and

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

WHEREAS, City Planning Commission, having the authority to approve the change in the use of City-owned property, approved the sale of the Property at its meeting on July 16, 2021; now, therefore,

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

Section 1. That the City Manager is hereby authorized to execute a *Property Sale Agreement* with Barrow Outlot LLC, an Ohio limited liability company ("Petitioner"), in

substantially the form attached to this ordinance as Attachment A, pursuant to which the City of Cincinnati will sell to Petitioner certain real property designated as Hamilton County, Ohio Auditor Parcel ID Nos.: 051-0003-0162, 051-0003-0033, and 051-0003-0327, located at the northeast corner of the intersection of Ridge and Alamo Avenues in Oakley, as more particularly described on Attachment A and incorporated herein by reference (the “Property”).

Section 2. That the Property is not needed for transportation or any other municipal purpose.

Section 3. That the fair market value of the Property, as determined by appraisal by the City’s Real Estate Services Division, is approximately \$45,500, which Petitioner has agreed to pay.

Section 4. That eliminating competitive bidding in connection with the City’s sale of the Property is in the best interest of the City because Petitioner owns an adjoining 0.5042-acre tract of land fronting Barrow Avenue, and, as a practical matter, no one other than an adjoining property owner would have any use for remnant parcels lacking access to, or frontage on, improved portions of Barrow Avenue.

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

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

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

Section 7. That the City Manager and other City officials are hereby authorized to take all necessary and proper actions to carry out the provisions of this ordinance, including, without limitation, executing any and all ancillary agreements, deeds, plats, and other documents to facilitate the vacation and sale of the Property to Petitioner, including the execution of a *Property Sale Agreement* in substantially the form attached to this ordinance as Attachment A and incorporated herein by reference.

Section 8. That the City Solicitor shall cause an authenticated copy of this ordinance to be duly recorded in the land records of Hamilton County, Ohio.

Section 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 the immediate need to allow the shovel-ready project to move forward so that the City of Cincinnati may receive the economic and noneconomic benefits at the earliest time.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

ATTACHMENT A

Contract No. _____

Property: Ridge Ave and Barrow Ave Parcels

PROPERTY SALE AGREEMENT

This Property Sale Agreement (this "**Agreement**") is made and entered into on the Effective Date (as defined on the signature page hereof) by and between the **CITY OF CINCINNATI**, an Ohio municipal corporation, the address of which for purposes of this Agreement is 801 Plum Street, Cincinnati, OH 45202 (the "**City**") and **BARROW OUTLOT LLC**, an Ohio limited liability company whose tax mailing address is 7162 Reading Rd, Suite 730, Cincinnati, OH 45237 (the "**Purchaser**").

Recitals:

A. The City owns certain real property identified as Auditor's Parcel ID Nos.: 051-0003-0162, 051-0003-0033, and 051-0003-0327, more commonly known as 4904 Ridge Avenue, 4900 Ridge Avenue, and Barrow Avenue respectively, in the Oakley neighborhood of Cincinnati, Ohio, as described on Exhibit A (Legal Description- the Property) hereto (the "**Sale Property**"). The Sale Property consists of remnant parcels that were created as a result from the City's Kennedy Connector project and is under the management of the City's Department of Transportation and Engineering ("**DOT**").

B. Purchaser owns certain real property adjoining the Property to the north of the Sale Property ("**Purchaser's Property**"), and desires to purchase from the City the Sale Property to consolidate said Sale Property with Purchaser's Property.

C. The City Manager, in consultation with DOT, has determined that the Sale Property is not needed for any municipal purpose.

D. The City's Real Estate Services Division has determined, by a professional appraisal, that the fair market value of the Sale Property is \$45,500.00.

E. The City has determined that eliminating competitive bidding in connection with the City's sale of the Sale Property is justified because Purchaser owns an adjoining 0.5042-acre tract of land fronting Barrow Avenue, and as a practical matter no one other than an adjoining property owner would have any use for the remnant parcels lacking access to, or frontage on, Barrow Avenue.

F. City Planning Commission, having the authority to approve the change in the use of City-owned property, approved the sale of the Sale Property to Purchaser at its meeting on July 16, 2021.

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

NOW, THEREFORE, the parties agree as follows:

1. **Purchase Price.** Subject to the terms and conditions set forth herein, the City hereby agrees to sell the Sale Property to Purchaser, and Purchaser hereby agrees to purchase the Sale Property from the City for \$45,500.00 (the "**Purchase Price**"). Purchaser acknowledges that it is familiar with the condition of the Sale Property and, at Closing (as defined below), the City shall convey the Sale Property to Purchaser in "as is" condition. The City makes no representations or warranties to Purchaser with respect to the condition of the Sale Property and, from and after the Closing, the City shall have no liability of any kind to Purchaser for any defects, adverse environmental condition, or any other matters affecting the Sale Property.

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2. Closing.

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

- (i) Title & Survey: Purchaser's approval of title to the Sale Property and, if obtained by Purchaser, an ALTA property survey of the Sale Property;
- (ii) Inspections, Utilities & Zoning/Building Code Requirements: Purchaser's approval of inspections of the Sale Property, including without limitation environmental assessments and soil assessments, all matters pertaining to utility service for the Sale Property, and all zoning and building code requirements that are applicable to the Sale Property;
- (iii) Plats and Legal Descriptions: Purchaser shall have provided the City with all plats and legal descriptions as required by DOTE, the City Planning Department, and the Hamilton County Auditor and Recorder in connection with the City's sale of the Sale Property;
- (iv) Coordinated Report Conditions (CR #20-2021):

(a) DOTE:

- 1. Any existing utilities must be granted easements or relocated at Purchaser's expense.
- 2. Abutting property owners must agree to the sale in writing.
- 3. No Auditor's parcels shall be landlocked by this vacation/sale. If possible, potential landlocked parcels should be consolidated with parcels having legal street frontage.

(b) MSDGC:

- 1. A MSDGC Request for Availability for Sewer Service (RASS) will be required by a project to develop or redevelop these parcels early in its planning process and advisably prior to applying for project permits through the Building and Inspection's Department to avoid project schedule delays. The MSDGC RASS will outline any additional project requirements, such as the need to obtain any MSDGC tap permits, Ohio EPA Permit to Install (if necessary), utilization of licensed and bonded sewer tappers with MSDGC detention requirements and a reminder for the project to coordinate with Storm Water Management Utility (SMU) for additional City of Cincinnati storm water requirements.

(c) GCWW:

- 1. Within the Sale Property, there are two inactive water service lines (H-74110-3/4" and H-78740-5/8") associated with parcels 051-0003-0162 and 051-0003-0127 and one active water service line (H-83527-3/4" associated with parcel 051-0003-0033. Water Works records indicate that the branch material within the right-of-way is copper and the branch materials within the property is lead. In accordance with Cincinnati Municipal Code Chapter 401

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Division M, lead service lines within this property must be replaced with copper service lines. Please contact the Greater Cincinnati Water Works Lead Service Line Coordinator at 513-591-5068.

2. If in the future, the Purchaser or their agents determine the existing water system does not meet their fire and/or domestic water demands, then the Purchaser may need to upgrade the water mains in their area to meet their future water demands. The Water Works approval of this Coordinate Report for the sale of the subject Sale Property in no way relieves the Purchaser of their responsibility to potentially upgrade the water system to meet their future fire and domestic water demands. This work will be performed at the expense of the Purchaser and not at the expense of the Water Works.
3. All conditions of water service to the Sale Property, including the location of attachment to the public water system, and abandonment of any existing water service branches that presently serve the subject premises, will be determined upon submission of final plans and application for service. Water service to the Sale Property is subject to all rules, regulations, and current practices and policies of the Cincinnati Water Works.

(d) Duke Energy:

1. Duke Energy currently has a distribution easement in the location of the Sale Property that will need to be maintained.
2. Duke Electric has a mainline running near these parcels, at the western border and the easement in place will need to be maintained.

(e) Buildings & Inspections:

1. Ensure 4916 Barrow is used for all correspondence (per CPRE).
2. Comply with the recommendations of the Coordinated Site Review.
3. It is required that the Purchaser immediately records a Consolidation Plat adding the Sale Property with all of the Purchaser's Property. No Building Permits for any development can be approved until the Consolidation Plat is recorded.

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

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

(D) Closing Costs and Closing Documents. At the Closing, (i) Purchaser shall pay the Purchase Price in full, and (ii) the City shall convey all of its right, title and interest in and to the Sale Property to Purchaser by *Quitclaim Deed* in the form of Exhibit C (Form of Quitclaim Deed), provided however that in the event the Purchaser has located all existing utilities on the Property and recorded easements exist for such utilities pursuant to Section 2(A)(iv)(a)(1) above, the blanket reservation to grant easements in the Form of Quitclaim Deed shall be removed. Purchaser shall pay all Hamilton County,

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

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

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

(i) Purchaser is an Ohio limited liability company duly organized and validly existing under the laws of the State of Ohio, is authorized to transact business in 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 relevant to the transactions contemplated by this Agreement.

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

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

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

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

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

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

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5. General Provisions.

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

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

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

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

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

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

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

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

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

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

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

(L) Counterparts: E-Signature. This Agreement may be executed via electronic signature and in one or more counterparts, each of which shall be deemed an original and all of which taken together shall constitute but one and the same instrument.

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6. **Exhibits.** The following exhibits are attached hereto and made a part hereof:
Exhibit A – *Legal Description -the Property*
Exhibit B – *Form of Quit Claim Deed*

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

BARROW OUTLOT LLC,
an Ohio limited liability company

By: _____

Printed Name: _____

Date: _____, 2021

[City signatures on the following page]

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CITY OF CINCINNATI

By: _____

Printed Name: _____

Title: _____

Date: _____, 2021

Recommended by:

John S. Brazina, Director
Department of Transportation and Engineering

Approved as to Form:

Assistant City Solicitor

Certified Date: _____

Fund/Code: _____

Amount: _____

By: _____
Karen Alder, City Finance Director

EXHIBIT A
to Property Sale Agreement

Legal Description -the Property

Tract 1:

Auditor's Parcel ID No.: 051-0003-0162
Commonly Known as: 4904 Ridge Avenue

Situated in the State of Ohio, County of Hamilton, City of Cincinnati, Section 22, Township 4, Fractional Range 2, Between the Miamis, being the remaining 0.0732 acre tract of land located in that tract of land as described in a deed to The City of Cincinnati, of record in Official Record 11162, Page 1633 and being a portion of Lot 18 as shown and delineated upon the plat "B.D. Barton's Subdivision", a subdivision of record in Plat Book 3, Page 183, all references herein being to the records located in the Recorder's Office, Hamilton County, Ohio and being more particularly described as follows;

Beginning for REFERENCE at a point at the northwesterly corner of said Lot 18 of B.D. Barton's Subdivision and the southwesterly corner of Lot 19 and that tract of land, as described in a deed to Frederick E. and Donna R. Debra, Trustees, of record in Official Record 10401, Page 2738 and being the TRUE PLACE OF BEGINNING;

Thence South 84°23'53" East, along the northerly line of said City of Cincinnati tract and the southerly line of said Debra tract, a distance of 107.70 feet to an iron pin set;

Thence with a new division line through said City of Cincinnati tract, with the arc of a curve to the right, having a radius of 141.77 feet, a central angle of 17°18'33", an arc length of 42.83 feet, the chord of which bears South 44°13'39" West, a chord distance of 42.67 feet to an iron pin set in the southerly line of said City of Cincinnati tract and the northerly line of that tract of land, as described in a deed to City of Cincinnati, of record in Official Record 11146, Page 1822;

Thence along said southerly line and northerly line, North 84°23'51" West, a distance of 80.77 feet to a point at said easterly right of way line of Ridge Road;

Thence North 05°05'23 East, a distance of 33.33 feet to the TRUE PLACE OF BEGINNING and containing 0.0732 acre of land.

Bearings herein are based on ties to the City of Cincinnati control monuments 2509 and 2510 as set forth in a plat of survey of record in Plat Book 350, Page 45.

Iron pins set, per recorded plat, consist of a 5/8" x 30" rebar with a plastic cap inscribed "M-E COMP S-6872."

This description was prepared by M•E Companies, Civil Engineering Group, Cincinnati, Ohio by Patrick Finn, P.S. No. 7181, per recorded plat, and is based on a field survey performed under the direction of Robert Wynd, P.S. No. 6872, in April, 2008.

Tract 2:

Auditor's Parcel ID No.: 051-0003-0033
Commonly Known as: 4900 Ridge Avenue

Situated in the State of Ohio, County of Hamilton, City of Cincinnati, Section 22, Township 4, Fractional Range 2, Between the Miamis, being the remaining 0.0411 acre tract of land located in that tract of land as described in deed to The City of Cincinnati, of record in Official Record 11146, Page 1822 and being portions of Lots 17 and 18 as shown and delineated upon the plat "B.D. Barton's Subdivision", a subdivision of record in Plat Book 3, Page 183, all references herein being to the records located in the Recorder's Office, Hamilton County, Ohio and being more particularly described as follows;

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Beginning for REFERENCE at a point being the northwesterly corner of said Lot 17 of B.D. Barton's Subdivision and the TRUE PLACE OF BEGINNING;

Thence North 05°05'23" East, along the easterly right of way line of said Ridge Avenue, a distance of 16.67 feet to a point being the northwesterly corner of said City of Cincinnati tract also being the southwesterly corner of that tract of land, as described in a deed to City of Cincinnati, of record in Official Record 11162, Page 1633;

Thence South 84°23'51" East, along the northerly line and southerly line of said City of Cincinnati tracts, a distance of 80.77 feet to an iron pin set;

Thence with a new division line through said City of Cincinnati tract, with the arc of a curve to the right, having a radius of 141.77 feet, a central angle of 28°36'00", an arc length of 70.77 feet, the chord of which bears South 67°10'56" West, a chord distance of 70.03 feet to an iron pin set in the southerly line of said City of Cincinnati tract and the northerly line of that tract of land, as described in a deed to City of Cincinnati, of record in Official Record 11185, Page 1620;

Thence North 61°11'31" West, with a new division line through said City of Cincinnati tract, a distance of 20.62 feet to an iron pin set in said easterly right of way line of Ridge Road;

Thence North 05°05'23" East, along said easterly right of way line of Ridge Road, a distance of 8.54 feet to the TRUE PLACE OF BEGINNING and containing 0.0411 acre of land.

Bearings herein are based on ties to the City of Cincinnati control monuments 2509 and 2510 as set forth in a plat of survey of record in Plat Book 350, Page 45.

Iron pins set, per recorded plat, consist of a 5/8" x 30" rebar with a plastic cap inscribed "M-E COMP S-6872."

This description was prepared by M•E Companies, Civil Engineering Group, Cincinnati, Ohio by Patrick Finn, P.S. No. 7181, per recorded plat, and is based on a field survey performed under the direction of Robert Wynd, P.S. No. 6872, in April, 2008.

Tract 3:

Auditor's Parcel ID No.: 051-0003-0327

Commonly Known as: Barrow Avenue

Situated in the State of Ohio, County of Hamilton, City of Cincinnati, Section 22, Township 4, Fractional Range 2, Between the Miamis, being a 0.0018 acre tract of land located in that tract of land as described in a deed to The City of Cincinnati, of record in Official Record 11146, Page 1822 and being a portion of Lot 17 as shown and delineated upon the plat "B.D. Barton's Subdivision", a subdivision of record in Plat Book 3, Page 183, all references herein being to the records located in the Recorder's Office, Hamilton County, Ohio and being more particularly described as follows;

Beginning for REFERENCE at a point at the northwesterly corner of said Lot 17 of B.D. Barton's Subdivision; Thence South 05°05'23" West, along the easterly right of way line of said Ridge Avenue, a distance of 8.54 feet to an iron pin set being the TRUE PLACE OF BEGINNING;

Thence South 61°11'31" East, through said City of Cincinnati tract with a new division line, a distance of 20.62 feet to an iron pin set in the southerly line of said City of Cincinnati tract and the northerly line of that tract of land, as described in a deed to City of Cincinnati, of record in Official Record 11185, Page 1620;

Thence North 84°23'51" West, along said northerly line and southerly line, a distance of 18.88 feet to a point at said easterly right of way line of Ridge Avenue;

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Thence North 05°05'23" East, along said easterly right of way line of Ridge Avenue, a distance of 8.12 feet to the TRUE PLACE OF BEGINNING and containing 0.0018 acre of land.

Bearings herein are based on ties to the City of Cincinnati control monuments 2509 and 2510 as set forth in a plat of survey of record in Plat Book 350, Page 45.

Iron pins set, per recorded plat, consist of a 5/8" x 30" rebar with a plastic cap inscribed "M-E COMP S-6872."

This description was prepared by M•E Companies, Civil Engineering Group, Cincinnati, Ohio by Patrick Finn, P.S. No. 7181, per recorded plat, and is based on a field survey performed under the direction of Robert Wynd, P.S. No. 6872, in April, 2008.

EXHIBIT B
to Property Sale Agreement
to Property Sale Agreement
Form of Quitclaim Deed

[SEE ATTACHED]

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

QUITCLAIM DEED

The **CITY OF CINCINNATI**, an Ohio municipal corporation (the "**City**"), for valuable consideration paid, hereby grants and conveys to **BARROW OUTLOT LLC**, an Ohio limited liability company, whose tax mailing address is 7162 Reading Rd., Cincinnati, OH 45237, ("**Grantee**"), all of the City's right, title and interest in and to the real property described on Exhibit A (Legal Description) hereto (the "**Property**").

Property Address: 4904 Ridge Ave, 4900 Ridge Ave, & approx. 0.0018 acre on Barrow Avenue, Cincinnati, OH 45209;
Auditor's Parcel ID Nos.: 051-0003-0162, 051-0003-0033, & 051-0003-0327;
Prior instrument reference: O.R. 12806, Pg. 1076, Hamilton County, Ohio Records.

Creation of Utility Easement: The City hereby reserves and creates a public utility easement on, over, or under any portion of the Property encumbered by utility facilities such that any public utility affected by this conveyance shall be deemed to have a permanent easement in such portions of the Property for the purpose of maintaining, operating, renewing, reconstructing, and removing said utility facilities and for purposes of access to said facilities. [NOTE – TO BE REMOVED IF CONDITIONS REQUIRING LOCATION AND RECORDING OF ALL EXISTING EASEMENTS IN PURCHASE AGREEMENT SATISFIED]

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

[SIGNATURE PAGE FOLLOWS]

{00344089-2}

Executed on _____, 2021.

CITY OF CINCINNATI

By: _____

Printed Name: _____

Title: _____

STATE OF OHIO)
) SS:
COUNTY OF HAMILTON)

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

Notary Public
My commission expires: _____

Approved by:

John S. Brazina, Director
Department of Transportation and Engineering

Approved as to Form:

Assistant City Solicitor

This instrument prepared by:

City of Cincinnati Law Department,
801 Plum Street, Suite 214,
Cincinnati, Ohio 45202

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Exhibit A
to Quitclaim Deed
Legal Description

Tract 1:

Auditor's Parcel ID No.: 051-0003-0162
Commonly Known as: 4904 Ridge Avenue

Situated in the State of Ohio, County of Hamilton, City of Cincinnati, Section 22, Township 4, Fractional Range 2, Between the Miamis, being the remaining 0.0732 acre tract of land located in that tract of land as described in a deed to The City of Cincinnati, of record in Official Record 11162, Page 1633 and being a portion of Lot 18 as shown and delineated upon the plat "B.D. Barton's Subdivision", a subdivision of record in Plat Book 3, Page 183, all references herein being to the records located in the Recorder's Office, Hamilton County, Ohio and being more particularly described as follows;

Beginning for REFERENCE at a point at the northwesterly corner of said Lot 18 of B.D. Barton's Subdivision and the southwesterly corner of Lot 19 and that tract of land, as described in a deed to Frederick E. and Donna R. Debra, Trustees, of record in Official Record 10401, Page 2738 and being the TRUE PLACE OF BEGINNING;

Thence South 84°23'53" East, along the northerly line of said City of Cincinnati tract and the southerly line of said Debra tract, a distance of 107.70 feet to an iron pin set;

Thence with a new division line through said City of Cincinnati tract, with the arc of a curve to the right, having a radius of 141.77 feet, a central angle of 17°18'33", an arc length of 42.83 feet, the chord of which bears South 44°13'39" West, a chord distance of 42.67 feet to an iron pin set in the southerly line of said City of Cincinnati tract and the northerly line of that tract of land, as described in a deed to City of Cincinnati, of record in Official Record 11146, Page 1822;

Thence along said southerly line and northerly line, North 84°23'51" West, a distance of 80.77 feet to a point at said easterly right of way line of Ridge Road;

Thence North 05°05'23 East, a distance of 33.33 feet to the TRUE PLACE OF BEGINNING and containing 0.0732 acre of land.

Bearings herein are based on ties to the City of Cincinnati control monuments 2509 and 2510 as set forth in a plat of survey of record in Plat Book 350, Page 45.

Iron pins set, per recorded plat, consist of a 5/8" x 30" rebar with a plastic cap inscribed "M-E COMP S-6872."

This description was prepared by M•E Companies, Civil Engineering Group, Cincinnati, Ohio by Patrick Finn, P.S. No. 7181, per recorded plat, and is based on a field survey performed under the direction of Robert Wynd, P.S. No. 6872, in April, 2008.

Tract 2:

Auditor's Parcel ID No.: 051-0003-0033
Commonly Known as: 4900 Ridge Avenue

Situated in the State of Ohio, County of Hamilton, City of Cincinnati, Section 22, Township 4, Fractional Range 2, Between the Miamis, being the remaining 0.0411 acre tract of land located in that

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tract of land as described in deed to The City of Cincinnati, of record in Official Record 11146, Page 1822 and being portions of Lots 17 and 18 as shown and delineated upon the plat "B.D. Barton's Subdivision", a subdivision of record in Plat Book 3, Page 183, all references herein being to the records located in the Recorder's Office, Hamilton County, Ohio and being more particularly described as follows;

Beginning for REFERENCE at a point being the northwesterly corner of said Lot 17 of B.D. Barton's Subdivision and the TRUE PLACE OF BEGINNING;

Thence North 05°05'23 East, along the easterly right of way line of said Ridge Avenue, a distance of 16.67 feet to a point being the northwesterly corner of said City of Cincinnati tract also being the southwesterly corner of that tract of land, as described in a deed to City of Cincinnati, of record in Official Record 11162, Page 1633;

Thence South 84°23'51" East, along the northerly line and southerly line of said City of Cincinnati tracts, a distance of 80.77 feet to an iron pin set;

Thence with a new division line through said City of Cincinnati tract, with the arc of a curve to the right, having a radius of 141.77 feet, a central angle of 28°36'00", an arc length of 70.77 feet, the chord of which bears South 67°10'56" West, a chord distance of 70.03 feet to an iron pin set in the southerly line of said City of Cincinnati tract and the northerly line of that tract of land, as described in a deed to City of Cincinnati, of record in Official Record 11185, Page 1620;

Thence North 61°11'31" West, with a new division line through said City of Cincinnati tract, a distance of 20.62 feet to an iron pin set in said easterly right of way line of Ridge Road;

Thence North 05°05'23" East, along said easterly right of way line of Ridge Road, a distance of 8.54 feet to the TRUE PLACE OF BEGINNING and containing 0.0411 acre of land.

Bearings herein are based on ties to the City of Cincinnati control monuments 2509 and 2510 as set forth in a plat of survey of record in Plat Book 350, Page 45.

Iron pins set, per recorded plat, consist of a 5/8" x 30" rebar with a plastic cap inscribed "M-E COMP S-6872."

This description was prepared by M•E Companies, Civil Engineering Group, Cincinnati, Ohio by Patrick Finn, P.S. No. 7181, per recorded plat, and is based on a field survey performed under the direction of Robert Wynd, P.S. No. 6872, in April, 2008.

Tract 3:

Auditor's Parcel ID No.: 051-0003-0327
Commonly Known as: Barrow Avenue

Situated in the State of Ohio, County of Hamilton, City of Cincinnati, Section 22, Township 4, Fractional Range 2, Between the Miamis, being a 0.0018 acre tract of land located in that tract of land as described in a deed to The City of Cincinnati, of record in Official Record 11146, Page 1822 and being a portion of Lot 17 as shown and delineated upon the plat "B.D. Barton's Subdivision", a subdivision of record in Plat Book 3, Page 183, all references herein being to the records located in the Recorder's Office, Hamilton County, Ohio and being more particularly described as follows;

Beginning for REFERENCE at a point at the northwesterly corner of said Lot 17 of B.D. Barton's Subdivision; Thence South 05°05'23" West, along the easterly right of way line of said Ridge Avenue, a distance of 8.54 feet to an iron pin set being the TRUE PLACE OF BEGINNING;

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Thence South 61°11'31" East, through said City of Cincinnati tract with a new division line, a distance of 20.62 feet to an iron pin set in the southerly line of said City of Cincinnati tract and the northerly line of that tract of land, as described in a deed to City of Cincinnati, of record in Official Record 11185, Page 1620;

Thence North 84°23'51" West, along said northerly line and southerly line, a distance of 18.88 feet to a point at said easterly right of way line of Ridge Avenue;

Thence North 05°05'23" East, along said easterly right of way line of Ridge Avenue, a distance of 8.12 feet to the TRUE PLACE OF BEGINNING and containing 0.0018 acre of land.

Bearings herein are based on ties to the City of Cincinnati control monuments 2509 and 2510 as set forth in a plat of survey of record in Plat Book 350, Page 45.

Iron pins set, per recorded plat, consist of a 5/8" x 30" rebar with a plastic cap inscribed "M-E COMP S-6872."

This description was prepared by M•E Companies, Civil Engineering Group, Cincinnati, Ohio by Patrick Finn, P.S. No. 7181, per recorded plat, and is based on a field survey performed under the direction of Robert Wynd, P.S. No. 6872, in April, 2008.

Contract No. _____

Property: Ridge Ave and Barrow Ave Parcels

PROPERTY SALE AGREEMENT

This Property Sale Agreement (this "**Agreement**") is made and entered into on the Effective Date (as defined on the signature page hereof) by and between the **CITY OF CINCINNATI**, an Ohio municipal corporation, the address of which for purposes of this Agreement is 801 Plum Street, Cincinnati, OH 45202 (the "**City**") and **BARROW OUTLOT LLC**, an Ohio limited liability company whose tax mailing address is 7162 Reading Rd, Suite 730, Cincinnati, OH 45237 (the "**Purchaser**").

Recitals:

A. The City owns certain real property identified as Auditor's Parcel ID Nos.: 051-0003-0162, 051-0003-0033, and 051-0003-0327, more commonly known as 4904 Ridge Avenue, 4900 Ridge Avenue, and Barrow Avenue respectively, in the Oakley neighborhood of Cincinnati, Ohio, as described on Exhibit A (Legal Description- the Property) hereto (the "**Sale Property**"). The Sale Property consists of remnant parcels that were created as a result from the City's Kennedy Connector project and is under the management of the City's Department of Transportation and Engineering ("**DOT**").

B. Purchaser owns certain real property adjoining the Property to the north of the Sale Property ("**Purchaser's Property**"), and desires to purchase from the City the Sale Property to consolidate said Sale Property with Purchaser's Property.

C. The City Manager, in consultation with DOTE, has determined that the Sale Property is not needed for any municipal purpose.

D. The City's Real Estate Services Division has determined, by a professional appraisal, that the fair market value of the Sale Property is \$45,500.00.

E. The City has determined that eliminating competitive bidding in connection with the City's sale of the Sale Property is justified because Purchaser owns an adjoining 0.5042-acre tract of land fronting Barrow Avenue, and as a practical matter no one other than an adjoining property owner would have any use for the remnant parcels lacking access to, or frontage on, Barrow Avenue.

F. City Planning Commission, having the authority to approve the change in the use of City-owned property, approved the sale of the Sale Property to Purchaser at its meeting on July 16, 2021.

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

NOW, THEREFORE, the parties agree as follows:

1. **Purchase Price.** Subject to the terms and conditions set forth herein, the City hereby agrees to sell the Sale Property to Purchaser, and Purchaser hereby agrees to purchase the Sale Property from the City for \$45,500.00 (the "**Purchase Price**"). Purchaser acknowledges that it is familiar with the condition of the Sale Property and, at Closing (as defined below), the City shall convey the Sale Property to Purchaser in "as is" condition. The City makes no representations or warranties to Purchaser with respect to the condition of the Sale Property and, from and after the Closing, the City shall have no liability of any kind to Purchaser for any defects, adverse environmental condition, or any other matters affecting the Sale Property.

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2. Closing.

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

- (i) Title & Survey: Purchaser's approval of title to the Sale Property and, if obtained by Purchaser, an ALTA property survey of the Sale Property;
- (ii) Inspections, Utilities & Zoning/Building Code Requirements: Purchaser's approval of inspections of the Sale Property, including without limitation environmental assessments and soil assessments, all matters pertaining to utility service for the Sale Property, and all zoning and building code requirements that are applicable to the Sale Property;
- (iii) Plats and Legal Descriptions: Purchaser shall have provided the City with all plats and legal descriptions as required by DOTE, the City Planning Department, and the Hamilton County Auditor and Recorder in connection with the City's sale of the Sale Property;
- (iv) Coordinated Report Conditions (CR #20-2021):

(a) DOTE:

- 1. Any existing utilities must be granted easements or relocated at Purchaser's expense.
- 2. Abutting property owners must agree to the sale in writing.
- 3. No Auditor's parcels shall be landlocked by this vacation/sale. If possible, potential landlocked parcels should be consolidated with parcels having legal street frontage.

(b) MSDGC:

- 1. A MSDGC Request for Availability for Sewer Service (RASS) will be required by a project to develop or redevelop these parcels early in its planning process and advisably prior to applying for project permits through the Building and Inspection's Department to avoid project schedule delays. The MSDGC RASS will outline any additional project requirements, such as the need to obtain any MSDGC tap permits, Ohio EPA Permit to Install (if necessary), utilization of licensed and bonded sewer tappers with MSDGC detention requirements and a reminder for the project to coordinate with Storm Water Management Utility (SMU) for additional City of Cincinnati storm water requirements.

(c) GCWW:

- 1. Within the Sale Property, there are two inactive water service lines (H-74110-3/4" and H-78740-5/8") associated with parcels 051-0003-0162 and 051-0003-0127 and one active water service line (H-83527-3/4" associated with parcel 051-0003-0033. Water Works records indicate that the branch material within the right-of-way is copper and the branch materials within the property is lead. In accordance with Cincinnati Municipal Code Chapter 401

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Division M, lead service lines within this property must be replaced with copper service lines. Please contact the Greater Cincinnati Water Works Lead Service Line Coordinator at 513-591-5068.

2. If in the future, the Purchaser or their agents determine the existing water system does not meet their fire and/or domestic water demands, then the Purchaser may need to upgrade the water mains in their area to meet their future water demands. The Water Works approval of this Coordinate Report for the sale of the subject Sale Property in no way relieves the Purchaser of their responsibility to potentially upgrade the water system to meet their future fire and domestic water demands. This work will be performed at the expense of the Purchaser and not at the expense of the Water Works.
3. All conditions of water service to the Sale Property, including the location of attachment to the public water system, and abandonment of any existing water service branches that presently serve the subject premises, will be determined upon submission of final plans and application for service. Water service to the Sale Property is subject to all rules, regulations, and current practices and policies of the Cincinnati Water Works.

(d) Duke Energy:

1. Duke Energy currently has a distribution easement in the location of the Sale Property that will need to be maintained.
2. Duke Electric has a mainline running near these parcels, at the western border and the easement in place will need to be maintained.

(e) Buildings & Inspections:

1. Ensure 4916 Barrow is used for all correspondence (per CPRE).
2. Comply with the recommendations of the Coordinated Site Review.
3. It is required that the Purchaser immediately records a Consolidation Plat adding the Sale Property with all of the Purchaser's Property. No Building Permits for any development can be approved until the Consolidation Plat is recorded.

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

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

(D) Closing Costs and Closing Documents. At the Closing, (i) Purchaser shall pay the Purchase Price in full, and (ii) the City shall convey all of its right, title and interest in and to the Sale Property to Purchaser by *Quitclaim Deed* in the form of Exhibit C (Form of Quitclaim Deed), provided however that in the event the Purchaser has located all existing utilities on the Property and recorded easements exist for such utilities pursuant to Section 2(A)(iv)(a)(1) above, the blanket reservation to grant easements in the Form of Quitclaim Deed shall be removed. Purchaser shall pay all Hamilton County,

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

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

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

(i) Purchaser is an Ohio limited liability company duly organized and validly existing under the laws of the State of Ohio, is authorized to transact business in 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 relevant to the transactions contemplated by this Agreement.

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

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

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

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

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

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

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5. General Provisions.

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

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

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

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

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

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

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

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

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

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

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

(L) Counterparts; E-Signature. This Agreement may be executed via electronic signature and in one or more counterparts, each of which shall be deemed an original and all of which taken together shall constitute but one and the same instrument.

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6. **Exhibits.** The following exhibits are attached hereto and made a part hereof:
Exhibit A – *Legal Description -the Property*
Exhibit B – *Form of Quit Claim Deed*

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

BARROW OUTLOT LLC,
an Ohio limited liability company

By: _____

Printed Name: _____

Date: _____, 2021

[City signatures on the following page]

CITY OF CINCINNATI

By: _____

Printed Name: _____

Title: _____

Date: _____, 2021

Recommended by:

John S. Brazina, Director
Department of Transportation and Engineering

Approved as to Form:

Assistant City Solicitor

Certified Date: _____

Fund/Code: _____

Amount: _____

By: _____
Karen Alder, City Finance Director

EXHIBIT A
to Property Sale Agreement

Legal Description -the Property

Tract 1:

Auditor's Parcel ID No.: 051-0003-0162
Commonly Known as: 4904 Ridge Avenue

Situated in the State of Ohio, County of Hamilton, City of Cincinnati, Section 22, Township 4, Fractional Range 2, Between the Miamis, being the remaining 0.0732 acre tract of land located in that tract of land as described in a deed to The City of Cincinnati, of record in Official Record 11162, Page 1633 and being a portion of Lot 18 as shown and delineated upon the plat "B.D. Barton's Subdivision", a subdivision of record in Plat Book 3, Page 183, all references herein being to the records located in the Recorder's Office, Hamilton County, Ohio and being more particularly described as follows;

Beginning for REFERENCE at a point at the northwesterly corner of said Lot 18 of B.D. Barton's Subdivision and the southwesterly corner of Lot 19 and that tract of land, as described in a deed to Frederick E. and Donna R. Debra, Trustees, of record in Official Record 10401, Page 2738 and being the TRUE PLACE OF BEGINNING;

Thence South 84°23'53" East, along the northerly line of said City of Cincinnati tract and the southerly line of said Debra tract, a distance of 107.70 feet to an iron pin set;

Thence with a new division line through said City of Cincinnati tract, with the arc of a curve to the right, having a radius of 141.77 feet, a central angle of 17°18'33", an arc length of 42.83 feet, the chord of which bears South 44°13'39" West, a chord distance of 42.67 feet to an iron pin set in the southerly line of said City of Cincinnati tract and the northerly line of that tract of land, as described in a deed to City of Cincinnati, of record in Official Record 11146, Page 1822;

Thence along said southerly line and northerly line, North 84°23'51" West, a distance of 80.77 feet to a point at said easterly right of way line of Ridge Road;

Thence North 05°05'23 East, a distance of 33.33 feet to the TRUE PLACE OF BEGINNING and containing 0.0732 acre of land.

Bearings herein are based on ties to the City of Cincinnati control monuments 2509 and 2510 as set forth in a plat of survey of record in Plat Book 350, Page 45.

Iron pins set, per recorded plat, consist of a 5/8" x 30" rebar with a plastic cap inscribed "M-E COMP S-6872."

This description was prepared by M•E Companies, Civil Engineering Group, Cincinnati, Ohio by Patrick Finn, P.S. No. 7181, per recorded plat, and is based on a field survey performed under the direction of Robert Wynd, P.S. No. 6872, in April, 2008.

Tract 2:

Auditor's Parcel ID No.: 051-0003-0033
Commonly Known as: 4900 Ridge Avenue

Situated in the State of Ohio, County of Hamilton, City of Cincinnati, Section 22, Township 4, Fractional Range 2, Between the Miamis, being the remaining 0.0411 acre tract of land located in that tract of land as described in deed to The City of Cincinnati, of record in Official Record 11146, Page 1822 and being portions of Lots 17 and 18 as shown and delineated upon the plat "B.D. Barton's Subdivision", a subdivision of record in Plat Book 3, Page 183, all references herein being to the records located in the Recorder's Office, Hamilton County, Ohio and being more particularly described as follows;

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Beginning for REFERENCE at a point being the northwesterly corner of said Lot 17 of B.D. Barton's Subdivision and the TRUE PLACE OF BEGINNING;

Thence North 05°05'23" East, along the easterly right of way line of said Ridge Avenue, a distance of 16.67 feet to a point being the northwesterly corner of said City of Cincinnati tract also being the southwesterly corner of that tract of land, as described in a deed to City of Cincinnati, of record in Official Record 11162, Page 1633;

Thence South 84°23'51" East, along the northerly line and southerly line of said City of Cincinnati tracts, a distance of 80.77 feet to an iron pin set;

Thence with a new division line through said City of Cincinnati tract, with the arc of a curve to the right, having a radius of 141.77 feet, a central angle of 28°36'00", an arc length of 70.77 feet, the chord of which bears South 67°10'56" West, a chord distance of 70.03 feet to an iron pin set in the southerly line of said City of Cincinnati tract and the northerly line of that tract of land, as described in a deed to City of Cincinnati, of record in Official Record 11185, Page 1620;

Thence North 61°11'31" West, with a new division line through said City of Cincinnati tract, a distance of 20.62 feet to an iron pin set in said easterly right of way line of Ridge Road;

Thence North 05°05'23" East, along said easterly right of way line of Ridge Road, a distance of 8.54 feet to the TRUE PLACE OF BEGINNING and containing 0.0411 acre of land.

Bearings herein are based on ties to the City of Cincinnati control monuments 2509 and 2510 as set forth in a plat of survey of record in Plat Book 350, Page 45.

Iron pins set, per recorded plat, consist of a 5/8" x 30" rebar with a plastic cap inscribed "M-E COMP S-6872."

This description was prepared by M•E Companies, Civil Engineering Group, Cincinnati, Ohio by Patrick Finn, P.S. No. 7181, per recorded plat, and is based on a field survey performed under the direction of Robert Wynd, P.S. No. 6872, in April, 2008.

Tract 3:

Auditor's Parcel ID No.: 051-0003-0327

Commonly Known as: Barrow Avenue

Situated in the State of Ohio, County of Hamilton, City of Cincinnati, Section 22, Township 4, Fractional Range 2, Between the Miamis, being a 0.0018 acre tract of land located in that tract of land as described in a deed to The City of Cincinnati, of record in Official Record 11146, Page 1822 and being a portion of Lot 17 as shown and delineated upon the plat "B.D. Barton's Subdivision", a subdivision of record in Plat Book 3, Page 183, all references herein being to the records located in the Recorder's Office, Hamilton County, Ohio and being more particularly described as follows;

Beginning for REFERENCE at a point at the northwesterly corner of said Lot 17 of B.D. Barton's Subdivision; Thence South 05°05'23" West, along the easterly right of way line of said Ridge Avenue, a distance of 8.54 feet to an iron pin set being the TRUE PLACE OF BEGINNING;

Thence South 61°11'31" East, through said City of Cincinnati tract with a new division line, a distance of 20.62 feet to an iron pin set in the southerly line of said City of Cincinnati tract and the northerly line of that tract of land, as described in a deed to City of Cincinnati, of record in Official Record 11185, Page 1620;

Thence North 84°23'51" West, along said northerly line and southerly line, a distance of 18.88 feet to a point at said easterly right of way line of Ridge Avenue;

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Thence North 05°05'23" East, along said easterly right of way line of Ridge Avenue, a distance of 8.12 feet to the TRUE PLACE OF BEGINNING and containing 0.0018 acre of land.

Bearings herein are based on ties to the City of Cincinnati control monuments 2509 and 2510 as set forth in a plat of survey of record in Plat Book 350, Page 45.

Iron pins set, per recorded plat, consist of a 5/8" x 30" rebar with a plastic cap inscribed "M-E COMP S-6872."

This description was prepared by M•E Companies, Civil Engineering Group, Cincinnati, Ohio by Patrick Finn, P.S. No. 7181, per recorded plat, and is based on a field survey performed under the direction of Robert Wynd, P.S. No. 6872, in April, 2008.

EXHIBIT B
to Property Sale Agreement
to Property Sale Agreement
Form of Quitclaim Deed

[SEE ATTACHED]

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

QUITCLAIM DEED

The **CITY OF CINCINNATI**, an Ohio municipal corporation (the “**City**”), for valuable consideration paid, hereby grants and conveys to **BARROW OUTLOT LLC**, an Ohio limited liability company, whose tax mailing address is 7162 Reading Rd., Cincinnati, OH 45237, (“**Grantee**”), all of the City’s right, title and interest in and to the real property described on Exhibit A (*Legal Description*) hereto (the “**Property**”).

Property Address: 4904 Ridge Ave, 4900 Ridge Ave, & approx. 0.0018 acre on Barrow Avenue, Cincinnati, OH 45209;
Auditor’s Parcel ID Nos.: 051-0003-0162, 051-0003-0033, & 051-0003-0327;
Prior instrument reference: O.R. 12806, Pg. 1076, Hamilton County, Ohio Records.

Creation of Utility Easement: The City hereby reserves and creates a public utility easement on, over, or under any portion of the Property encumbered by utility facilities such that any public utility affected by this conveyance shall be deemed to have a permanent easement in such portions of the Property for the purpose of maintaining, operating, renewing, reconstructing, and removing said utility facilities and for purposes of access to said facilities. [NOTE – TO BE REMOVED IF CONDITIONS REQUIRING LOCATION AND RECORDING OF ALL EXISTING EASEMENTS IN PURCHASE AGREEMENT SATISFIED]

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

[SIGNATURE PAGE FOLLOWS]

{00344089-2}

Executed on _____, 2021.

CITY OF CINCINNATI

By: _____

Printed Name: _____

Title: _____

STATE OF OHIO)
) SS:
COUNTY OF HAMILTON)

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

Notary Public
My commission expires: _____

Approved by:

John S. Brazina, Director
Department of Transportation and Engineering

Approved as to Form:

Assistant City Solicitor

This instrument prepared by:

City of Cincinnati Law Department,
801 Plum Street, Suite 214,
Cincinnati, Ohio 45202

{00344089-2}

Exhibit A
to Quitclaim Deed
Legal Description

Tract 1:

Auditor's Parcel ID No.: 051-0003-0162
Commonly Known as: 4904 Ridge Avenue

Situated in the State of Ohio, County of Hamilton, City of Cincinnati, Section 22, Township 4, Fractional Range 2, Between the Miamis, being the remaining 0.0732 acre tract of land located in that tract of land as described in a deed to The City of Cincinnati, of record in Official Record 11162, Page 1633 and being a portion of Lot 18 as shown and delineated upon the plat "B.D. Barton's Subdivision", a subdivision of record in Plat Book 3, Page 183, all references herein being to the records located in the Recorder's Office, Hamilton County, Ohio and being more particularly described as follows;

Beginning for REFERENCE at a point at the northwesterly corner of said Lot 18 of B.D. Barton's Subdivision and the southwesterly corner of Lot 19 and that tract of land, as described in a deed to Frederick E. and Donna R. Debra, Trustees, of record in Official Record 10401, Page 2738 and being the TRUE PLACE OF BEGINNING;

Thence South 84°23'53" East, along the northerly line of said City of Cincinnati tract and the southerly line of said Debra tract, a distance of 107.70 feet to an iron pin set;

Thence with a new division line through said City of Cincinnati tract, with the arc of a curve to the right, having a radius of 141.77 feet, a central angle of 17°18'33", an arc length of 42.83 feet, the chord of which bears South 44°13'39" West, a chord distance of 42.67 feet to an iron pin set in the southerly line of said City of Cincinnati tract and the northerly line of that tract of land, as described in a deed to City of Cincinnati, of record in Official Record 11146, Page 1822;

Thence along said southerly line and northerly line, North 84°23'51" West, a distance of 80.77 feet to a point at said easterly right of way line of Ridge Road;

Thence North 05°05'23 East, a distance of 33.33 feet to the TRUE PLACE OF BEGINNING and containing 0.0732 acre of land.

Bearings herein are based on ties to the City of Cincinnati control monuments 2509 and 2510 as set forth in a plat of survey of record in Plat Book 350, Page 45.

Iron pins set, per recorded plat, consist of a 5/8" x 30" rebar with a plastic cap inscribed "M-E COMP S-6872."

This description was prepared by M•E Companies, Civil Engineering Group, Cincinnati, Ohio by Patrick Finn, P.S. No. 7181, per recorded plat, and is based on a field survey performed under the direction of Robert Wynd, P.S. No. 6872, in April, 2008.

Tract 2:

Auditor's Parcel ID No.: 051-0003-0033
Commonly Known as: 4900 Ridge Avenue

Situated in the State of Ohio, County of Hamilton, City of Cincinnati, Section 22, Township 4, Fractional Range 2, Between the Miamis, being the remaining 0.0411 acre tract of land located in that

{00344089-2}

tract of land as described in deed to The City of Cincinnati, of record in Official Record 11146, Page 1822 and being portions of Lots 17 and 18 as shown and delineated upon the plat "B.D. Barton's Subdivision", a subdivision of record in Plat Book 3, Page 183, all references herein being to the records located in the Recorder's Office, Hamilton County, Ohio and being more particularly described as follows;

Beginning for REFERENCE at a point being the northwesterly corner of said Lot 17 of B.D. Barton's Subdivision and the TRUE PLACE OF BEGINNING;

Thence North 05°05'23 East, along the easterly right of way line of said Ridge Avenue, a distance of 16.67 feet to a point being the northwesterly corner of said City of Cincinnati tract also being the southwesterly corner of that tract of land, as described in a deed to City of Cincinnati, of record in Official Record 11162, Page 1633;

Thence South 84°23'51" East, along the northerly line and southerly line of said City of Cincinnati tracts, a distance of 80.77 feet to an iron pin set;

Thence with a new division line through said City of Cincinnati tract, with the arc of a curve to the right, having a radius of 141.77 feet, a central angle of 28°36'00", an arc length of 70.77 feet, the chord of which bears South 67°10'56" West, a chord distance of 70.03 feet to an iron pin set in the southerly line of said City of Cincinnati tract and the northerly line of that tract of land, as described in a deed to City of Cincinnati, of record in Official Record 11185, Page 1620;

Thence North 61°11'31" West, with a new division line through said City of Cincinnati tract, a distance of 20.62 feet to an iron pin set in said easterly right of way line of Ridge Road;

Thence North 05°05'23" East, along said easterly right of way line of Ridge Road, a distance of 8.54 feet to the TRUE PLACE OF BEGINNING and containing 0.0411 acre of land.

Bearings herein are based on ties to the City of Cincinnati control monuments 2509 and 2510 as set forth in a plat of survey of record in Plat Book 350, Page 45.

Iron pins set, per recorded plat, consist of a 5/8" x 30" rebar with a plastic cap inscribed "M-E COMP S-6872."

This description was prepared by M•E Companies, Civil Engineering Group, Cincinnati, Ohio by Patrick Finn, P.S. No. 7181, per recorded plat, and is based on a field survey performed under the direction of Robert Wynd, P.S. No. 6872, in April, 2008.

Tract 3:

Auditor's Parcel ID No.: 051-0003-0327
Commonly Known as: Barrow Avenue

Situated in the State of Ohio, County of Hamilton, City of Cincinnati, Section 22, Township 4, Fractional Range 2, Between the Miamis, being a 0.0018 acre tract of land located in that tract of land as described in a deed to The City of Cincinnati, of record in Official Record 11146, Page 1822 and being a portion of Lot 17 as shown and delineated upon the plat "B.D. Barton's Subdivision", a subdivision of record in Plat Book 3, Page 183, all references herein being to the records located in the Recorder's Office, Hamilton County, Ohio and being more particularly described as follows;

Beginning for REFERENCE at a point at the northwesterly corner of said Lot 17 of B.D. Barton's Subdivision; Thence South 05°05'23" West, along the easterly right of way line of said Ridge Avenue, a distance of 8.54 feet to an iron pin set being the TRUE PLACE OF BEGINNING;

{00344089-2}

Thence South 61°11'31" East, through said City of Cincinnati tract with a new division line, a distance of 20.62 feet to an iron pin set in the southerly line of said City of Cincinnati tract and the northerly line of that tract of land, as described in a deed to City of Cincinnati, of record in Official Record 11185, Page 1620;

Thence North 84°23'51" West, along said northerly line and southerly line, a distance of 18.88 feet to a point at said easterly right of way line of Ridge Avenue;

Thence North 05°05'23" East, along said easterly right of way line of Ridge Avenue, a distance of 8.12 feet to the TRUE PLACE OF BEGINNING and containing 0.0018 acre of land.

Bearings herein are based on ties to the City of Cincinnati control monuments 2509 and 2510 as set forth in a plat of survey of record in Plat Book 350, Page 45.

Iron pins set, per recorded plat, consist of a 5/8" x 30" rebar with a plastic cap inscribed "M-E COMP S-6872."

This description was prepared by M•E Companies, Civil Engineering Group, Cincinnati, Ohio by Patrick Finn, P.S. No. 7181, per recorded plat, and is based on a field survey performed under the direction of Robert Wynd, P.S. No. 6872, in April, 2008.

September 22, 2021

TO: Mayor and Members of City Council

FROM: Paula Boggs Muething, City Manager

202102824

SUBJECT: Use of Fleet Replacement Budget for West Fork Incinerator

REFERENCE DOCUMENT #202102306

City Council adopted the following Motion at its session on June 23, 2021:

WE MOVE that the City of Cincinnati allocate \$2.5 million from the Fleet Replacement funds in the capital budget to remove the West Fork Incinerator in South Cumminsville. These bonded capital dollars should be allocated from the 40% portion of the fleet replacement funds that are not allocated to police and fire vehicles.

Fleet Replacements:

The FY 2022 Approved Capital Budget includes \$10.5 million for the capital improvement program “Fleet Replacements” project. Of that, an estimated \$5.9 million or nearly 60% of the budget amount is used for public safety related vehicles. The remaining 40% is allocated to non-public safety departments, including approximately 20% to the Public Services for snowplows and garbage packers, 15% to the Parks and Recreation departments for groundskeeping equipment and replacement vehicles, and the remaining 5% for other departments’ administrative vehicles. The administrative vehicles are primarily electric vehicles that help the City green its fleet and reduce operational costs for fuel. The following table provides the breakdown of the FY 2022 Fleet Replacement Plan by department:

Department of Public Services - Fleet Services Division
FY 2022 FLEET REPLACEMENT PLAN COST * **

Dept.	Department Description	Dollars	% of Plan
0090	ETS	\$ 40,000	0.40%
0091	RCC	N/A	
0104	OES	\$ 40,300	0.40%
0135	Risk	\$ 50,000	0.50%
0190	Recreation	\$ 697,958	6.98%
0200	Parks	\$ 837,508	8.38%
0212	Buildings	\$ 59,000	0.59%
0222	Police	\$ 2,929,833	29.30%
0233	DOTTE	\$ 388,525	3.89%
0248	Parking	\$ 50,000	0.50%
0251	DPS	\$ 1,938,508	19.39%
0260	Health	\$ 44,000	0.44%
0271	Fire	\$ 2,924,318	29.24%
TOTAL		\$ 9,999,950	

* Estimated 10 to 15% of all purchases will be green vehicles.

** Estimated 25% of all purchases will be with idle mitigation technologies.

NOTE 1: Difference between replacement plan \$ and budget of \$10,484,000 is the cost of make ready and upfitting vehicles after manufacture.

A reduction in funding of this size would require increases in the operating budgets of the non-public safety departments due to the increased expense of maintaining the older fleet vehicles and keeping them operational for a longer period of time. This includes increased expenses for additional parts, repair, and maintenance. The City's General Fund budget for fleet maintenance in FY 2022 includes \$8.1 million for automotive maintenance expenses. Of that amount, \$5.8 million is for Police and Fire with the remaining \$2.3 million for all other General Fund departments. For every year a vehicle is kept past its designated replacement date, operating costs increase an estimated 10% to 15% (depending on the vehicle type and its application). Therefore, additional General Fund operating budget resources would need to be identified for maintenance if the fleet replacement funds are reduced.

In addition to increased expense, by not keeping to a regular schedule of replacing vehicles when they are past their useful life, the City will realize a lesser return for the used vehicles at auction. Finally, older and outdated equipment can impact public perception of the quality of public services being delivered by the City.

West Fork Incinerator Costs:

The \$2.5 million cost to remove the West Fork Incinerator is an estimate based primarily on a hazardous materials survey conducted in 1998. However, given the age of this survey and other contingencies, additional due diligence work is needed to

affirm the actual cost of abatement and removal of the former incinerator. Until this additional due diligence is completed, the Administration cannot verify that \$2.5 million will cover the cost of completing the removal project. With that context, the primary environmental concerns identified in the 1998 survey were the following:

- The incinerator has a substantial amount of accessible and inaccessible asbestos containing materials both friable and non-friable, and
- The incinerator has a substantial amount of ash and refractory brick that, based on limited sampling and analysis, is characteristically hazardous for cadmium and lead.

The 1998 survey included an asbestos abatement cost estimate, but the estimate had cost contingencies and qualifiers in it due to several unknowns that could significantly affect the actual abatement and demolition cost range for the building. To generate the current project estimate, the City had to in-part rely on information from the City's demolition of the former Center Hill Incinerator in 2005 and on research of recent and similarly planned waste incinerator demolition projects identified in several other municipalities.

Due to the amount of time that has passed since the survey results were received, the necessity of relying on other similar project information, and the worsening structural deterioration that has occurred over time, an updated assessment of the West Fork Incinerator will be necessary to develop project specifications and better estimate costs to solicit contractor bids. A new hazardous materials survey is likely to cost approximately \$100,000 to complete.

Additionally, the Administration is currently pursuing grant opportunities for this project, which would reduce required City funding. Of particular importance is the new Ohio Development Services Agency (ODSA) "Brownfield Remediation Program" that will provide grants for site remediation throughout Ohio and was funded by a \$350 million appropriation in the recent FY 2022 State of Ohio Budget. ODSA will be promulgating rules to ensure the program is operational by the end of September 2022.

Conclusion:

Given the need for additional due diligence, the potential to secure external grant funding, and the negative operational and financial impacts from utilizing vehicles beyond targeted replacement dates, the City Administration does not recommend reducing the fleet replacement capital project for the proposed purpose.

cc: William "Billy" Weber, Assistant City Manager

September 22, 2021

To: Mayor and Members of City Council 202102832
From: Paula Boggs Muething, City Manager
Subject: **Emergency Ordinance – Funding for Villages at Roll Hill Boys & Girls Club and Safe and Clean Neighborhoods Program**

Attached is an Emergency Ordinance captioned:

This Emergency Ordinance would authorize the transfer and return to source of \$2,500,000 from American Rescue Plan (ARP) grant project account no. 469x101xARP052, “FY 2021 Restricted Funds Revenue Replacement,” to the unappropriated surplus of Local Fiscal Recovery Fund 469. Funds had been set aside for revenue replacement for the Convention Center Fund and the Transient Occupancy Tax (TOT) in Ordinance No. 0154-2021. It has since been determined that sufficient funds are available from the TOT to meet the City’s debt service obligations which allows for some of the funds to be reallocated.

This Emergency Ordinance then authorizes the establishment of American Rescue Plan grant project account no. 469x101xARP110, “Villages at Roll Hill Boys & Girls Club,” for the purpose of providing resources for the construction of a new facility for the Villages at Roll Hill Boys & Girls Club and appropriates the sum of \$2,250,000 to the project while also declaring the expenditures to be for a public purpose.

Additionally, this Emergency Ordinance authorizes the establishment of American Rescue Plan grant project account no. 469x101xARP111, “Safe and Clean Neighborhoods,” for the purpose of providing resources for neighborhood groups and organizations to apply for funding for projects aimed at improving the safety and cleanliness of neighborhoods and appropriates the sum of \$250,000 to the project while also declaring the expenditures to be for a public purpose.

Both of these projects have been determined to be eligible uses of American Rescue Plan funds.

The reason for the emergency is the immediate need to implement authorized American Rescue Plan-related support programs.

The Administration recommends passage of this Emergency Ordinance.

cc: William “Billy” Weber, Assistant City Manager
Andrew M. Dudas, Budget Director
Karen Alder, Finance Director

Attachments

EMERGENCY

City of Cincinnati

CMZ

AWB

An Ordinance No. _____

- 2021

AUTHORIZING the transfer and return to source of the sum of \$2,500,000 from American Rescue Plan grant project account no. 469x101xARP052, “FY 2021 Restricted Funds Revenue Replacement,” to the unappropriated surplus of Local Fiscal Recovery Fund 469; **AUTHORIZING** the establishment of American Rescue Plan grant project account no. 469x101xARP110, “Villages at Roll Hill Boys & Girls Club,” for the purpose of providing resources for the construction of a new facility for the Villages at Roll Hill Boys & Girls Club; **AUTHORIZING** the appropriation of the sum of \$2,250,000 from the unappropriated surplus of Local Fiscal Recovery Fund 469 to newly established American Rescue Plan grant project account no. 469x101xARP110, “Villages at Roll Hill Boys & Girls Club,” for the purpose of providing resources for the construction of a new facility for the Villages at Roll Hill Boys & Girls Club; **DECLARING** expenditures from American Rescue Plan grant project account no. 469x101xARP110, “Villages at Roll Hill Boys & Girls Club,” to be for a public purpose; **AUTHORIZING** the establishment of American Rescue Plan grant project account no. 469x101xARP111, “Safe and Clean Neighborhoods,” for the purpose of providing resources for neighborhood groups and organizations to apply for funding for projects aimed at improving the safety and cleanliness of neighborhoods; **AUTHORIZING** the appropriation of the sum of \$250,000 from the unappropriated surplus of Local Fiscal Recovery Fund 469 to newly established American Rescue Plan grant project account no. 469x101xARP111, “Safe and Clean Neighborhoods,” for the purpose of providing resources for neighborhood groups and organizations to apply for funding for projects aimed at improving the safety and cleanliness of neighborhoods; and **DECLARING** expenditures from American Rescue Plan grant project account no. 469x101xARP111, “Safe and Clean Neighborhoods,” to be for a public purpose.

WHEREAS, the City is eligible to receive funding from the United States Department of the Treasury pursuant to the American Rescue Plan (“ARP”) Act as part of the Coronavirus Local Fiscal Recovery Fund Act; and

WHEREAS, ARP funds were designated as revenue replacement for various Restricted Funds for the purpose of fiscal stability for FY 2021 as authorized by Ordinance No. 0154-2021; and

WHEREAS, the allocation of ARP funds to the Convention Center Fund provided by Ordinance No. 0154-2021 can be reduced due to sufficient resources being available from the Transient Occupancy Tax (TOT) to meet the City’s obligations; and

WHEREAS, Council wishes to authorize an appropriation of ARP funding to provide resources for the construction of a new facility for the Villages at Roll Hill Boys & Girls Club; and

WHEREAS, the new facility for the Villages at Roll Hill Boys & Girls Club will offer services that address educational and healthy childhood environments in a Qualified Census Tract; and

WHEREAS, the new facility for the Villages at Roll Hill Boys & Girls Club will help mitigate the spread of COVID-19 by enhancing social distancing and providing improved air quality; and

WHEREAS, Council further wishes to authorize an appropriation in the amount of \$250,000 to provide funding for a safe and clean neighborhoods program; now, therefore,

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

Section 1. That the transfer and return to source of the sum of \$2,500,000 from American Rescue Plan grant project account no. 469x101xARP052, "FY 2021 Restricted Funds Revenue Replacement," to the unappropriated surplus of Local Fiscal Recovery Fund 469 is hereby authorized.

Section 2. That the Director of Finance is hereby authorized to establish American Rescue Plan grant project account no. 469x101xARP110, "Villages at Roll Hill Boys & Girls Club," for the purpose of providing resources for the construction of a new facility for the Villages at Roll Hill Boys & Girls Club.

Section 3. That the sum of \$2,250,000 is hereby appropriated to newly established American Rescue Plan grant project account no. 469x101xARP110, "Villages at Roll Hill Boys & Girls Club," for the purpose of providing resources for the construction of a new facility for the Villages at Roll Hill Boys & Girls Club.

Section 4. That expenditures from American Rescue Plan grant project account no. 469x101xARP110, "Villages at Roll Hill Boys & Girls Club," are hereby declared to be for a public purpose because the programs the Boys & Girls Club will provide in this new facility will address educational and healthy childhood environments and will include tutoring, homework assistance, mentorship, hot USDA-approved meals, and athletic and recreational programs; the new facility is located in a Qualified Census Tract; and the new facility will help mitigate the spread of COVID-19 by providing a location for indoor and outdoor recreation and meetings, thereby enhancing social distancing and providing improved air quality.

Section 5. That the Director of Finance is hereby authorized to establish American Rescue Plan grant project account no. 469x101xARP111, "Safe and Clean Neighborhoods," for the purpose of providing resources for neighborhood groups and organizations to apply for funding for projects aimed at improving the safety and cleanliness of neighborhoods.

Section 6. That the sum of \$250,000 is hereby appropriated to newly established American Rescue Plan grant project account no. 469x101xARP111, "Safe and Clean Neighborhoods," for the purpose of providing resources for neighborhood groups and organizations to apply for funding for projects aimed at improving the safety and cleanliness of neighborhoods.

Section 7. That expenditures from American Rescue Plan grant project account no. 469x101xARP111, "Safe and Clean Neighborhoods," are hereby declared to be for a public purpose because the Safe and Clean Neighborhoods program improves the general well-being of the people of the City by enhancing the City's neighborhoods, which is necessary because of the impacts of the COVID-19 pandemic.

Section 8. That the proper City officials are authorized to do all things necessary and proper to carry out the terms of Sections 1 through 7 hereof.

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 the immediate need to implement authorized American Rescue Plan-related support programs.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

September 27, 2021

To: Members of the Budget and Finance Committee 202102838
From: Paula Boggs Muething, City Manager
Subject: **Emergency Ordinance – HR Charitable Solicitation for United Way**

Attached is an Emergency Ordinance captioned:

AUTHORIZING the City Manager and the employees of the Department of Human Resources to solicit and accept in-kind donations from the Cincinnati business community for purposes of awarding prizes in the City's upcoming charitable campaign for the United Way of Greater Cincinnati.

Approval of this Emergency Ordinance authorizes the City Manager and the employees of the Department of Human Resources (HR) to solicit and accept in-kind donations from the Cincinnati business community for purposes of awarding prizes in the City's upcoming charitable campaign for the United Way of Greater Cincinnati.

HR will participate in the City's charitable campaign on behalf of the United Way of Greater Cincinnati. HR requires donations of various items of value for use as prizes to make the United Way campaign successful.

The reason for the emergency is the immediate need to accept donations prior to the campaign kickoff on October 4, 2021.

The Administration recommends passage of this Emergency Ordinance.

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

Attachment

EMERGENCY

LES

- 2021

AUTHORIZING the City Manager and the employees of the Department of Human Resources to solicit and accept in-kind donations from the Cincinnati business community for purposes of awarding prizes in the City's upcoming charitable campaign for the United Way of Greater Cincinnati.

WHEREAS, the Department of Human Resources will participate in the City's charitable campaign on behalf of the United Way of Greater Cincinnati; and

WHEREAS, the Department of Human Resources requires donations of various items of value for use as prizes to make the United Way campaign successful; now, therefore,

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

Section 1. That the City Manager and the employees of the Department of Human Resources are hereby authorized to solicit and accept in-kind donations from the Cincinnati business community for purposes of awarding prizes in the City's upcoming charitable campaign for the United Way of Greater Cincinnati.

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

Section 3. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to accept donations prior to the campaign kickoff on October 4, 2021.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk



Christopher E. C. Smitherman
Cincinnati Vice Mayor

202102771

Motion

WE MOVE, that the administration honor Cincinnati native Lynwood Battle a man who modeled leadership, service, and faith. Lynwood Battle was a man of wisdom, integrity, and warmth that connected with people everywhere he went. Lynwood Battle sense of gratitude and thanksgiving resonated with everything that he did whether it pertained to family, service, work, or his many friendships.

WE MOVE, that the administration support honoring Lynwood Battle with a secondary street renaming at Washington Avenue and Rockdale Avenue.

Statement

Lynwood Battle accomplished much and gave much in his lifetime. Lynwood Battle was a person who cared, nurtured, led, coached, and loved. Monica Bridges, daughter of Lynwood Battle said best what the Battle Family and the City of Cincinnati would like to say “in gratitude for these and countless other acts of civic leadership and selfless giving to others- WE THANK YOU! And may your noble example and benevolent deeds rebound to the everlasting benefit of your family, your friends and your community.”

Vice Mayor Christopher Smitherman

Betsy Smith

COMMITTEES

CAL
me

Meeting of 1/10/19

City of Cincinnati

AKS

AWB

An Ordinance No. _____

-2021

DECLARING that Sixth Street between Main Street and Walnut Street hereby receive the honorary, secondary name of Jean-Robert de Cavel Way in honor of Jean-Robert de Cavel, in recognition of his decades of influence on Greater Cincinnati's restaurant scene, including a decade as chef at The Maisonette, which was the highest rated restaurant in North America during his tenure.

WHEREAS, Jean-Robert de Cavel was born in Roubaix, France and attended the Le Feguide culinary school in Lille, France; and

WHEREAS, in 1993 Jean-Robert moved to Cincinnati to become Chef de cuisine at The Maisonette, which earned five stars from the Mobile guide while he was there; and

WHEREAS, Jean-Robert subsequently left The Maisonette to open Jean-Robert at Pigalls, which became Ohio's only Mobile guide four-star restaurant; and

WHEREAS, Jean-Robert and his partners went on to open other Cincinnati restaurants, including JeanRo Bistro, Pho Paris, Greenup Cafe, Twist, and Lavomatic Cafe; and

WHEREAS, in 2007 Jean-Robert was named a Master Chef by Maîtres Cuisiniers de France and has been a semifinalist for the James Beard Best Chef in the Great Lakes Region in 2008, 2009, 2012, and 2013; and

WHEREAS, in 2009 Jean-Robert went out on his own and opened Jean-Robert's Table in 2010, French Crust in 2011, Le Bar a Boeuf in 2014, Eat Jean-Bob's in 2015, and Restaurant L and Frenchie Fresh in 2016; and

WHEREAS, Jean-Robert has been chef-in-residence at the Midwest Culinary Institute since 2009; and

WHEREAS, Jean-Robert and his wife founded the de Cavel Family SIDS Foundation in 2003 following the tragic death of their infant daughter Tatiana, which has now grown to become the largest SIDS fundraiser in the country; and

WHEREAS, Jean-Robert's exceptional culinary talent and success has enriched Cincinnati's restaurant scene and made Cincinnati a destination for world-class dining; now, therefore,

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

Section 1. That Sixth Street between Main Street and Walnut Street hereby receives the honorary, secondary name of Jean-Robert de Cavel Way in honor of John-Robert de Cavel, in recognition of his decades of influence on Greater Cincinnati's restaurant scene, including a decade as chef at The Maisonette, which was the highest rated restaurant in North America during his tenure.

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 Sixth Street between Main Street and Walnut Street as Jean-Robert de Cavel Way, in accordance with the Department of Transportation and Engineering's procedures relating to secondary street designation.

Section 3. That a copy of this ordinance be sent to Jean-Robert de Cavel via the office of Councilmember Seelbach.

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

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

Date: September 21, 2021

To: Councilmember Chris Seelbach

202102823

From: Andrew Garth, City Solicitor

AWG

Subject: Ordinance – Honorary Street Naming Jean-Robert de Cavel
Way

Transmitted herewith is an emergency ordinance captioned as follows:

DECLARING that Sixth Street between Main Street and Walnut Street hereby receive the honorary, secondary name of Jean-Robert de Cavel Way in honor of Jean-Robert de Cavel, in recognition of his decades of influence on Greater Cincinnati's restaurant scene, including a decade as chef at The Maisonette, which was the highest rated restaurant in North America during his tenure.

AWG/CMZ/(lnk)
Attachment
348121



Greg Landsman
Councilmember

202102821

September 20th, 2021

MOTION

Improving Pedestrian Safety through E-Scooter Crash Data

We move to formally request accident data on e-scooters in dense areas of Cincinnati *and* any recommendations the Administration may have in terms of limiting the use of e-scooters in specific areas to improve pedestrian safety, based on that crash data and similar actions taken in other cities.

STATEMENT

While e-scooters remain a valuable form of environmentally-friendly transportation, we should do all we can to ensure their usage does not further endanger pedestrians. Long-term, we should look into the potential for integrating them into any plans for bike lanes. But until that is possible, we use the collection and analysis of relevant accident data to problem-solve short-term solutions focused on keeping pedestrians safe.

Councilmember Greg Landsman



Faint title text at the top of the page.

1. SALES

Date: _____

Whereas the undersigned have agreed to sell to the undersigned the above described property and the undersigned have agreed to purchase the same for the sum of _____ Dollars.

Witness my hand and seal this _____ day of _____ 19____.

September 1, 2021

To: Mayor and Members of City Council 202102651
From: Paula Boggs Muething, City Manager
Subject: Zone Change at 4325 - 4329 Red Bank Avenue in Madisonville

Transmitted is an Ordinance captioned:

AMENDING the official zoning map of the City of Cincinnati to rezone the real property located at 4325-4329 Red Bank Road in the Madisonville neighborhood from the MG, “Manufacturing General,” zoning district to the CG-A, “Commercial General Auto-Oriented,” zoning district to provide for the establishment of new commercial uses, including retail sales and daycare uses.

The City Planning Commission recommended approval of the amendment at its August 20, 2021, meeting.

Summary

The Myers Y. Cooper Company submitted an application seeking the rezoning of 4325-4329 Red Bank Road from the Manufacturing General (MG) zone to Commercial General Auto-Oriented (CG-A) zone in the Madisonville neighborhood. No new development is proposed; the rezoning would allow for more flexibility, regarding the permitted uses. More specifically, the zone change would permit retail sales and daycare uses that occupy 5,000 square feet or more of building space within the existing development at the current building square footage. The proposed zone change would allow uses that are consistent with adjacent properties along the Red Bank Expressway which contains a major commercial corridor, extending from Madison Road to Red Bank Road.

The proposed zone change has received a letter of support from the Madisonville Community Urban Redevelopment Corporation.

The Administration recommends passage of the Ordinance.

cc: Katherine Keough-Jurs, AICP, Director, Department of City Planning and Engagement

AMENDING the official zoning map of the City of Cincinnati to rezone the real property located at 4325-4329 Red Bank Road in the Madisonville neighborhood from the MG, “Manufacturing General,” zoning district to the CG-A, “Commercial General Auto-Oriented,” zoning district to provide for the establishment of new commercial uses, including retail sales and daycare uses.

WHEREAS, The Myers Y. Cooper Company (“Petitioner”) has petitioned to rezone the real property located at 4325-4329 Red Bank Road in the Madisonville neighborhood (“Property”) from the MG, “Manufacturing General,” zoning district to the CG-A, “Commercial General Auto-Oriented,” zoning district; and

WHEREAS, the current MG, “Manufacturing General,” zoning district does not permit retail sales uses that occupy 5,000 square feet or more of building space and rezoning the Property to the CG-A, “Commercial General Auto-Oriented,” zoning district would allow the Petitioner to make full use of the existing buildings on the Property for retail sales and daycare uses; and

WHEREAS, the proposed zone change would allow for the Property to be developed and operated in a manner that is consistent with adjacent properties along the Red Bank Expressway, a major commercial corridor that extends from Madison Road to Red Bank Road; and

WHEREAS, the proposed zone change is consistent with *Plan Cincinnati* (2012), particularly the plan’s goal to “target investment to geographic areas where there is already economic activity” (page 141) and the goal to “strategically select areas for new growth” (page 118); and

WHEREAS, at its regularly scheduled meeting on August 20, 2021, the City Planning Commission determined that the proposed zone change is in the interest of the public’s health, safety, morals, and general welfare, and it recommended rezoning the Property from the MG, “Manufacturing General,” zoning district to the CG-A, “Commercial General Auto-Oriented,” zoning district; and

WHEREAS, a committee of Council held a public hearing on the proposed rezoning of the Property following due and proper notice pursuant to Cincinnati Municipal Code Section 111-1, and the committee approved rezoning the Property, finding it in the interest of the public’s health, safety, morals, and general welfare; and

WHEREAS, the Council resolves to rezone the Property from the MG, “Manufacturing General,” zoning district to the CG-A, “Commercial General Auto-Oriented,” zoning district, finding it to be in the interest of the public’s health, safety, morals, and general welfare; now, therefore,

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

Section 1. That the shape and area of the City of Cincinnati's official zoning map in the location of the real property located at 4325-4329 Red Bank Road in the Madisonville neighborhood, shown on the map attached hereto as Exhibit "A" and incorporated herein by reference, and being more particularly described on the legal description contained in Exhibit "B" attached hereto and incorporated herein by reference, is hereby amended from the MG, "Manufacturing General," zoning district to the CG-A, "Commercial General Auto-Oriented," zoning district.

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

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

**Honorable City Planning Commission
Cincinnati, Ohio**

SUBJECT: A report and recommendation on a proposed zone change from Manufacturing General (MG) to Commercial General-Auto-oriented (CG-A) at 4325-4329 Red Bank Road in Madisonville.

GENERAL INFORMATION:

Location: 4325-4329 Red Bank Road, Cincinnati, Ohio 45227
Petitioner: The Myers Y. Cooper Company
Petitioner’s Address: 9301 Montgomery Road # 2B, Cincinnati, Ohio 45242

EXHIBITS:

Provided in addition to this report are the following exhibits:

- Exhibit A Location Map
- Exhibit B Zone Change Application
- Exhibit C Legal Description
- Exhibit D Zone Plat
- Exhibit E Zoning Survey
- Exhibit F Coordinated Site Review Letter
- Exhibit G Letter from Madisonville Community Urban Redevelopment Corporation
- Exhibit H Site Photos

BACKGROUND:

The petitioner, The Myers Y. Cooper Company, requests a zone change at 4325, 4327, and 4329 Red Bank Road in Madisonville from Manufacturing General (MG) to Commercial General-Auto-oriented (CG-A) to permit mixed-uses for the existing development at the subject property. The subject property is 2.569 acres and located just north of the intersection of Red Bank Road and Brotherton Road. The area is characterized by a mix of retail, institutional, and office uses.

The subject property is currently zoned Manufacturing General (MG). The MG zone is intended to identify, create, preserve, and enhance areas that are appropriate for a wide variety of supporting and related commercial and manufacturing establishments that may have the potential to generate off-site impacts. The proposed zone is Commercial General – Auto-oriented (CG-A). The CG-A zone is intended to maintain, support and create areas of the City that serve as region-drawing centers of activity. These areas should reflect a mix of commercial, office, recreation and entertainment and arts that reflect the regional importance of the area. Auto-oriented is intended for areas that provide for easy automobile access. Large buildings are located on the site with parking on the front. Out lots associated with shopping centers often contain auto-oriented businesses. Performance standards are intended to mitigate the impact of the parking lots and buffer adjacent residential areas.

ADJACENT LAND USE AND ZONING:

The subject properties are currently zoned MG (Manufacturing General) as shown on the attached map (Exhibit A). The zoning and land uses surrounding the subject properties are as follows:

North:

Zoning: Manufacturing Limited (ML)
Existing Use: Commercial Office

East:

Zoning: Residential Multi-family (2,000 sq. ft/unit) (RM-2.0)

Existing Use: Commercial Apartments

South:

Zoning: Manufacturing General (MG)

Existing Use: Commercial Retail

West:

Zoning: Manufacturing General (MG)

Existing Use: Public Utility

COORDINATED SITE REVIEW:

The petitioner submitted their proposed zone change for Coordinated Site Review as a Preliminary Design Review in June 2021. The Department of City Planning and Engagement recommended the petitioner engage with the Madisonville Community Council.

Other City Departments provided feedback and requirements to fulfill prior to permitting. All departmental comments can be seen in the feedback letter (Exhibit F).

PUBLIC COMMENT AND NOTIFICATION:

The petitioners presented the proposed zone change to the Madisonville Community Council (MCC) on July 15, 2021. Attendees asked questions about whether the petitioner planned to re-develop the property, in lieu of the proposed zone change, and how they could indicate support of the request. The petitioner stated no interest in redevelopment at this time. MCC voted in favor for providing a letter of support.

The Department of City Planning and Engagement held a virtual public staff conference on the proposed zone change on July 22, 2021. Notices were sent to property owners within a 400-foot radius of the subject properties, the MCC, and the Madisonville Community Urban Redevelopment Corporation (MCURC). There were two members of the petitioner’s team present and a representative from MCURC, in addition to one community member. Generally, attendees were supportive. Questions included additional clarification of the intended future use of the subject property, pending zone change approval. A member of the petitioner’s team shared anticipation of retail sale and daycare uses, limitations of allowable square footage for retail sale uses of the adjacent Manufacturing Limited (ML) zoning district, and the contact between MCURC and MCC that occurred, prior to the submission of the request.

All property owners within a 400-foot radius of the subject properties, MCC, and MCURC, and public staff conference attendees were mailed notice of the City Planning Commission meeting on August 5, 2021. MCURC submitted a letter of support for the proposed zone change (Exhibit G). Staff has not received any additional correspondence on the proposed zone change to-date.

CONSISTENCY WITH PLANS:

The proposed zone change is consistent with the Compete Initiative Area of *Plan Cincinnati* (2012), specifically the Goal “Strategically select areas for new growth” (p. 118). It will help focus retail uses nearby a “*GO Cincinnati Plan*” area, located at the Madison Road and Red Bank Expressway intersection. While the Red Bank Road Corridor may have been previously expected by the community to sustain a focus primarily on industrial uses (*Madisonville Industrial Corridor Urban Renewal Plan* [1991]), the effects of increased commercial development made along the Madison Road Growth Opportunity (GO) Corridor have branched into new growth of commercial and residential uses along Red Bank Expressway. The proposed zone change will permit retail sale uses of 5,000 square feet and above. Additionally, the subject property is located within the walkable one-mile radius of the Neighborhood Business District.

ANALYSIS:

The Department of City Planning and Engagement reviewed the zone change request and analyzed several zoning districts to determine the most appropriate zoning designation that would allow for more flexibility of commercial uses within the existing development. The zoning designations analyzed were Manufacturing Limited (ML) and Commercial General – Auto-oriented (CG-A).

The current MG zone and the adjacent ML zone does not permit retail sale uses that occupy 5,000 square feet and above. The petitioner has asked for the CG-A zoning designation to permit mixed uses for the existing development. This would allow the petitioner to lease space within the existing development at current building square footages for, both, retail sale and daycare uses.

The proposed zone change would increase the extent of CG-A zoning districts, along the Red Bank Expressway Corridor. In the neighborhood, Red Bank Expressway contains a major commercial corridor that extends from Madison Road to south of Red Bank Road. Supporting commercial density near Red Bank Expressway in these areas will help support the corridor and the CG-A District, located within 0.25 miles of the subject property.

Based on staff analysis, it was determined that the Commercial General – Auto-oriented (CG-A) zoning district would be an appropriate zoning designation for the site to allow the anticipated uses. Additionally, the petitioner has the support of MCURC and MCC, entities intimately familiar with the needs of the neighborhood and its residents.

CONCLUSIONS:

The staff of the Department of City Planning and Engagement supports the proposed change in zoning for the following reasons:

- 1. The proposed zone is consistent with the existing surrounding built environment with regards to allowable uses, building scale, massing, and existing zoning districts along the Red Bank Expressway Corridor.
- 2. It is consistent with *Plan Cincinnati* (2012) within the Compete Initiative Area, specifically the Goal to, “Strategically select areas for new growth.”

RECOMMENDATION:

The staff of the Department of City Planning and Engagement recommends that the City Planning Commission take the following action:

APPROVE the proposed zone change from Manufacturing General (MG) to Commercial General – Auto-oriented (CG-A) at 4325-4329 Red Bank Road in Madisonville.

Respectfully submitted:

Approved:



Ashlee Dingler-Marshall, City Planner
Department of City Planning and Engagement

Katherine Keough-Jurs, AICP, Director
Department of City Planning and Engagement

Proposed Zone Change at 4325-29 Red Bank Road in Madisonville

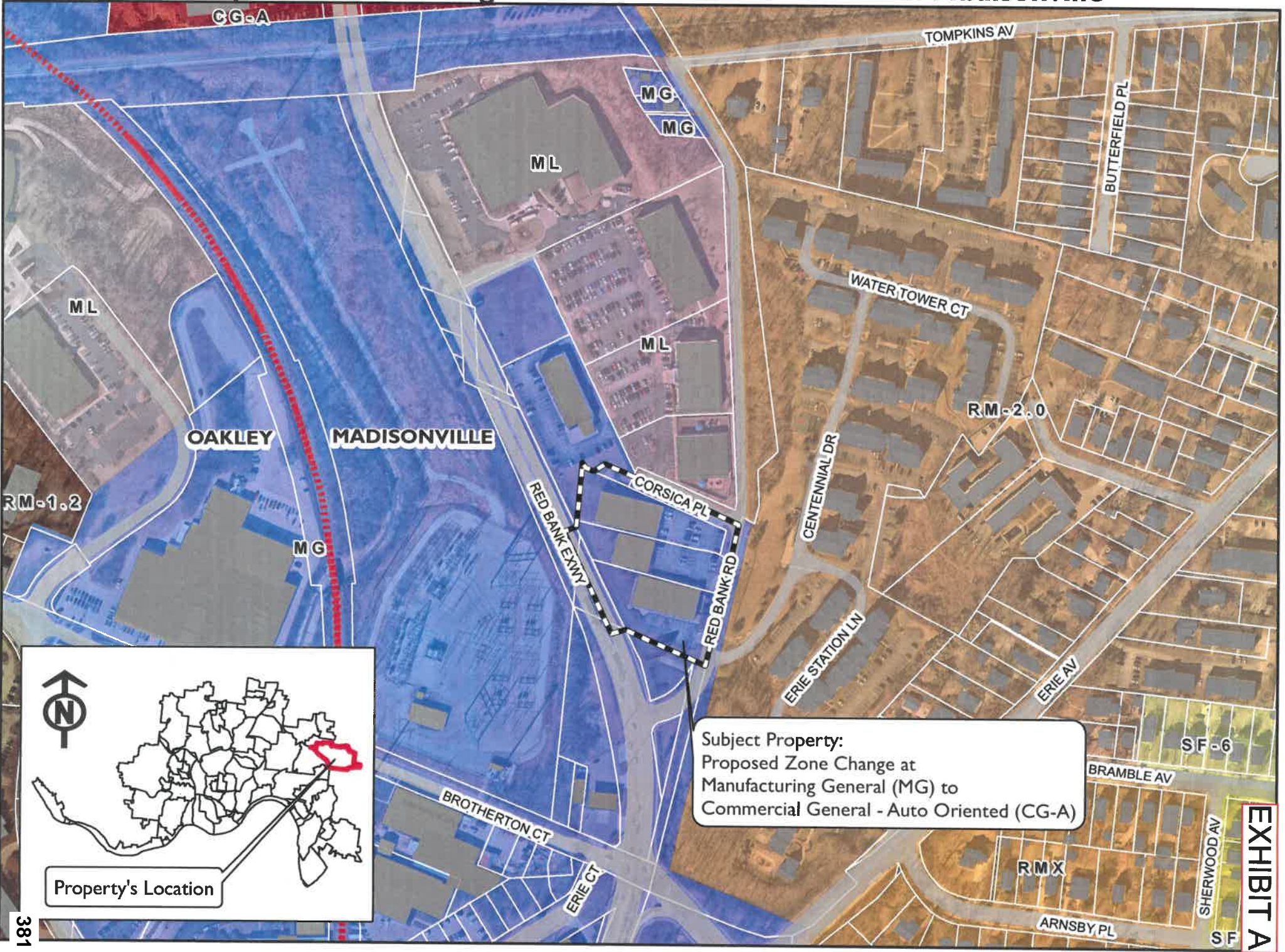


EXHIBIT A

**PETITION FOR CHANGE OF ZONING OF PROPERTY
LOCATED IN THE CITY OF CINCINNATI, OHIO**

To: The Honorable Council of the City of Cincinnati

Date: June 16, 2021

I hereby request your Honorable Body to amend the Zoning Map of the City of Cincinnati by changing the area described in the attached legal documentation and depicted on the attached plat from the MG Zone District to the CG-A Zone District.

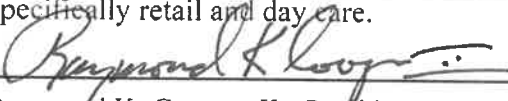
Location of Property (Street Address): 4325, 4327 & 4329 Red Bank Rd. Cincinnati, OH 45227

Auditor parcels: 036-0006-0330-00, 036-0006-0326-00, 036-0006-0327-00, 036-0006-0181-00

Area Contained in Property (Excluding Streets): 1.966 acres

Present Use of Property: Mixed use: retail, office, health and juvenile therapy.

Proposed Use of Property & Reason for Change: Zone change request from MG to GC-A for this three parcel development to accommodate additional commercial uses in keeping with the community needs and corridor growth. Current MG zoning restricts a variety of business uses and sizes...specifically retail and day care.

Property Owner's Signature: 
Raymond K. Cooper, II - President

Name Typed: The Myers Y. Cooper Company

Address: 9301 Montgomery Rd., Suite 2B, Cinti., OH 45242 Phone: 513-248-8350

Agent Signature: _____

Name Typed: _____

Address: _____ Phone: _____

Please Check if the Following Items are Attached

Application Fee X

Copies of Plat X

Copies of Metes and Bounds X



803 Compton Road, Suite A
Cincinnati, Ohio 45231-3819
(513) 521-4760
Fax (513) 521-2439
bobtrenkamp@tgraham.com

June 30, 2021


Legal Description: Zone Change
MG to CG-A (2.569 Acres)

Situated in Section 16, Town 4, Range 2, Miami Purchase, City of Cincinnati, Hamilton County, State of Ohio, and being more particularly described as follows:

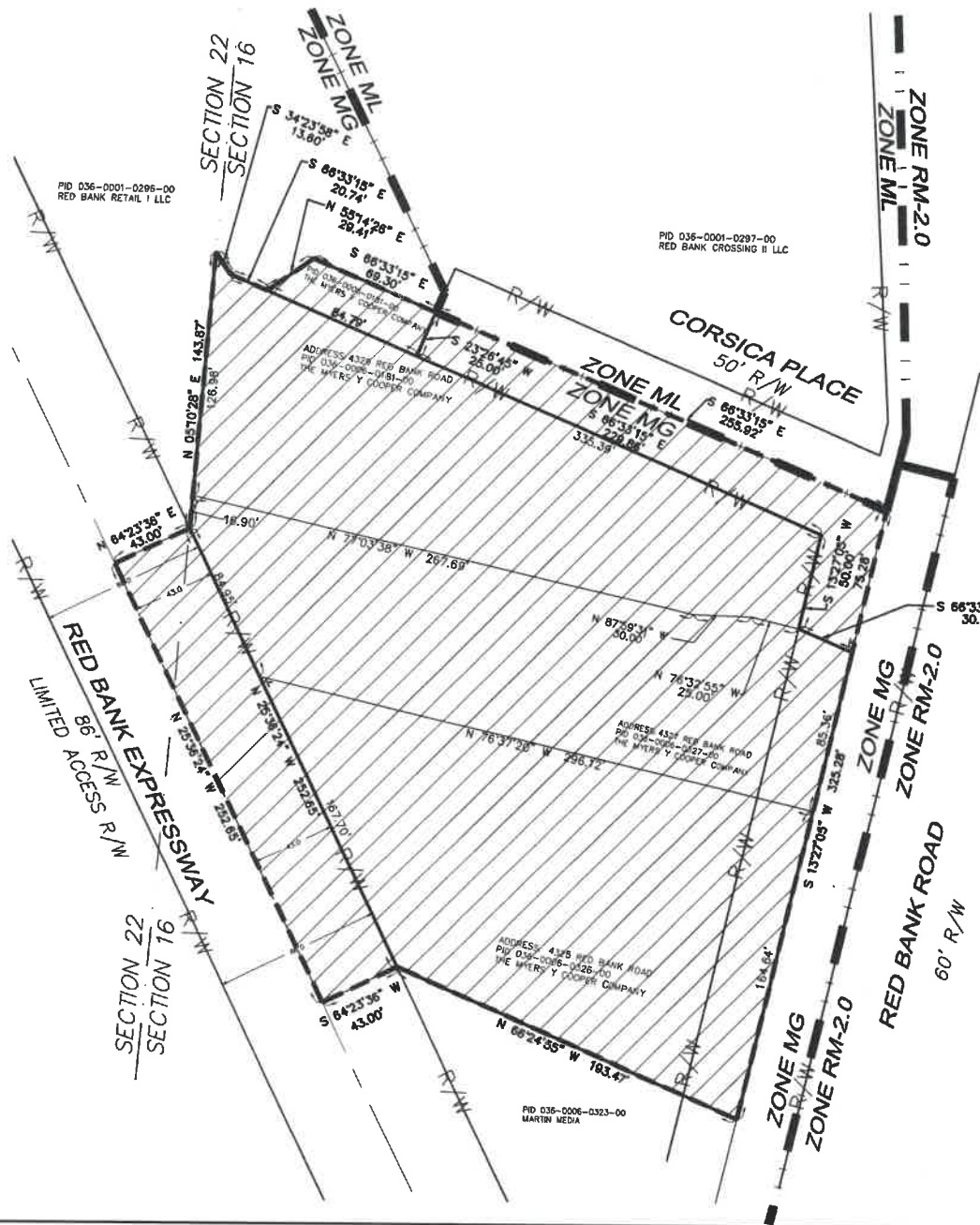
Beginning at the centerline intersection of Red Bank Road and Corsica Place, thence with the centerline of Red Bank Road, South 13° 27' 05" West, 325.28 feet; thence departing the said centerline of Red Bank Road, North 66° 24' 55" West, 193.47 feet to the existing East right-of-way line of Red Bank Expressway, thence departing the said existing East right-of-way of Red Bank Expressway, South 64° 23' 36" West, 43.00 feet to the centerline of Red Bank Expressway; thence with the said centerline of Red Bank Expressway, North 25° 36' 24" West, 252.65 feet; thence departing the said centerline of Red Bank Expressway, North 64° 23' 36" East, 43.00 feet to the existing East right-of-way of Red Bank Expressway and the East line of Section 16, thence departing the said existing East right-of-way of Red Bank Expressway with the said East line of Section 16, North 05° 10' 28" East, 143.87 feet; thence departing the said East line of Section 16, South 34° 23' 58" East, 13.60 feet; thence South 66° 33' 15" East, 20.74 feet; thence North 55° 14' 26" East, 29.41 feet; thence South 66° 33' 15" East, 69.30 feet to the West terminus of the right of way and the centerline of Corsica Place; thence departing the said West terminus of right of way with the centerline of Corsica Place, South 66° 33' 15" East, 255.92 feet to the centerline intersection of Red Bank Road and Corsica Place and the point of beginning. The above-described tract contains 2.569 acres of land and is subject to all easements and restrictions of record.

This description was prepared from existing records and is not the result of a field survey. This description is to be used for rezoning purposes only.

I hereby certify that this description of the property to be rezoned is a complete, proper, and legal description thereof.


Jason L. Kaffenberger, Professional Surveyor #8428 in Ohio





TOTAL AREA OWNED BY MYERS Y. COOPER COMPANY
GROSS AREA 2.138 ACRES - AREA IN R/W 0.172 ACRES = NET AREA 1.966 ACRES



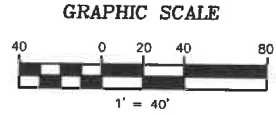
MG ZONE DISTRICT TO CG-A ZONE DISTRICT
TOTAL AREA TO BE RE-ZONED = 2.569 ACRES

EXISTING ZONE LINE

BASIS OF BEARINGS
BEARINGS BASED ON PLAT OF SURVEY RECORDED IN PLAT BOOK 274, PAGE 2 HAMILTON COUNTY RECORDER'S OFFICE

DEED REFERENCE
D.B. 5040 PG. 1587 HAMILTON COUNTY RECORDER'S OFFICE
P.B. 274 PAGE 2 HAMILTON COUNTY RECORDER'S OFFICE

SHEET INDEX
1 ZONE PLAT
2 SITE PLAN



THOMAS GRAHAM ASSOCIATES, INC.

- Engineers
- Surveyors

803 Compton Road
Cincinnati, Ohio 45231
513-521-4760
Fax # 521-2439

Date: JUNE 30, 2021

Scale: 1" = 40'

Job No: 7520

Revisions

No.	Date

ZONE PLAT

SECTION 16 TOWN 4 RANGE 2
MIAMI PURCHASE
CITY OF CINCINNATI
COUNTY OF HAMILTON
STATE OF OHIO



Jason L. Kaffenberger

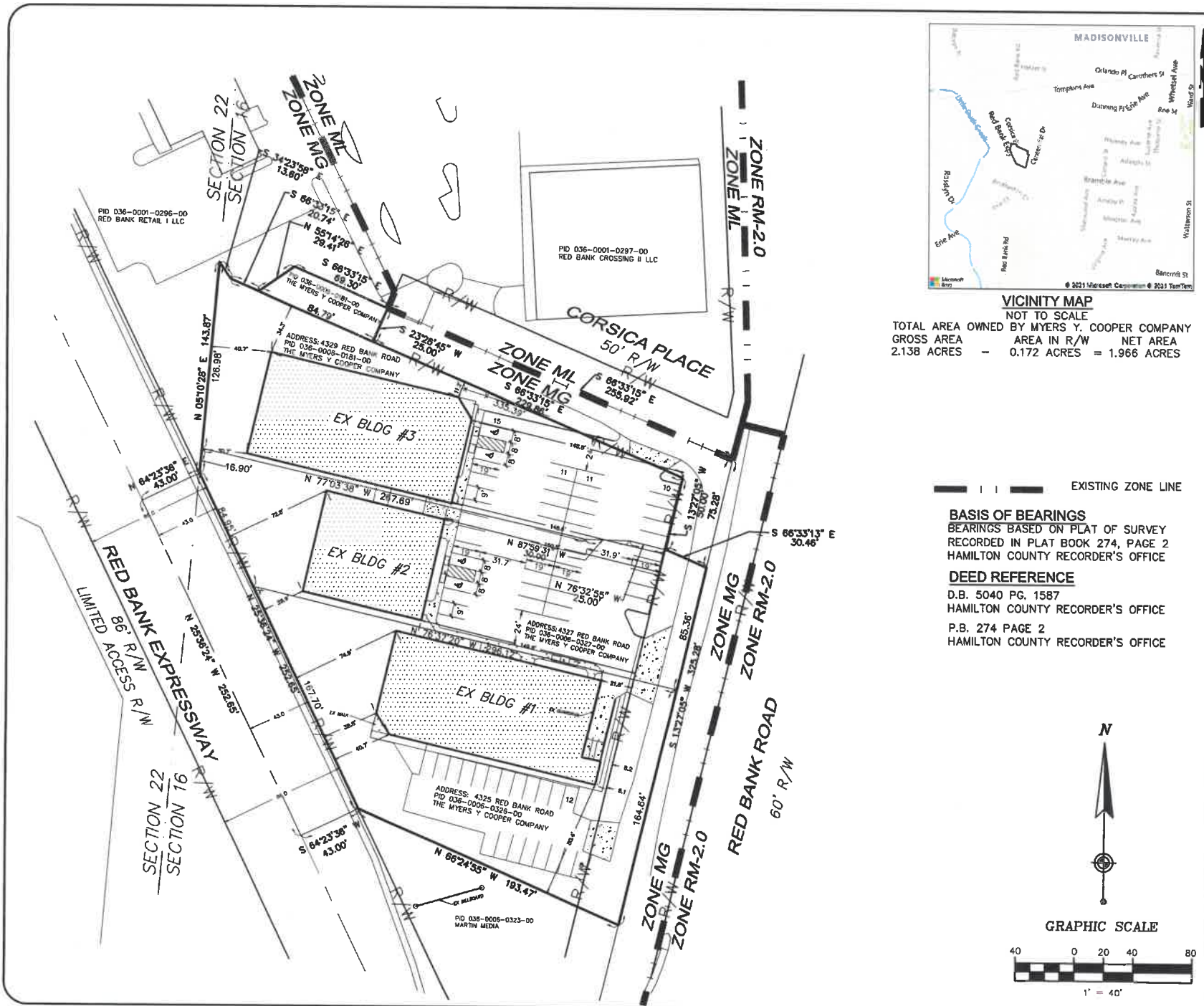
1 OF 2

Drawn By: *J.KAFFENBERG*

Job No: 7520-2021

20_ZONE.DWG

EXHIBIT D

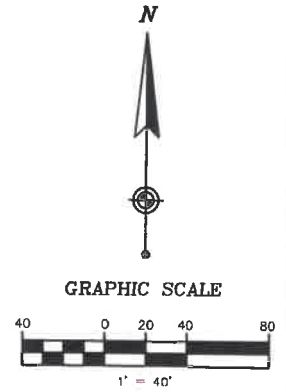


VICINITY MAP
 NOT TO SCALE
 TOTAL AREA OWNED BY MYERS Y. COOPER COMPANY
 GROSS AREA AREA IN R/W NET AREA
 2.138 ACRES - 0.172 ACRES = 1.966 ACRES

EXISTING ZONE LINE

BASIS OF BEARINGS
 BEARINGS BASED ON PLAT OF SURVEY
 RECORDED IN PLAT BOOK 274, PAGE 2
 HAMILTON COUNTY RECORDER'S OFFICE

DEED REFERENCE
 D.B. 5040 PG. 1587
 HAMILTON COUNTY RECORDER'S OFFICE
 P.B. 274 PAGE 2
 HAMILTON COUNTY RECORDER'S OFFICE



tga
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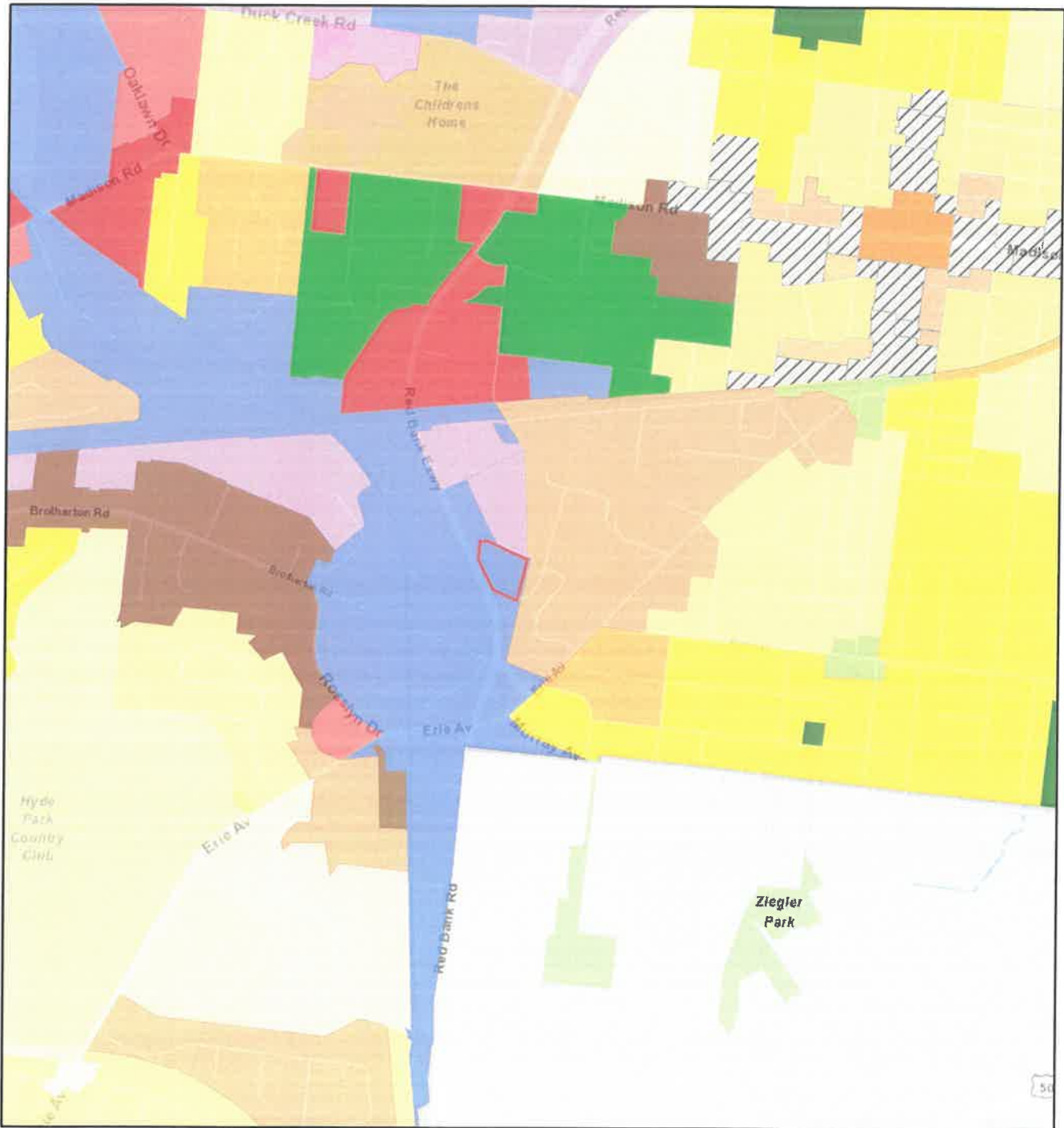
Revisions	
No.	Date

SITE PLAN
 SECTION 16 TOWN 4 RANGE 2
 MIAMI PURCHASE
 CITY OF CINCINNATI
 COUNTY OF HAMILTON
 STATE OF OHIO



Jason L. Kaffenberger
2 OF 2
 Drawn By: J. KAFFENBERGER
 Job No: 7520-2021

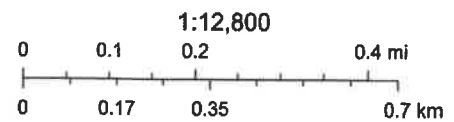
Zoning Map



6/24/2021, 10:27:40 AM

- Override 1
- Zoning Designation (Cincinnati Only)
- CC-A Commercial Community - Auto
- CC-M Commercial Community- Mixed
- CG-A Commercial General
- CN-M Commercial Neighborhood - Mixed
- CN-P Commercial Neighborhood - Pedestrian

- MG Manufacturing General
- ML Manufacturing Limited
- OL Office Limited



CAGIS

The Myers Y. Cooper Company
CAGIS |



July 8, 2021

Mr. Jeff Baumgarth
 The Myers Y. Cooper Company
 9301 Montgomery Road, Suite 2B
 Cincinnati, Ohio 45242

Re: 4325, 4327 & 4329 Red Bank Road | Merchants of Red Bank (P) – (CPRE210061) Initial Comments and Recommendations

Dear Mr. Baumgarth,

This **Preliminary Design Review** letter is to inform you that our Advisory-TEAM has reviewed your proposed project located at **4325, 4327 & 4329 Red Bank Road** in the Community of Madisonville. This project may need to be returned to us for either a Development Design Review or Technical Design Review due to the need for a zone change. Please see our initial feedback listed below. Thank you for developing within the City of Cincinnati.

City Planning and Engagement Department

Immediate Requirements to move forward with project:

1. **A Zone Change from the existing Manufacturing General (MG) zoning district will be required to move the project forward. The applicant has already submitted an application for the zone change.**

Requirements to obtain Permits:

1. Zone Change must be approved prior to applying for permits.

Recommendations:

1. The Department of City Planning and Engagement recommends that the applicant engage with the Madisonville Community Council to discuss the project.

Contact:

- **Ashlee Dingler-Marshall** | City Planning and Engagement | 513-352-4854 | ashlee.dingler-marshall@cincinnati-oh.gov

Buildings & Inspections – Zoning

Immediate Requirements to move forward with project:

1. What are the existing uses on the site? Analysis of the existing uses needs to be performed to determine if the existing uses would be non-conforming under the proposed zoning district.

Requirements to obtain Permits:

1. Note that future change of uses would be required to conform to parking requirements.

Recommendations:

- None

Contact:

- **Wes Munzel** | ZPE | 513-352-2442 | weston.munzel@cincinnati-oh.gov

Metropolitan Sewer District (MSD)

Immediate Requirements to move forward with project:

- None at this time

Requirements to obtain Permits:

- None at this time

Recommendations:

- None at this time

Contact:

- **Jim Wood** | MSD | 513-352-4311 | jim.wood@cincinnati-oh.gov

Stormwater Management Utility (SMU)

Immediate requirements to move forward with project:

- None at this time

Requirements to obtain Permits:

- None at this time

Recommendation:

- None at this time

Contact:

- **Rob Goodpaster** | SMU | 513-581-0893 | robert.goodpaster@cincinnati-oh.gov

Water Works

Immediate requirements to move forward with project:

- None

Requirements to obtain Permits:

- None

Recommendations:

- None

Contact:

- **Rick Roell** | Water Works | 513-591-7858 | richard.roell@gcww.cincinnati-oh.gov

Fire Department

Immediate Requirements to move forward with project:

1. None. Hydrants closest to property are:
 - 4321 Red Bank Rd.
 - 4410 Red Bank Rd.
 - 4403 Corsica Pl.

Requirements to obtain Permits:

- None

Recommendations:

1. No further recommendations needed at this time, as the project develops the Cincinnati Fire Department reserves the right to make additional recommendations per the Ohio Fire Code, NFPA, or the Cincinnati Fire Prevention Code.

Contact:

- **Maurice Byrd** | Fire Dept. | 513-806-9403 | maurice.byrd@cincinnati-oh.gov

Office of Environmental Sustainability (OES)

Immediate Requirements to move forward with project:

- None

Requirements to obtain permits:

- None

Recommendations:

- None

Contact:

- **Howard Miller** | OES | 513-352-6999 | howard.miller@cincinnati-oh.gov

Parks Department (Urban Forestry)

Immediate Requirements to move forward with project:

- None

Requirements to obtain Permits:

- None

Recommendations:

- None

Contact:

- **Robin Hunt** | Urban Forestry. | 513-861-9070 | robin.hunt@cincinnati-oh.gov

Department of Transportation & Engineering (DOTE)

Immediate Requirements to move forward with project:

- None

Requirements to obtain Permits:

1. DOTE will need to review and approve any future development of the site.
2. Addresses need to be posted on each building, or individual commercial space, and be visible from Red Bank Rd. Contact DTEaddress@cincinnati-oh.gov for any questions.

Recommendations:

- None

Contact:

- **Morgan Kolks** | DOTE | 513-335-7322 | morgan.kolks@cincinnati-oh.gov

Buildings & Inspections – Buildings

Immediate Requirements to move forward with project:

- None

Requirements to obtain Permits:

1. Obtain a wrecking permit for each structure removed
2. The lots will need to be consolidated for new construction over existing property lines.

Recommendations:

- None

Contact:

- **Bob Martin** | B&I Plans Exam | 513-352-2456 | robert.martin@cincinnati-oh.gov

Law Department

Immediate Requirements to move forward with project:

- No comment at this time.

Requirements to obtain Permits:

- None

Recommendations:

- None

Contact:

- **Charles Martinez** | Law | 513-352-3359 | charles.martinez@cincinnati-oh.gov

Department of Community & Economic Development (DCED)

Immediate Requirements to move forward with project:

- None

Requirements to obtain Permits:

- None

Recommendations:

- None

Contact:

- **Roy Hackworth** | DCED | 513-352-6119 | roy.hackworth@cincinnati-oh.gov

Health Department

Immediate Requirements to move forward with project:

- None

Requirements to obtain Permits:

1. No need for Health to review project as proposed.

Recommendations:

- None

Contact:

- **Trisha Blake** | Health Dept. | 513-352-2447 | trisha.blake@cincinnati-oh.gov

Police Department

Immediate Requirements to move forward with project:

- None at this time.

Requirements to obtain Permits:

- No comments.

Recommendations:

- None

Contact:

- **Katalin Howard** | Police Dept. | 513-352-3298 | katalin.howard@cincinnati-oh.gov
- **Brandon Kyle** | Police Dept. | brandon.kyle@cincinnati-oh.gov

This letter is not intended as the City's final approval of your project, but rather as an initial review and consultation to provide feedback from the City's various departments and to better coordinate between the City and developer. We hope you find this process both forthcoming and helpful.

Sincerely,



Rodney D. Ringer,
Development Manager

RDR: rdr



6111 Madison Road | Cincinnati, OH 45227
(513) 271-2495 | www.mcurc.org

July 21, 2021

To: City Planning Department
Two Centennial Plaza
805 Central Avenue, Seventh Floor
Cincinnati, Ohio 45202

Cc: Meyers Y Cooper Company

Re: Letter of Support

Planning Staff,

I am writing this letter to offer MCURC's support for Meyers Y Cooper Company's request for zone change for their properties located at 4325-4329 Red Bank Road. Their request is for a zone change from MG to GC-A which will allow them to accommodate additional commercial businesses in their existing structures and support the continued growth and development of the Red Bank Road Business Corridor keeping in line with the desires of the Madisonville neighborhood.

MCURC appreciates your consideration of our support as you work to make staff recommendations regarding this zone change. The Meyers Y Cooper Company has thoughtfully engaged with the community throughout this process, and this request reflects their commitment to having a positive impact on the community.

Thank you,

Elishia Chamberlain

Elishia Chamberlain, MPA
Executive Director



CHRIST HOSPITAL THE
2139 AUBURN AVE Suite 304
CINCINNATI, OH 45219

DUKE ENERGY OHIO INC
C/O TAX DEPARTMENT
550 TRYON ST P.O. Box 1321
CHARLOTTE, NC 28201

JARU REALTY INC
5639 MACEY AVE
CINCINNATI, OH 45227

MARTIN MEDIA
1260 EDISON DR
CINCINNATI, OH 45216

MYERS Y COOPER CO THE
9301 MONTGOMERY RD Suite 2B
CINCINNATI, OH 45242

NAP ERIE LLC
212 E 3RD ST Suite 300
CINCINNATI, OH 45202

RED BANK CROSSING LTD
2135 DANA AVE Suite 200
CINCINNATI, OH 45207

SUNSHINE PLUS INC
4220 ORDERS RD
GROVE CITY, OH 43123

SUTTON HOLLAND M
& ROSEMARIE S
4239 ERIE AVE
CINCINNATI, OH 45227

Madisonville Community Council
P.O. Box 9514
Cincinnati, OH 45209

Madisonville Community Urban Redevelopment
Corporation
6111 Madison Rd.
Cincinnati, OH 45227

September 1, 2021

Cincinnati City Council
 Council Chambers, City Hall
 801 Plum Street
 Cincinnati, Ohio 45202

Dear Members of Council:

We are transmitting herewith an Ordinance captioned as follows:

AMENDING the official zoning map of the City of Cincinnati to rezone the real property located at 4325-4329 Red Bank Road in the Madisonville neighborhood from the MG, “Manufacturing General,” zoning district to the CG-A, “Commercial General Auto-Oriented,” zoning district to provide for the establishment of new commercial uses, including retail sales and daycare uses.

Summary:

The Myers Y. Cooper Company submitted an application seeking the rezoning of 4325-4329 Red Bank Road from the Manufacturing General (MG) zone to Commercial General Auto-oriented (CG-A) zone in the Madisonville neighborhood. No new development is proposed; the rezoning would allow for more flexibility, regarding the permitted uses. More specifically, the zone change would permit retail sales and daycare uses that occupy 5,000 square feet or more of building space within the existing development at the current building square footage. The proposed zone change would allow uses that are consistent with adjacent properties along the Red Bank Expressway which contains a major commercial corridor, extending from Madison Road to Red Bank Road.

The proposed zone change has received a letter of support from the Madisonville Community Urban Redevelopment Corporation.

The City Planning Commission recommended the following on August 20, 2021 to City Council:

APPROVE the proposed zone change from Manufacturing General (MG) to Commercial General Auto-oriented (CG-A) at 4325-4329 Red Bank Road in Madisonville.

Motion to Approve:	Mr. Eby	Ayes:	Mr. Eby Mr. Juech Ms. McKinney Mr. Samad Ms. Sesler Mr. Smitherman
Seconded:	Ms. Sesler		

THE CITY PLANNING COMMISSION

Katherine Keough-Jurs, AICP, Director
 Department of City Planning and Engagement

September 1, 2021

To: Mayor and Members of City Council

202102654

From: Paula Boggs Muething, City Manager

Subject: **Emergency Ordinance – Amendment to DD Map 1411-05**

Transmitted is an Ordinance captioned:

MODIFYING Title XIV, “Zoning Code of the City of Cincinnati,” of the Cincinnati Municipal Code by AMENDING the provisions of Chapter 1411, “Downtown Development Districts,” to modify the Downtown Use Subdistrict Overlay Map to include certain additional real property within the DD-A, “Downtown Core,” Subdistrict.

Summary

The subject property, known as the Gwynne Building, is located at 602 Main Street and is within the Main Street Local Historic District. The property is currently zoned Downtown Development (DD) with Use Subdistrict C: Downtown Support (DD-C). The applicant, NuovoRE is proposing to renovate the building into a hotel to be known as the Pendry Cincinnati. The hotel will contain approximately 167 rooms, 6,500 square feet of meeting space including a 3,000 square foot ballroom, a fitness center, lounges, a restaurant, rooftop beer garden and café, along with renovating the existing retail bays. The project is expected to be completed in 2023.

Hotels are not a permitted use in the DD-C, so the applicant has been working with staff on a text amendment to the Cincinnati Zoning Code to allow for hotels to be permitted in the DD-C Use Subdistrict, which was part of a larger package of text amendments that originally went before the City Planning Commission on June 4, 2021. The City Planning Commission held the item until a future meeting so more education and engagement could be done. To avoid potential delays, the applicant is asking for the change to Downtown Use Subdistrict Overlay Map 1411-05 to make this area Subdistrict A – Downtown Core (DD-A), in which hotels are a permitted use. The subject property currently abuts the DD-A to the immediate south.

The reason for the emergency is immediate need to allow the petitioner to proceed with its development plans so that the City may receive and enjoy the corresponding benefits at the earliest possible date.

The zone changes are consistent with both *Plan Cincinnati* (2012) and the proposed hotel is consistent with the existing surrounding built environment and adjacent zoning subdistricts.

The Administration recommends Approval of this Ordinance.

cc: Katherine Keough-Jurs, AICP, Director
Department of City Planning and Engagement

EMERGENCY

DBS

- 2021

MODIFYING Title XIV, “Zoning Code of the City of Cincinnati,” of the Cincinnati Municipal Code by **AMENDING** the provisions of Chapter 1411, “Downtown Development Districts,” to modify the Downtown Use Subdistrict Overlay Map to include certain additional real property within the DD-A, “Downtown Core,” Subdistrict.

WHEREAS, PWWG Architects (“Petitioner”) has petitioned to amend the Downtown Use Subdistrict Overlay Map of Cincinnati Municipal Code Chapter 1411, “Downtown Development Districts,” to include the real property located at the northwest corner of Sixth Street and Main Street within the DD-A, “Downtown Core,” Subdistrict; and

WHEREAS, the Petitioner intends to remodel the historic Gwynne Building located on the Property into a hotel with approximately 168,883 square feet, 163 rooms and approximately 9,500 square feet of commercial space (“Development”); and

WHEREAS, the Property is currently located in the DD-C, “Downtown Support,” Subdistrict which does not permit hotel uses; and

WHEREAS, the Property is located immediately adjacent to the DD-A, “Downtown Core,” Subdistrict, and the Development is consistent with the use, nature, and scale of development typically found in the DD-A, “Downtown Core,” Subdistrict; and

WHEREAS, at its regularly scheduled meeting on August 20, 2021, the City Planning Commission reviewed the proposed text amendment and recommended its approval, finding it to be in the interest of the public’s health, safety, morals, and general welfare; and

WHEREAS, a committee of Council held a public hearing on the proposed text amendment following due and proper notice pursuant to Cincinnati Municipal Code Section 111-1, and the committee approved the proposed text amendment; and

WHEREAS, the text amendment is in accordance with the Plan Cincinnati (2012) “Compete” goal to “build a streamlined and cohesive development process” (p. 111) and the goal to “preserve our natural and built history” (p. 193); and

WHEREAS, the Council finds the proposed text amendment to be in the best interests of the City and the public’s health, safety, morals, and general welfare; now, therefore,

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

Section 1. That the shape and area of the Downtown Use Subdistrict Overlay Map of Cincinnati Municipal Code Chapter 1411, "Downtown Development Districts," is hereby amended to include the real property located at the northwest corner of Sixth Street and Main Street in the DD-A, "Downtown Core," Subdistrict. The Downtown Use Subdistrict Use Overlay Map is attached hereto as Exhibit A and incorporated by reference.

Section 2. That the existing Downtown Use Subdistrict Overlay Map of Cincinnati Municipal Code Chapter 1411, "Downtown Development Districts," is 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 immediate need to allow the petitioner to proceed with its development plans so that the City may receive and enjoy the corresponding benefits at the earliest possible date.

Passed: _____, 2021

Mayor

Attest: _____
Clerk

August 20, 2021

Honorable City Planning Commission
Cincinnati, Ohio

SUBJECT: A report and recommendation on a proposed modification to Downtown Use Subdistrict Overlay Map 1411-05 to change the permitted uses of 602 Main Street from Subdistrict C – Downtown Support (DD-C) to Subdistrict A – Downtown Core (DD-A) in the Central Business District.

GENERAL INFORMATION:

Location: 602 Main Street, Cincinnati, OH 45202

Petitioner: Andreas Lange
PWWG Architects
432 Evanswood Place
Cincinnati, OH 45220

Owner : Michael Everett
602 Main Street LLC
11711 Princeton Pike Ste 341 #189
Cincinnati, OH 45226

Request: To amend Downtown Use Subdistrict Overlay Map 1411-05 to change the permitted uses of 602 Main Street from Subdistrict C – Downtown Support (DD-C) to Subdistrict A – Downtown Core (DD-A) in order to allow for the Gwynne Building, located at 602 Main Street, to be converted into a hotel.

ATTACHMENTS:

Provided in addition to this report are the following attachments:

- Exhibit A – Location Map
- Exhibit B – Petition for Change of Zoning to modify Downtown Use Subdistrict Overlay Map 1411-05
- Exhibit C – Letter of Support from the Cincinnati Arts Association

BACKGROUND:

The subject property, known as the Gwynne Building, is located at 602 Main Street and is within the Main Street Local Historic District. The property is currently zoned Downtown Development (DD) with Use Subdistrict C: Downtown Support (DD-C).

On November 30, 2020, Cincinnati City Council passed Ordinance 332-2020 to authorize a Community Reinvestment Area Tax Exemption Agreement (LEED or Living Building Challenge) with 602 Main Street, LLC for a 15-year tax exemption for 100% of the value of improvements connection with the remodeling of the Gwynne Building at 602 Main Street into an approximately 168,883 square foot hotel with 163 rooms and approximately 9,500 square feet of commercial space. The Ordinance stipulated that the remodeling shall be completed in compliance with Leadership in Energy and Environmental Design (LEED) Silver, Gold or Platinum standards or Living Building Challenge standards, at a total remodeling cost of approximately \$53,718,163.

Hotels are not a permitted use in the DD-C, so the applicant has been working with staff on a text amendment to the Cincinnati Zoning Code to allow for hotels to be permitted in the DD-C Use Subdistrict,

which was part of a larger package of text amendments that originally went before the City Planning Commission on June 4, 2021. The City Planning Commission held the item until a future meeting so more education and engagement could be done. To avoid potential delays, the applicant is asking for the change to Downtown Use Subdistrict Overlay Map 1411-05 to make this area Subdistrict A – Downtown Core (DD-A), in which hotels are a permitted use. The subject property currently abuts the DD-A to the immediate south.

PROPOSED DEVELOPMENT:

The applicant is proposing to renovate the building into a hotel to be known as the Pendry Cincinnati. The hotel will contain approximately 167 rooms, 6,500 square feet of meeting space including a 3,000 square foot ballroom, a fitness center, lounges, a restaurant, rooftop beer garden and café, along with renovating the existing retail bays. The project is expected to be completed in 2023.

ADJACENT LAND USE AND ZONING:

The existing zoning and land use surrounding the subject site is as follows:

North:

Zoning: Downtown Development – Support (DD-C)
Existing Use: Surface parking lot

East:

Zoning: Downtown Development – Support (DD-C)
Existing Use: St. Xavier Church

South:

Zoning: Downtown Development – Core (DD-A)
Existing Use: John Weld Peck Federal Building

West:

Zoning: Downtown Development – Support (DD-C)
Existing Use: Mixed-Use buildings with first floor retail

ANALYSIS:

The proposed change to Downtown Use Subdistrict Overlay Map 1411-05 will allow for the historic Gwynne Building, which was built in 1914, to be preserved by being renovated into a hotel. The developer, NuovoRE, based out of Denver, Colorado, specializes in redeveloping historic properties. Cincinnati City Council has already approved a key financing piece of the project, so the last legislative piece of converting this property into a hotel is modifying the Downtown Use Subdistrict Overlay Map 1411-05 to DD-A to allow for the hotel to be permitted in this location.

PUBLIC COMMENT:

The Department of City Planning and Engagement held a Virtual Public Staff Conference on the requested zoning change on August 2, 2021. Notice was sent to all property owners within a 400-foot radius of the subject property along with the Downtown Residents Council. Eight people attended the meeting, but only two people attended outside of City staff and the applicant team. Outside of a question from the Downtown Residents Council as to what the differences were between the DD-A and DD-C Downtown Use Subdistricts, both attendees were in support of the project as this project will be an improvement to a downtown building.

CONSISTENCY WITH PLANS:

Plan Cincinnati (2012)

The modification to Downtown Use Subdistrict Overlay Map 1411-05 is consistent with the Sustain Initiative Area of *Plan Cincinnati* (2012), within the Goal to “Preserve our natural and built history” (page 193), the Strategy to “Preserve our built history” (page 197). This proposal will renovate and preserve an existing historic asset within the Main Street Local Historic District and the Central Business District.

CONCLUSIONS:

The staff of the Department of City Planning and Engagement recommends a modification to Downtown Use Subdistrict Overlay Map 1411-05 to change the permitted uses of 602 Main Street from Subdistrict C – Downtown Support (DD-C) to Subdistrict A – Downtown Core (DD-A) in the Central Business District for the following reasons:

1. Cincinnati City Council has approved tax abatements for a hotel at this location.
2. The uses and development standards of the DD-A district are compatible with the surrounding uses and built environment of 602 Main Street.
3. The recommended modification to Downtown Use Subdistrict Overlay Map 1411-05 is consistent with *Plan Cincinnati* (2012).

RECOMMENDATION:

The staff of the Department of City Planning and Engagement recommends that the City Planning Commission take the following actions:

- 1) **APPROVE** the modification to Downtown Use Subdistrict Overlay Map 1411-05 to change the permitted uses of 602 Main Street from Subdistrict C – Downtown Support (DD-C) to Subdistrict A – Downtown Core (DD-A) in the Central Business District.

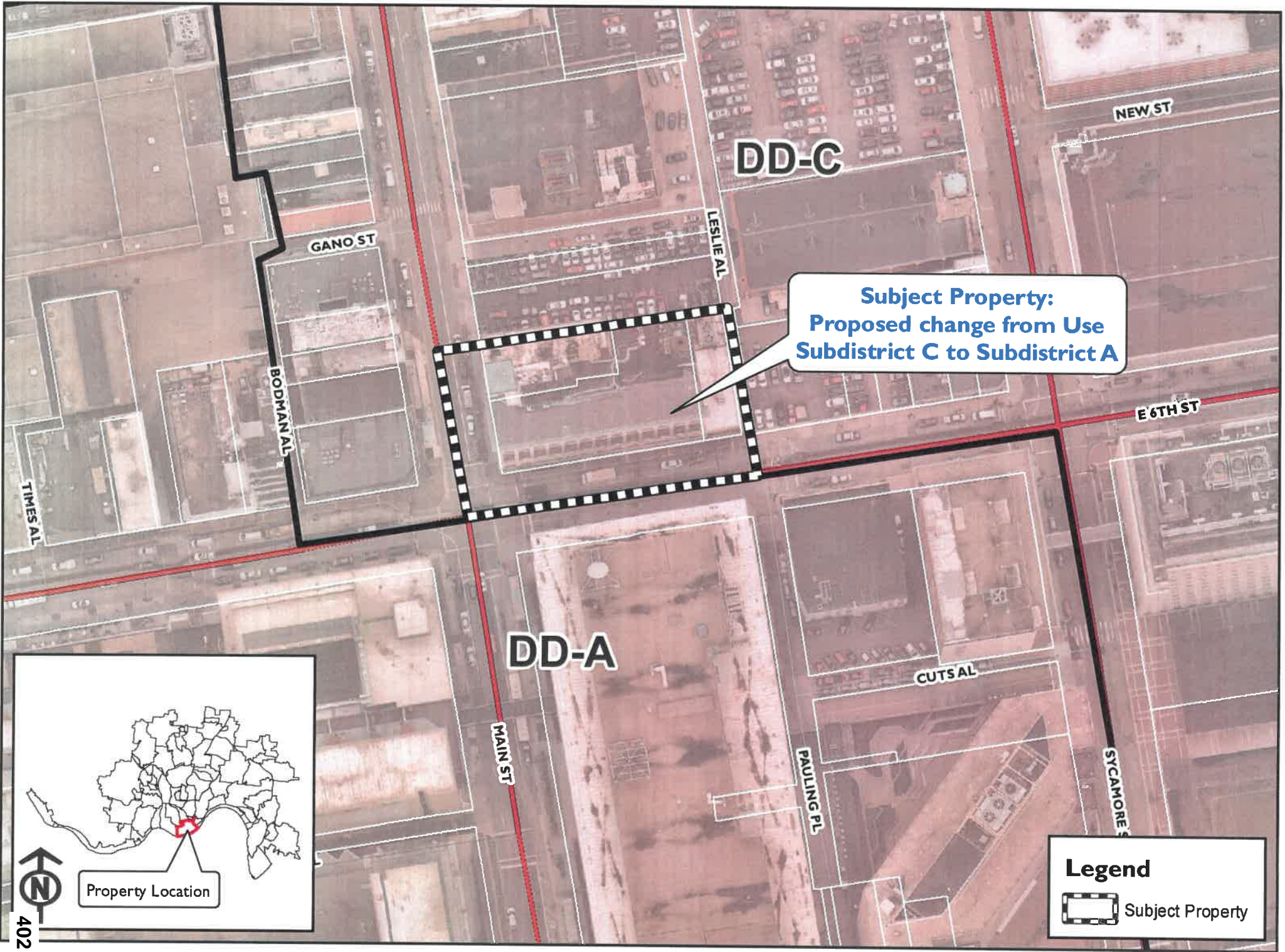
Respectfully submitted:

James Weaver, AICP, Senior City Planner
Department of City Planning and Engagement

Approved:

Katherine Keough-Jurs, AICP, Director
Department of City Planning and Engagement

Ex.A: Proposed Changes to Cincinnati Zoning Code: Table I 41 I-05 at 602 Main Street in the CBD



July 15, 2021

Mr. Alex Peppers
805 Central Avenue, Suite 720
Cincinnati, OH 45202

Re: Gwynne Building – Zone Change Application

Dear Mr. Peppers:

We wish to apply for a Zone Change for the Gwynne Building, located at 602 Main Street. The owners wish to develop the property into a hotel. The property is currently zoned DD-C, which does not allow hotel use. We request a change of zone to DD-A, which does allow hotel use and will allow our project to move forward.

The project was recently awarded State Tax Credits and will comply with NPS Standards for Rehabilitation along with local Main Street Historic District overlay requirements. The building is also on the National Register of Historic Places.

We have had several meetings with City Zoning Staff regarding zoning. We believe a zone change meets the spirit of the zoning code since the property is centrally located in the CDB and several properties adjacent to the site are zoned DD-A. We were advised by Staff that pursuing a zone change is our clearest path forward for compliance.

PWWG is the Architect of Record for the project and is acting as the Agent for this application. All communication about this zone change can be directed to me and I can distribute as needed.

Thank you for your help.

Sincerely,



Andreas Lange, AIA LEED AP
Senior Associate

PENDRY

HOTELS & RESORTS

FOR IMMEDIATE RELEASE

**PENDRY HOTELS & RESORTS ANNOUNCES PENDRY CINCINNATI
TO DEBUT IN 2023**

Pendry Cincinnati to Reimagine Historic Beaux-Arts Gwynne Building, Awarded a \$5 Million Ohio Historic Preservation Tax Credit by the Ohio Services Development Agency to Create Vibrant New Community Gathering Place

ORANGE COUNTY, CALIF. (June 30, 2021) – Pendry Hotels & Resorts in partnership with NuovoRE, today announced plans for Pendry Cincinnati, located within the historic Gwynne Building, at the intersection of Main Street and East 6th Street in downtown Cincinnati. The historic office building that for decades housed Procter & Gamble Company’s global headquarters was awarded a \$5 million historic tax credit by the Ohio Services Development Agency. This is a large step forward in the rehabilitation of the property and will preserve the unique history of the building while also providing an array of new offerings and opportunities for the Cincinnati community. Upon completion, the renovation and refurbishment of the 1913 Beaux-Arts building will be transformed into Pendry Cincinnati when it emerges in 2023.

“We are incredibly proud to bring the Pendry brand to the city of Cincinnati, and to work with our partners to revitalize this incredible building,” said Alan J. Fuerstman, Founder, Chairman and CEO, Montage International. “Like the historic renovations that made way for our Sagamore Pendry Baltimore and Pendry Chicago properties, the refurbishment of the Gwynne Building as Pendry Cincinnati will allow us to contribute to the well-being of the Cincinnati community and bring travelers in to discover a piece of its history. We look forward to becoming a gathering place for locals and travelers alike and to bringing our signature Pendry programming and style of service to the city.”

Pendry Cincinnati will feature approximately 168 guestrooms, including spacious suites, four unique lounge, restaurant and bar experiences—including a rooftop beer garden and café. The hotel includes 6,500 square feet of indoor meetings and event space, including a 3,000-square-foot ballroom. The hotel will also feature fitness center equipped with Peloton and Technogym, and will have Spa Pendry Cincinnati, a progressive spa experience, featuring treatment rooms and multiple facilities that provide a healing and restorative journey—a spa experience unlike any other in the city. Spa Pendry will draw inspiration from the Seven Hills of Cincinnati, and its lineage and ties to Rome.

Exhibit B

“Pendry Cincinnati will be a place for the community—a catalyst for living one’s life fully, for meeting others with shared interests, for recharging and recentering, and for celebration with friends and family,” said Michael Fuerstman, Co-Founder and Creative Director, Pendry Hotels & Resorts. “We are energized by the city of Cincinnati—the spirit of the city is undeniable, and we look forward to bringing new culinary and entertainment offerings to the destination.”

With the hotel’s proximity to attractions and transportation, Pendry Cincinnati will be well-situated in downtown to serve leisure visitors, families, business travelers and beyond, creating a revitalized and vibrant hub in the heart of Cincinnati’s urban core. The hotel’s design will pay homage to its Beaux-Arts setting with a palette of warm woods, elegant natural stone, and other impactful accents with Pendry Hotels & Resorts’ signature perspective on art, design, innovation, and the fostering of community.

For more information, please visit www.pendry.com and follow @pendryhotels on social.

For historic images of the Gwynne Building, click [here](#) (password: CC6vgPMH2EXk)

###

About Pendry Hotels & Resorts

Pendry Hotels & Resorts is a new luxury hospitality brand from Montage International. Pendry combines inspired design with a celebration of culture and authentic service tailored to today’s cultured world traveler. Founders Alan J. Fuerstman and Michael Fuerstman’s well-seasoned experience in the hospitality industry serves as the foundation for the brand. Each property is injected with a unique perspective on contemporary style, and an emphasis on the arts and local community in the city it calls home. The portfolio of hotels includes [Pendry San Diego](#), [Sagamore Pendry Baltimore](#), [Pendry West Hollywood](#) and [Pendry Chicago](#). Opening in 2021 is, [Pendry Manhattan West](#), and [Pendry Park City](#). Opening in 2022 is [Pendry La Quinta](#), [Pendry Natirar](#), and [Pendry Washington D.C. – The Wharf](#). Opening in 2023 is [Pendry Cincinnati](#). Pendry Hotels & Resorts is a member of Preferred Hotels & Resorts. For more information on Pendry Hotels & Resorts, follow @pendryhotels or visit www.pendry.com.

About NuovoRE

[NuovoRE](#) develops historic properties into transformative experiences through adaptive reuse. As a socially and environmentally conscious group, we utilize a hyper-local approach to creating culturally relevant destinations and economic benefits for the communities in which we work.

Media Contacts:

Pendry Hotels & Resorts Brand Contact:

Kacey Bruno, Vice President, Communications, (949) 715-6117
kacey.bruno@montage.com

Pendry Hotels & Resorts Media Contact:

Marrissa Mallory, J Public Relations, (619) 255-7069
mmallory@jpublicrelations.com

PETITION FOR CHANGE OF ZONING OF PROPERTY
LOCATED IN THE CITY OF CINCINNATI, OHIO

To: The Honorable Council of the City of Cincinnati

Date: 7/2/2021

I hereby request your Honorable Body to amend the Zoning Map of the City of Cincinnati by changing the area described in the attached legal documentation and depicted on the attached plat from the DD-C Zone District to the DD-A Zone District.

Location of Property (Street Address): 200-218 SIXTH STREET, 600-610 MAIN STREET

Area Contained in Property (Excluding Streets): 0.4396 ACRES

Present Use of Property: OFFICE, RETAIL

Proposed Use of Property & Reason for Change: HOTEL

Property Owner's Signature: Mike Everett

Name Typed: Michael Everett

Address: 11711 Princeton Pike Ste 341 #189, Cincinnati, OH 45246 Phone: 720-232-6838

Agent Signature: 

Name Typed: Andreas Lange, AIA, PWWG Architects

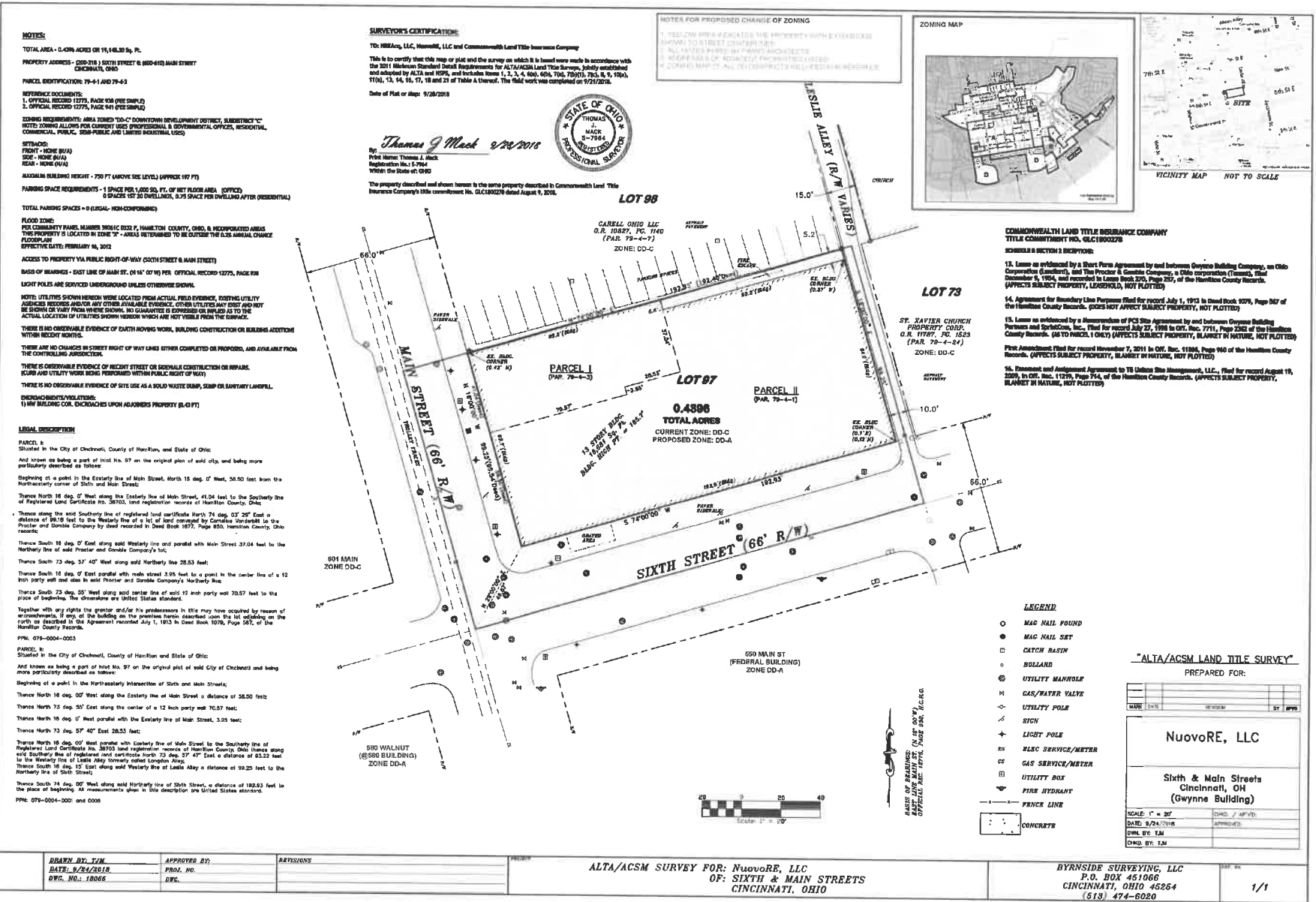
Address: PWWG, 1432 Elm, Unit 1A, Cincinnati, OH 45220 Phone: 513.762.0289

Please Check if the Following Items are Attached

Application Fee

Copies of Plat X

Copies of Metes and Bounds





July 27, 2021

Mr. James Weaver, AICP
Senior City Planner
Department of City Planning and Engagement
805 Central Avenue
Suite 720
Cincinnati, OH 45202

Dear Mr. Weaver,

I have received your notice of Virtual Public Staff Conference regarding the proposed changes to zoning for 602 Main Street, Cincinnati, OH 45202. Unfortunately, I am unable to participate in the meeting.

I would like to be on record as supporting this change to further progress the redevelopment of the Gwynne Building. We believe that the reuse to a hotel will support the need for accommodations for Broadway touring companies, nationally recognized performing artists, and visitors to the Aronoff Center for the Arts. We encourage City staff and surrounding neighbors to advance this request as it will add to the vibrancy of the Main Street area.

Sincerely,

A handwritten signature in cursive script that reads "Todd Duesing".

Todd Duesing
Vice President & Chief Operating Officer



September 1, 2021



Cincinnati City Council
Council Chambers, City Hall
Cincinnati, Ohio 45202

Dear Members of Council:

We are transmitting herewith an Emergency Ordinance captioned as follows:

MODIFYING Title XIV, “Zoning Code of the City of Cincinnati,” of the Cincinnati Municipal Code by AMENDING the provisions of Chapter 1411, “Downtown Development Districts,” to modify the Downtown Use Subdistrict Overlay Map to include certain additional real property within the DD-A, “Downtown Core,” Subdistrict.

Summary:

The subject property, known as the Gwynne Building, is located at 602 Main Street and is within the Main Street Local Historic District. The property is currently zoned Downtown Development (DD) with Use Subdistrict C: Downtown Support (DD-C). The applicant, NuovoRE is proposing to renovate the building into a hotel to be known as the Pendry Cincinnati. The hotel will contain approximately 167 rooms, 6,500 square feet of meeting space including a 3,000 square foot ballroom, a fitness center, lounges, a restaurant, rooftop beer garden and café, along with renovating the existing retail bays. The project is expected to be completed in 2023.

Hotels are not a permitted use in the DD-C, so the applicant has been working with staff on a text amendment to the Cincinnati Zoning Code to allow for hotels to be permitted in the DD-C Use Subdistrict, which was part of a larger package of text amendments that originally went before the City Planning Commission on June 4, 2021. The City Planning Commission held the item until a future meeting so more education and engagement could be done. To avoid potential delays, the applicant is asking for the change to Downtown Use Subdistrict Overlay Map 1411-05 to make this area Subdistrict A – Downtown Core (DD-A), in which hotels are a permitted use. The subject property currently abuts the DD-A to the immediate south.

The reason for the emergency is immediate need to allow the petitioner to proceed with its development plans so that the City may receive and enjoy the corresponding benefits at the earliest possible date.

The zone changes are consistent with both *Plan Cincinnati* (2012) and the proposed hotel is consistent with the existing surrounding built environment and adjacent zoning subdistricts.

The Administration recommends Approval of this Ordinance.

Motion to Approve: Mr. Smitherman

Ayes:

Mr. Juech
Mr. Smitherman
Ms. McKinney
Mr. Eby
Mr. Stallworth
Mr. Samad

Seconded: Mr. Juech

THE CITY PLANNING COMMISSION

Katherine Keough-Jurs, AICP, Director
Department of City Planning and Engagement

KKJ: jmw
Encl.: Staff Report, Ordinance

Date: September 15, 2021

To: Mayor and Members of City Council 202102755
From: Paula Boggs Muething, City Manager
Subject: ORDINANCE – HOLLISTER STREET TWO-WAY CONVERSION

Attached is an ordinance captioned as follows:

MODIFYING Title V, “Traffic Code,” of the Cincinnati Municipal Code by REPEALING Section 507-1-E8, “East Hollister Street, west from Auburn Avenue to Vine Street,” to convert the portion of East Hollister Street located between Auburn Avenue and Vine Street from a one-way street to a two-way street.

Stakeholders in the Mt. Auburn community requested the City convert East Hollister Street between Vine Street and Auburn Avenue from a one-way street to a two-way street as outlined in the Auburn Avenue Corridor Strategic Development Plan. City Planning Commission approved the change on June 18, 2021.

The Administration recommends passage of the attached ordinance.

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

City of Cincinnati

JRS

AWB

An Ordinance No. _____ - 2021

MODIFYING Title V, “Traffic Code,” of the Cincinnati Municipal Code by **REPEALING** Section 507-1-E8, “East Hollister Street, west from Auburn Avenue to Vine Street,” to convert the portion of East Hollister Street located between Auburn Avenue and Vine Street from a one-way street to a two-way street.

WHEREAS, Cincinnati Municipal Code Section 507-1-E8, “East Hollister Street, west from Auburn Avenue to Vine Street,” requires traffic to move in a westbound direction on the portion of East Hollister Street located between Auburn Avenue and Vine Street; and

WHEREAS, stakeholders in the Mount Auburn community requested the City convert the portion of East Hollister Street from a one-way street to a two-way street, consistent with the recommendations of the *Auburn Avenue Corridor Strategic Development Plan* (2017) approved by City Council; and

WHEREAS, the City Planning Commission, having the authority to approve the change in use of streets, approved the conversion of the portion of East Hollister Street located between Auburn Avenue and Vine Street from a one-way street to a two-way street at its meeting on June 18, 2021; and

WHEREAS, Council considers the conversion of the portion of East Hollister Street located between Auburn Avenue and Vine Street from a one-way street to a two-way street to be in the best interests of the City and the public’s health, safety, morals, and general welfare; now, therefore,

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

Section 1. That Section 507-1-E8, “East Hollister Street, west from Auburn Avenue to Vine Street,” of the Cincinnati Municipal Code is hereby repealed.

Section 2. That the proper City officials are hereby authorized to take all necessary and proper actions to carry out the provisions and intent of this ordinance, including the fabrication and installation of street signage in accordance with the Department of Transportation and Engineering’s policies and procedures.

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

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

City of Cincinnati



801 Plum Street, Suite 351
Cincinnati, Ohio 45202

Phone: (513) 352-5232
Email: greg.landsman@cincinnati-oh.gov
Web: www.cincinnati-oh.gov

202102819

Greg Landsman
Councilmember

September 20th, 2021

MOTION

Understanding Youth Job Waitlist Data

We move that the Administration work with all youth jobs partners — such as Cincinnati Recreation Commission, ArtWorks, the Urban League, etc. — to determine the existing collective waiting list for all youth job programs that the city supports or financially participates in.

Councilmember Greg Landsman

