

Contract No: \_\_\_\_\_

## **FUNDING AND DEVELOPMENT AGREEMENT**

*between the*

**CITY OF CINCINNATI,**  
an Ohio municipal corporation,

*and*

**RBM DEVELOPMENT COMPANY, LLC,**  
an Ohio limited liability company

**Project Name: Medpace Phase 3 Expansion Project**

(Construction of new office buildings, parking garage, & intersection improvements for Red Bank  
Expressway & Medpace Way)

Dated: \_\_\_\_\_, 2024

## FUNDING AND DEVELOPMENT AGREEMENT (Medpace Phase 3 Expansion Project)

THIS FUNDING AND DEVELOPMENT AGREEMENT (this “**Agreement**”) is made and entered into effective as of the Effective Date (as defined on the signature page hereof) by and between the **CITY OF CINCINNATI**, an Ohio municipal corporation, 801 Plum Street, Cincinnati, Ohio 45202 (the “**City**”) and **RBM DEVELOPMENT COMPANY, LLC**, an Ohio limited liability company, 5375 Medpace Way, Cincinnati, Ohio 45227 (“**Developer**”).

### Recitals:

A. The medical research company Medpace, Inc. (“**Medpace**”) either by ownership or lease, has site control of approximately 20.8 acres of real property located at the southeast corner of Madison Road and Red Bank Expressway in the Madisonville neighborhood of Cincinnati, as depicted and described on Exhibit A-1 (*Site Plan for Medpace Campus*) hereto (the “**Medpace Site**”), upon which the current operational headquarters of Medpace is located.

B. Developer has, through its affiliate entities, undertaken a multi-phase redevelopment of the Medpace Site. The first phase of redevelopment occurred pursuant to that *Contract for Redevelopment of the Development at Red Bank & Madison* dated July 29, 2009 between the City and Developer, whereby the City provided a Clean Ohio Fund grant to Developer to perform demolition and remediation activities in order to help facilitate Developer’s undertaking of phase 1 of the redevelopment of the Medpace Site, which ultimately created several office buildings currently used by the medical research company, Medpace, Inc., as its operational headquarters (the “**Phase 1 Project**”).

C. The second phase of redevelopment occurred pursuant to that *Development Agreement* dated June 12, 2015 between the City and Developer, as amended by that *First Amendment to Development Agreement* dated August 4, 2020 (the “**First Amendment to Phase 2 Development Agreement**” and together, as amended, the “**Phase 2 Development Agreement**”), whereby Developer constructed (1) a 239-room hotel and various public infrastructure improvements further described therein (the “**Phase 2A Project**”), and thereafter (2) constructed (a) a new building containing office and retail space, currently leased by Developer to several tenants, including Medpace and (b) various public infrastructure improvements as further described therein (the “**Phase 2B Project**”). In connection with the Phase 2A Project, the City provided tax increment financing for the construction of public infrastructure improvements financed by the PORT OF GREATER CINCINNATI DEVELOPMENT AUTHORITY (the “**Port Authority**”). More specifically, the City created the “Madison Center/Medpace Phase 2A TIF” pursuant to Ordinance No. 47-2016, passed on March 2, 2016. In connection with the Phase 2B Project, the City provided tax increment financing for the construction of public infrastructure improvements financed by the Port Authority. More specifically, the City created the “Madison Center/Medpace Phase 2B TIF” pursuant to Ordinance No. 157-2018, passed on June 20, 2018.

D. Pursuant to the First Amendment to Phase 2 Development Agreement and by virtue of that certain *Quitclaim Deed* recorded on September 29, 2020, in Official Record 14263, Page 1 Hamilton County, Ohio Records, the City vacated and conveyed to Medpace’s affiliate entity, 400 Medpace Way, LLC (“**400 Medpace Way**”), a portion of the unused public right-of-way known as Old Red Bank Road (the “**Old Red Bank Road Sale Property**”), for incorporation into the Medpace Site.

E. In exchange for the Old Red Bank Road Sale Property, 400 Medpace Way granted the City a *Restrictive Covenant* recorded on August 8, 2020 in Official Record 14263, Page 12, Hamilton County, Ohio Records (the “**Restrictive Covenant**”), which requires 400 Medpace Way and its successors and assigns to maintain certain property located at the southeast corner of Madison Road and Red Bank Expressway, as further described in the Restrictive Covenant, as vacant land, free of encumbrances, utilities, or environmental contamination until such time that the City closes on the purchase of the Red Bank Expressway Future ROW Property, as defined in, and pursuant to the terms of, the First Amendment to Phase 2 Development Agreement.

F. Pursuant to the First Amendment to Phase 2 Development Agreement, 400 Medpace Way agreed to convey fee simple title to the Red Bank Expressway Future ROW Property and to the UDF Future ROW Property (as defined therein) if and when 400 Medpace Way or other affiliate of Developer acquires the UDF Property, for use by the City as public right-of-way in order to widen the northbound lane of Red Bank Expressway.

G. Developer now desires to undertake the third phase of redevelopment at the Medpace Site and has proposed to do all of the following (the “**Project**”):

- (i) construct or cause to be constructed a new building on the portion of the Medpace Site located at 5401 Hetzel Avenue, Cincinnati, Ohio 45227, as depicted on Exhibit A-1 and as described on Exhibit A-2 (Legal Description – CPU Site) hereto (the “**CPU Site**”), consisting of an approximately 75,000 square foot commercial building which Medpace intends to use as its new clinical pharmacology unit (the “**CPU Project**”) to be owned by Medpace (or its affiliates);
- (ii) demolish one of the buildings constructed as part of the prior Phase 1 Project, located at 5355 Medpace Way (the “**Current Office Building**”);
- (iii) following demolition of the Current Office Building, subdivide, reconfigure, and consolidate the Current Office Building parcel with several other parcels at the Medpace Site, as more particularly depicted as building “300” on Exhibit A-1 hereto, and as described on Exhibit A-3 (Legal Description – Office Site) hereto (the “**Office Site**”), to design and construct thereon an approximately 579,000 square foot, seven story office building with a 287-space integrated parking garage, along with an outdoor public plaza area, all as more particularly described and depicted on Exhibit B-1 (Description of Private Improvements) hereto (the “**Office Project**”; and together with the CPU Project, the “**Private Improvements**”), to be owned by N300 Medpace Way, LLC, or another affiliate of Developer (“**N300**”), financed by and ground leased to the Port Authority, and leased back to N300 or another affiliate of Developer, then subleased to Medpace for its office operations;
- (iv) design and construct various public improvements, including, without limitation, an approximately 343,000 square foot, 1,107-space standalone parking garage, as more particularly described on Exhibit B-2 (Description of Public Infrastructure Improvements) hereto (the “**Public Infrastructure Improvements**”; and together with the Private Improvements, the “**Phase 3 Improvements**”), on the portion of the Medpace Site more particularly depicted on Exhibit A-1 hereto, and described on Exhibit A-4 (Legal Description – Garage Site) hereto (the “**Garage Site**”; and collectively with the CPU Site and the Office Site, the “**Phase 3 Project Site**”), to be financed and owned by the Port Authority and managed by Developer or an affiliate of Developer; and
- (v) construct a roadwork project at the intersection of Red Bank Expressway and Medpace Way, immediately west of the Medpace Site, the location of which is depicted and described on Exhibit A-5 (Site Plan & Legal Description of Intersection Improvements) hereto (“**Intersection Improvement Site**”), including, without limitation, installation of a new traffic signal, new pavement markings, new traffic-related signage, and adjustment of the existing elevated medians, all as more particularly described on Exhibit B-3 (Description of Intersection Improvements) hereto (the “**Intersection Improvements**”). The Phase 3 Project Site and the Intersection Improvement Site are collectively referred to herein as the “**Project Site**”.

H. The total estimated cost (including, without limitation, hard construction costs and soft costs) of (i) the Private Improvements is projected to be approximately \$289,721,245, as more particularly described on Exhibit C-1 (Preliminary Budget – Private Improvements) hereto; (ii) the Public Infrastructure

Improvements is projected to be approximately \$37,175,391, as more particularly described on Exhibit C-2 (Preliminary Budget – Public Infrastructure Improvements) hereto; and (iii) the Intersection Improvements is projected to be approximately \$555,000, as more particularly described on Exhibit C-3 (Preliminary Budget – Intersection Improvements) hereto. Developer has represented to the City that it intends to use various sources of funds to finance the costs associated with the Project, as set forth on Exhibit D-1 (Sources of Funds – Private Improvements), Exhibit D-2 (Sources of Funds – Public Infrastructure Improvements) hereto, and Exhibit D-3 (Sources of Funds – Intersection Improvements) hereto.

I. Developer currently anticipates that it will (i) commence construction of the Private Improvements on or about [\_\_\_\_\_, 2024], and complete the Private Improvements no later than December 31, 2026, (ii) commence construction of the Public Infrastructure Improvements on or about [\_\_\_\_\_, 20\_\_\_], and complete the Public Infrastructure Improvements no later than [\_\_\_\_\_, 20\_\_\_], and (iii) commence construction of the Intersection Improvements [no later than 3 months from the Effective Date], and complete the Intersection Improvements no later than October 31, 2024.

J. Pursuant to Ordinance No. [\_\_\_\_\_] -2024, passed by City Council on [\_\_\_\_\_] , 2024, the City created a so-called project-based TIF for the Phase 3 Project Site under Ohio Revised Code (“**ORC**”) Section 5709.40(B), declaring Improvement (as defined in ORC Section 5709.40) to the Phase 3 Project Site to be a public purpose and exempt from real property taxation for a period of 30 years (the “**TIF Ordinance**” and the “**TIF Exemption**”, as applicable).

K. The parties currently anticipate that a portion of the Public Infrastructure Improvements will be financed by the Port Authority. Developer presently intends to finance the construction of the Public Infrastructure Improvements by entering into, or causing to be entered into, a separate construction agreement, cooperative agreement, service agreement(s), and other ancillary agreements with the City and/or the Port Authority pursuant to which the Port Authority will issue one or more series of special obligation development revenue bonds, with no series having a term in excess of the maximum maturity allowable at law for such series, in a principal amount not to exceed \$[55,000,000] with respect to the financing of the Public Infrastructure Improvements (the “**TIF Bonds**”), and (iii) make the net proceeds from the TIF Bonds available to Developer to pay for the construction of the Public Infrastructure Improvements (as determined by the separate agreements that may be entered into by the Port Authority, the City, and Developer).

L. The City will receive from the Hamilton County Treasurer the statutory service payments generated from the Private Improvements pursuant to the TIF Exemption (“**Project TIF Revenue**”), and use the same, (i) first, to pay any fees charged by the Hamilton County Auditor or any other governmental entity (the “**Collection Fees**”), (ii) second, to satisfy the City’s obligation to the Board of Education of the City School District of the City of Cincinnati (the “**School Board**”) under that certain Agreement by and between the City and the School Board dated April 28, 2020, (iii) third, to pay the City’s fees described in Section 11(D) of this Agreement, and (iv) fourth, to make payments to the Port Authority in the amount necessary to pay principal, interest, and other amounts due with respect to the TIF Bonds (the “**Bond Obligations**”), with any and all surplus Project TIF Revenue in any given year to be retained by the City or returned to the City, as applicable, and used for any lawful purpose. The aforementioned service agreement(s) to be entered into by and between the City and Developer following the Effective Date hereof shall be substantially in the form of Exhibit E (Form of Service Agreement) hereto (the “**Service Agreement**”).

M. The cooperative agreement and the Service Agreement referred to herein, together with such other documents with respect to the Phase 3 Improvements entered into with the Port Authority and Developer to which the City is a party, are referred to herein as the “**Port Authority Documents**”, and the Port Authority Documents, this Agreement, and such other ancillary documents and instruments executed by the City and Developer, or executed by Developer in favor of the City, are referred to herein as the “**Project Documents**”. Notwithstanding anything herein or within any other Project Document to the contrary, neither the TIF Bonds nor any other obligations described herein shall be a general obligation of the Port Authority or the City.

N. The Medpace Site is located in the TIF District known as “District 19 – Madisonville Incentive District” (the “**District**”), established by Ordinance No. 414-2005, passed by City Council on November 2, 2005; however, the City amended the District boundaries to remove the Phase 3 Project Site from the District with the passage of the TIF Ordinance in order to create the TIF Exemption.

O. The City and Developer’s affiliate, 300 Medpace Way, LLC, intend to enter into a *Termination of Community Reinvestment Area Tax Exemption Agreement* dated on or about the Effective Date, pursuant to which the City and 300 Medpace Way, LLC will agree to terminate the previously provided real property tax abatement for the Current Office Building in order to facilitate the Tax Exemption and finance the Public Infrastructure Improvements with the service payments derived from the Private Improvements at the Office Site.

P. To further facilitate Developer’s completion of the Public Infrastructure Improvements, the City desires to provide support for the Public Infrastructure Improvements in the form of a grant of City capital funds in an amount not to exceed \$1,500,000 on the terms and conditions set forth in this Agreement (the “**City Public Infrastructure Improvement Grant**”), to be utilized for hard construction costs of the Public Infrastructure Improvements.

Q. Pursuant to (i) Ordinance No. 255-2023, passed by City Council on June 26, 2023, the City applied for and was awarded a grant from the State of Ohio Department of Transportation (“**ODOT**”), Office of Jobs and Commerce in the amount of up to \$125,000 (the “**ODOT Grant**”); and (ii) Ordinance No. 40-2023, passed by City Council on February 8, 2023, the City (a) applied for and was awarded a grant from the State of Ohio Department of Development (“**ODOD**”) 629 Roadwork Program in an amount of up to \$200,000 (the “**ODOD Grant**”), and (b) as a condition of the ODOD Grant, authorized City capital funds in an amount not to exceed \$200,000 to be used as a matching grant for funding the construction of the Intersection Improvements (the “**City Intersection Grant**”). The City intends to further support the Phase 3 Project by providing Developer with funds from the ODOT Grant, the ODOD Grant, and the City Intersection Grant in the total cumulative amount not to exceed \$525,000 (the “**Intersection Improvement Funds**”) to facilitate construction of the Intersection Improvements.

R. In addition to the financial support contemplated herein, the City and Medpace have entered into a *Job Creation and Retention Tax Credit Agreement*, dated December 18, 2023, pursuant to which the City is providing an income tax credit on new jobs created and certain number of existing jobs retained by Medpace at the Medpace Site (the “**JCRTC Agreement**”), in accordance with the terms and conditions of the JCRTC Agreement.

S. The Project is expected to (i) create approximately (a) 1,650 temporary full-time equivalent construction and other jobs at the Project Site during the construction period, at a payroll of approximately \$27,300,500, and (b) 1,500 new full-time equivalent permanent employees at the Phase 3 Project Site, following completion of the Project and no later than January 1, 2029, at an annual payroll of approximately \$90,000,000; and (ii) retain approximately 1,255 permanent full-time equivalent jobs at a total annual payroll of \$164,635,101.

T. Section 13 of Article VIII of the Ohio Constitution provides that, to create or preserve jobs and employment opportunities and to improve the economic welfare of the people of the State, it is a public interest and proper public purpose for the State or its political subdivisions to sell, lease, exchange, or otherwise dispose of property within the State of Ohio for industry, commerce, distribution and research, and to make loans and to provide moneys for the acquisition, construction, enlargement, improvement or equipment of such property, structures, equipment, and facilities.

U. The City, upon recommendation of the City’s Department of Community and Economic Development (“**DCED**”), believes that the Project is in the vital and best interests of the City and the health, safety, and welfare of its residents, and in accordance with the public purposes and provisions of applicable federal, state, and local laws and requirements and for this reason the City desires to facilitate the Project by entering into this Agreement, providing the tax exemption as described herein and in the Service

Agreement and cooperative agreement, and by providing the financial assistance as described herein for the Intersection Improvements.

V. The City Public Infrastructure Improvement Grant for this Agreement was authorized by Ordinance No. 191-2022, passed by City Council on June 23, 2022. Execution of this Agreement and the Port Authority Documents was authorized by the TIF Ordinance and Ordinance No. [\_\_\_\_]-2024, passed by City Council on [\_\_\_\_], 2024. Notwithstanding anything to the contrary in this Agreement, the City's obligations hereunder are conditioned upon the passage of any and all other required legislation by City Council.

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

**1. DUE DILIGENCE INVESTIGATIONS.**

(A) Due Diligence Items. Following the parties' execution of this Agreement and at such time as such documents become available, Developer, at its sole expense, shall obtain and deliver to the City the following items (the "**Due Diligence Items**"):

- (i) *Title:* A copy of Developer's Owner's Policy of or Commitment for Title Insurance showing that Developer (or its affiliates) owns good and marketable fee simple title to the Phase 3 Project Site where the Phase 3 Improvements will be constructed;
- (ii) *Survey:* ALTA survey(s) of the Phase 3 Project Site upon which the Phase 3 Improvements will be constructed, showing all easements and other matters of record that can be shown on a survey;
- (iii) *Appraisal:* A projected "as built" appraisal of the Private Improvements (but only if such an appraisal is required by the Port Authority);
- (iv) *Site Plan:* A detailed site plan showing the proposed location of the Private Improvements, the Public Infrastructure Improvements, and the Intersection Improvements;
- (v) *Environmental:* A copy of whatever environmental reports Developer obtains or has obtained in connection with the Phase 3 Project, including, at a minimum, a Phase I environmental site assessment under current ASTM standards;
- (vi) *Engineering Studies:* Geotechnical or other engineering studies for (a) the parcels upon which the Public Infrastructure Improvements will be constructed, and (b) the area where the Intersection Improvements will be constructed;
- (vii) *Construction Schedules:* A detailed construction timeline showing anticipated commencement and completion dates for the Project, including significant milestones;
- (viii) *Budget:* A detailed and updated budget for the Project;
- (ix) *Financing:* Evidence satisfactory to the City that Developer has obtained all financing necessary to complete the Project;
- (x) *New Legal Descriptions and Surveys:* Updated legal descriptions and ALTA property surveys for the Office Site, and the Garage Site, if applicable;
- (xi) *Service Payment Projections:* A detailed analysis showing the projected statutory service payments in lieu of taxes (the "**Statutory Service Payments**") that will be generated from the Private Improvements;
- (xii) *Port Authority Documents:* Such other information and documentation as may be required by the Port Authority; and
- (xiii) *Other Information:* Such other information and documents pertaining to Developer or the Project as the City may reasonably require.

(B) Copies of Due Diligence Items to Be Provided to City. Without limitation of Developer's other obligations under this Agreement, prior to the issuance of the TIF Bonds, and as such Due Diligence Items are obtained by Developer, Developer, at no cost to the City, shall provide DCED with copies of the

inspection, engineering, and environmental reports, title reports, surveys, and other materials prepared by third party professionals obtained by Developer.

(C) Contingency for City's Satisfaction with Due Diligence Investigations. All reports and the like obtained by Developer from third parties and delivered to the City shall be recent (i.e., prepared or updated, as the case may be, within 3 months from the date that the item is delivered to the City) and shall be prepared by properly licensed and qualified companies or individuals acceptable to the City. In addition to the Due Diligence Items, Developer and the City may conduct whatever additional investigations concerning the Project as they deem necessary, including, without limitation, investigations into the feasibility and likelihood of Developer obtaining all building, zoning, and other approvals from the City's Department of Buildings and Inspections ("**B&I**"), the Department of City Planning and Engagement ("**Planning**"), the City Planning Commission, the Department of Transportation and Engineering ("**DOT**"), and any other applicable City departments, agencies or boards. If, prior to the issuance of the TIF Bonds, any party determines that the Phase 3 Project is not feasible for any reason, then, notwithstanding anything in this Agreement to the contrary, such party may terminate this Agreement by giving the other parties written notice thereof, whereupon this Agreement shall terminate and the parties hereto shall thereafter have no rights or obligations hereunder. Unless otherwise directed by the DCED Director, Developer shall deliver all the Due Diligence Items to be provided by Developer to the City under this Agreement to the DCED Director (for review by DCED and other City departments as deemed necessary or appropriate by DCED) and shall generally coordinate all aspects of the Project (as they relate to the City) through DCED. The termination rights of the parties under this paragraph shall automatically terminate upon the issuance of the TIF Bonds.

## **2. PLANS AND CONSTRUCTION.**

(A) Preparation of Plans and Specifications. Developer shall prepare plans and specifications for the Project and shall submit the same to DCED for review and approval prior to commencement of construction of the Project; *provided* that DCED may only withhold approval if such plans and specifications (i) reduce or diminish the size, scope, quality, or site plan of the Project, (ii) could reasonably be expected to reduce the projected hard construction cost of the Project, or (iii) are otherwise inconsistent with zoning laws or any planned development approved by City Council with respect to the Project or are materially inconsistent with Exhibits B-1 and B-2, in each case as determined in DCED Director's sole and absolute discretion. The approved plans and specifications for the Project (including any and all changes thereto, subject to the City's review and approval on the criteria provided in the immediately preceding sentence) are referred to herein as the "**Final Plans**". Developer shall submit any and all proposed changes to the Final Plans to DCED for review and approval.

(B) Construction Bids. Following the parties' execution of this Agreement, Developer shall obtain construction bids for the Project. Upon Developer's selection of the bids for the Project, Developer shall submit to the City an updated construction budget and construction schedule for the Project.

(C) Commencement and Completion of Construction. Developer shall complete, or cause to be completed, the Project, and all components thereof, in accordance with Exhibits B-1, B-2, and B-3, and substantially as reflected in the Final Plans, and in compliance with all applicable laws. Developer shall commence and complete the applicable portions of the Project in accordance with the deadlines specified below.

(i) Private Improvements. Developer shall commence, or cause to be commenced, construction of the Private Improvements not later than [July 1, 2024]. Developer shall complete construction, substantially in accordance with the Final Plans and substantially in accordance with Exhibit B-1 with respect to the Private Improvements, no later than [December 31, 2026].

(ii) Public Infrastructure Improvements. Developer shall commence construction of the Public Infrastructure Improvements not later than [\_\_\_\_\_, 20\_\_]. Developer shall complete construction, substantially in accordance with the Final Plans and

substantially in accordance with Exhibit B-2 with respect to the Public Infrastructure Improvements, not later than [\_\_\_\_\_, 20\_\_].

- (iii) Intersection Improvements: Developer shall commence construction of Intersection Improvements not later than [3 months from the Effective Date]. Developer shall cause the Intersection Improvements to be constructed in a good and workmanlike manner, and to be completed, substantially in accordance with the Final Plans and substantially in accordance with Exhibit B-3 with respect to the Intersection Improvements, not later than October 31, 2024 (the “**Intersection Improvement Completion Deadline**”). Following completion of the Intersection Improvements, Developer shall, as necessary, remove, replace and/or repair (or cause the removal, replacement and/or repair of) faulty, defective or improper work, materials or equipment discovered during the period of time beginning on the Intersection Improvement Completion Deadline and continuing for one year thereafter, or until all repairs and corrections are completed to the satisfaction of the Director of DOTE, in his or her sole and absolute discretion, whichever occurs last (the “**Warranty Period**”). No later than two weeks prior to the expiration of the Warranty Period, Developer shall schedule a date for the inspection of the Intersection Improvements with Developer and with DOTE (the “**Warranty Inspection**”). Upon expiration of the Warranty Period and satisfactory completion of all warranty work as confirmed at the Warranty Inspection, DOTE will issue a letter to the Developer confirming that all work has been completed. Developer will provide the City with a customary payment and performance bond with respect to the Intersection Improvements (as more fully described in Section 3(D), the “**Payment and Performance Bond**”). The Payment and Performance Bond shall remain in effect until the expiration of the Warranty Period.

(D) Contractors and Subcontractors. Developer shall not solicit bids from any contractors or subcontractors who are identified as being debarred by the federal or state government or who are identified as being debarred on the City's Vendor Performance list.

(E) Applicable Laws. Developer shall obtain, pay for, and maintain all necessary building permits and other permits, licenses, and other governmental approvals and shall comply with all applicable federal, state, and local laws, codes, ordinances, and other governmental requirements applicable to the construction of the Project. The City makes no representations or other assurances to Developer that Developer will be able to obtain whatever variances, permits, or other approvals from Planning, B&I, DOTE, other City departments, City Planning Commission, or City Council that may be required in connection with the Project.

(F) Inspection of Work. During construction, the City, its employees, and agents shall have the right at all reasonable times to enter upon the construction site to examine and inspect the progress of construction to determine whether Developer is complying with the requirements of this Agreement. Notwithstanding anything to the contrary in this paragraph (F) or this Agreement, nothing herein shall in any way limit the inspection rights the City otherwise legally possesses, whether in connection with its police powers, permitting, or otherwise.

(G) Mechanics' Liens. Developer shall not permit any mechanics' or other liens to be filed against the Project Site during construction. If a mechanic's lien shall at any time be filed, Developer shall within 30 days after notice of the filing thereof, cause the same to be discharged of record, bonded, insured over, or otherwise cause the Project Site to be released from the lien pursuant to the procedures Ohio Revised Code Section 1311.11.

(H) DOTE Permits and Fees. Developer acknowledges that it may be required to obtain a barricade permit or other related permits when the Project necessitates, or as otherwise required by DOTE for the Project. Developer shall pay DOTE for any fees related to such permits, including for the closure of the sidewalk and the curb lane of the adjacent streets if and when demolition or construction necessitates closing the adjoining streets or portions thereof. DOTE shall have the right to evaluate Developer's need



for a barricade throughout construction and, if at any time after consultation with Developer DOTE determines that a barricade is not needed, DOTE shall have the right to withdraw the permit.

(I) Completion Guaranty. Prior to execution by the City of the Port Authority Documents, Developer shall cause the August J. Troendle Revocable Trust or another guarantor approved by the City, in the City's sole and absolute discretion (such entity, whether it be the August J. Troendle Revocable Trust or another guarantor, being hereinafter referred to as "**Guarantor**"), to execute a guaranty of completion with respect to Developer's obligation to complete the Project, which shall be in substantially the form of Exhibit F (Form of Completion Guaranty) hereto (the "**Completion Guaranty**").

### **3. CITY'S FINANCIAL ASSISTANCE.**

(A) Project TIF Revenue. The City's funding commitment shall be subject to and contingent upon, without limitation, the execution and continued effectiveness of this Agreement, the Service Agreement, and the cooperative agreement. The City's funding commitment under this Agreement shall be limited to providing the Project TIF Revenue to the Port Authority for payment of the Bond Obligations, all in accordance with one or more separate agreements to be executed by the City, Developer, and the Port Authority. To the extent the Project TIF Revenue provided by the City is insufficient to satisfy the Bond Obligations, the City shall have no responsibility for the shortfall. As between the City and Developer, and except for the City's agreement to provide the Project TIF Revenue to the Port Authority, Developer shall be solely responsible for all costs associated with the Phase 3 Project. Developer acknowledges and agrees that the City will not provide the Project TIF Revenue to the Port Authority for payment of the Bond Obligations other than with respect to service payments for tax years falling within the period of the TIF Exemption that are actually made in accordance with the Service Agreement and are actually received by the City.

(B) Excess Project TIF Revenue. To the extent the Project TIF Revenue in any year exceeds the amount payable to the Port Authority for payment of the Bond Obligations for such year, as more particularly described in one or more separate agreements to be executed by the City, Developer, and the Port Authority, the City shall be entitled to retain and use such excess Project TIF Revenue for any lawful purpose. For the avoidance of doubt, to the extent the Project TIF Revenue associated with any portion of the Phase 3 Project is not to be used to secure Bond Obligations associated with the applicable phase of the TIF Bonds, for any reason, the City shall be entitled to retain and use such excess Project TIF Revenue for any lawful purpose.

#### **(C) City Public Infrastructure Improvement Funds.**

(i) Amount and Terms of Grant; Eligible Uses. Subject to the terms and conditions of this Agreement, the City agrees to provide the City Public Infrastructure Improvement Grant to Developer from City capital funds, in an amount not to exceed \$1,500,000 (the "**City Public Infrastructure Improvement Funds**"). The City Public Infrastructure Improvement Funds shall be used throughout construction of the Public Infrastructure Improvements itemized on Exhibit B-2 and for no other purpose. For the avoidance of doubt, Developer shall not use any portion of the City Public Infrastructure Improvement Funds for the Private Improvements, the Intersection Improvements, design fees or other soft costs, or for the purchase of inventory, supplies, furniture, trade fixtures, or any other items of personal property, or to establish a working capital fund. The City and the Developer may, in their mutual discretion, elect to apply the City Public Infrastructure Funds to the Port Authority pursuant to the Port Authority Documents for the purpose of effecting a unified financing for the Public Infrastructure Improvements together with the proceeds of the Bond Obligations.

(ii) Disbursement. The City shall disburse the City Public Infrastructure Improvement Funds as described in Exhibit G (Disbursement of City Public Infrastructure Improvement Funds) hereto, and in accordance with the Port Authority Documents. Notwithstanding anything herein to the contrary, the City shall have no obligation to disburse any of the City Public Infrastructure Improvement Funds until all of the conditions for disbursement set forth in Exhibit G have been satisfied. Upon request, Developer shall

provide to the City written documentation demonstrating the proper use of the City Public Infrastructure Improvement Funds to fund its construction of the Public Infrastructure Improvements.

(D) Intersection Improvement Funds.

(i) Amount and Terms of Grants; Eligible Uses. Subject to the terms and conditions of this Agreement, the City agrees to provide the Intersection Improvement Funds to Developer in an amount not to exceed \$525,000 from (a) the City Intersection Grant, (b) the ODOT Grant, and (c) the ODOD Grant. In the event the City does not receive all or any portion of the ODOT Grant from ODOT, or the ODOD Grant from ODOD, the City reserves the right to adjust the amount of Intersection Improvement Funds, up to and including reducing the amount of the Intersection Improvement Funds to the amount of the City Intersection Grant. The proceeds of the Intersection Improvement Funds shall be used throughout construction solely to finance the actual construction costs paid by Developer in connection with the Intersection Improvements as itemized on Exhibit B-3 and for no other purpose. For the avoidance of doubt, Developer shall not use any portion of the Intersection Improvement Funds to pay for the purchase of inventory, supplies, furniture, trade fixtures, or any other items of personal property, or to establish a working capital fund. Except for the City's agreement to provide the Intersection Improvement Funds as described in this Agreement, the City shall not be responsible for any costs associated with the completion of the Intersection Improvements.

(ii) State Grant Obligations. Developer agrees to comply with and assist the City in complying with any provisions required of the City as a condition of receiving the ODOT Grant, the ODOD Grant, or any federal statutes, rules, regulations, executive orders, or other grant conditions which may be applicable to the Intersection Improvements. The conditions of the ODOT Grant and ODOD Grant are attached as Exhibit H (ODOT and ODOD Grant Conditions) hereto (the "**State Grant Conditions**") and are incorporated by reference into this Agreement. In the event Developer violates any of the State Grant Conditions, or if proceeds from the ODOT Grant or ODOD Grant are required to be paid back to ODOT or to ODOD (as applicable) as a result of Developer's violation of the State Grant Conditions, Developer agrees to reimburse the City for any amounts paid and/or forego the receipt of any amounts to be paid from the ODOT Grant and/or the ODOD Grant.

(iii) Disbursement. The City shall disburse the Intersection Improvement Funds throughout completion of the Intersection Improvements, as described in Exhibit I (Disbursement of Intersection Improvement Funds) hereto. Notwithstanding anything herein to the contrary, the City shall have no obligation to disburse any of the Intersection Improvement Funds until all of the conditions for disbursement set forth in Exhibit I have been satisfied. Upon request, Developer shall provide to the City written documentation demonstrating the proper use of the Intersection Improvement Funds to fund its construction of the Intersection Improvements.

(iv) Payment and Performance Bond. Prior to commencement of construction of the Intersection Improvements, the Developer will provide to the City a payment and performance bond covering the Intersection Improvements work in form and substance consistent with City requirements for similar traffic improvements elsewhere in the City.

(v) Separate Project. For the avoidance of doubt, the Intersection Improvements are a distinct project from the Private Improvements and Public Infrastructure Improvements. The Intersection Improvements are included in this Agreement for convenience of the parties in documenting the terms and conditions upon which the City will disburse funds for the construction thereof, and documenting the terms upon which the Developer agrees to construct such improvements. However, such improvements are a separate project from the Private Improvements and Public Infrastructure Improvements for all other purposes.

(E) No Other City Assistance. As a material inducement to the City to enter into this Agreement, Developer agrees that it shall not request or expect to receive any additional funding, real estate or income tax abatements, or other financial assistance from the City in connection with the Project

in the future, either for itself, for the benefit of Medpace, tenants or other occupants of the Office Site, or for the benefit of any other third party unless the City agrees to the contrary in writing.

#### **4. INSURANCE; INDEMNITY.**

(A) Insurance during Construction. From the time that construction associated with the Project commences, and until such time as all construction work associated with the Project has been completed, Developer shall maintain, or cause to be maintained, the following insurance: (i) Commercial General Liability insurance of at least \$5,000,000 per occurrence, combined single limit/\$10,000,000 aggregate, naming the City as an additional insured with respect to the Project, (ii) builder's risk insurance in the amount of 100% of the value of the improvements constructed as part of the Project, (iii) worker's compensation insurance in such amount as required by law, (iv) all insurance as may be required by Developer's construction lenders or by the Port Authority, and (v) such other insurance as may be reasonably required by the City. Developer's insurance policies shall (a) be written in standard form by companies of recognized responsibility and credit reasonably acceptable to the City, that are authorized to do business in Ohio, and that have an A.M. Best rating of A VII or better, and (b) provide that they may not be canceled or modified without at least 30 days prior written notice to the City. Prior to commencement of construction of the Project, Developer shall send proof of all such insurance to the City at 805 Central Avenue, Suite 700, Cincinnati, Ohio 45202, Attention: Monitoring and Compliance Division, or such other address as may be specified by the City from time to time; *provided that* if the City requests an additional insured endorsement with respect to the Commercial General Liability insurance described above, Developer shall have 6 months following the date of the City's request to obtain such an endorsement from its insurer and provide the original endorsement to the City.

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

(C) Indemnity. Notwithstanding anything in this Agreement to the contrary, as a material inducement to the City to enter into this Agreement, Developer shall defend, indemnify, and hold the City, its officers, council members, employees, and agents (collectively, the "**Indemnified Parties**") harmless from and against any and all actions, suits, claims, losses, costs (including, without limitation, attorneys' fees), demands, judgments, liability, and damages suffered or incurred by or asserted against the Indemnified Parties as a result of or arising from the acts of Developer, its agents, employees, contractors, subcontractors, licensees, invitees, or anyone else acting at the request of Developer in connection with the Project. The obligations of Developer under this paragraph shall survive termination of this Agreement with respect to Claims suffered, incurred, asserted, or arising prior to the date of termination. As used herein, "**Claims**" means, collectively, any and all actions, suits, claims, losses, costs (including, without limitation, attorneys' fees), demands, judgments, liability, and damages.

**5. CASUALTY; EMINENT DOMAIN.** If the Project is damaged or destroyed by fire or other casualty during construction, or if any portion of the Project Site is taken by exercise of eminent domain (federal, state, or local), Developer (if applicable) shall repair and restore the affected property, as expeditiously as possible, and to the extent practicable, to substantially the same condition in which the Project Site was in immediately prior to such occurrence. To the extent the City's participation is required, the City and Developer shall jointly participate in filing claims and taking such other actions pertaining to the payment of proceeds resulting from such occurrence. If the proceeds are insufficient to fully repair and restore the affected property, the City shall not be required to make up the deficiency. Developer shall handle all construction in accordance with the applicable requirements set forth herein, including, without limitation, obtaining the City's approval of the plans and specifications if they deviate from the original City-

approved plans. Developer shall not be relieved of any obligations, financial or otherwise, under this Agreement during any period in which the Project Site is being repaired or restored.

## 6. **DEFAULT; REMEDIES.**

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

(i) Prior to the expiration of the TIF Exemption:

- (a) the dissolution of Developer or Guarantor (during the term of the Guaranty), the filing of any bankruptcy or insolvency proceedings by any such entity, or the making by any such entity of an assignment for the benefit of creditors, or
- (b) the filing of any bankruptcy or insolvency proceedings by or against Developer or Guarantor (during the term of the Guaranty), the appointment of a receiver (temporary or permanent) for any such entity, the attachment of, levy upon, or seizure by legal process of any property of any such entity, or the insolvency of any such entity, unless such appointment, attachment, levy, seizure, or insolvency is cured, dismissed, or otherwise resolved to the City’s satisfaction within 60 days following the date thereof; or

(ii) The occurrence of a Specified Default (as defined below), or a failure of Developer to perform or observe (or cause to be performed or observed) any obligation, duty, or responsibility under this Agreement or any other Project Document (*provided that* a failure of Guarantor to perform under the Guaranty shall be deemed a failure of Developer to perform under this Agreement), and failure by Developer to correct such default within 30 days after the receipt by Developer of written notice thereof from the City (the “**Cure Period**”), other than a Payment Default (as described below), in which case there shall be a Cure Period of 5 business days after Developer’s receipt of written notice thereof from the City; *provided, however*, that if the nature of the default is such that it cannot reasonably be cured during the Cure Period, Developer shall not be in default under this Agreement so long as Developer commences to cure the default within such Cure Period and thereafter diligently completes such cure within 60 days after receipt of the City’s initial notice of default. Notwithstanding the foregoing, if Developer’s failure to perform or observe any obligation, duty, or responsibility under this Agreement creates a dangerous condition or otherwise constitutes an emergency as determined by the City in good faith, an event of default shall be deemed to have occurred if Developer fails to take reasonable corrective action immediately upon discovering such dangerous condition or emergency. As used in this section, “**Specified Default**” means the occurrence of any of the following:

- (a) **Payment Default.** Any Statutory Service Payment or minimum service payment, as applicable (together, the Statutory Service Payments and minimum service payments are referred to herein as the “**Service Payments**”), is not made when due under the Service Agreement (a “**Payment Default**”). Developer acknowledges that time is of the essence with respect to the making of each Service Payment and that delays in the making of a Service Payment may result in a delay in the City’s ability to transfer amounts to the Port Authority for payment of the Bond Obligations.
- (b) **Development Default.** Developer (1) fails to (x) diligently prosecute the work related to the Project as provided herein, or (y) complete the Project in accordance with Exhibit B-1, Exhibit B-2, and Exhibit B-3 and substantially in accordance with the Final Plans for the Project, or (2) abandons the Project.
- (c) **Misrepresentation.** Any representation, warranty, or certification of Developer made in connection with this Agreement or any other Project Document shall prove to have been false or materially misleading when made; or

(iii) any event of default under the JCRTC Agreement.

(B) **Remedies.** Upon the occurrence of an event of default under this Agreement which is not cured or corrected within any applicable Cure Period, the City shall be entitled to (i) terminate this Agreement by giving Developer written notice thereof, (ii) with or without terminating this Agreement, demand that Developer repay to the City all previously disbursed (a) City Public Infrastructure Improvement Funds in the event of default under Section 2(C) with respect to the Project, and/or (b) Intersection Improvement Funds, in the event of default related to the Intersection Improvements (iii) 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 event of default, all at the expense of Developer, and (iv) exercise any and all other rights and remedies under this Agreement or available at law or in equity, including, without limitation, pursuing an action for specific performance. Developer shall be liable for all costs and damages, including, without limitation, attorneys' fees, suffered or incurred by the City as a result of a default or event of default of Developer under this Agreement or the City's termination of this Agreement. The failure of the City to insist upon the strict performance of any covenant or duty, or to pursue any remedy, under this Agreement or any other Project Document shall not constitute a waiver of the breach of such covenant or of such remedy.

**7. NOTICES.** All notices given by the parties hereunder shall be deemed given if personally delivered, or delivered by Federal Express, UPS or other recognized overnight courier, or mailed by U.S. registered or certified mail, postage prepaid, return receipt requested, addressed to the parties at their addresses below or at such other addresses as such 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 Manager  
City of Cincinnati  
801 Plum Street,  
Cincinnati, Ohio 45202

with a copy to:

Director  
Dept. of Community and  
Economic Development  
City of Cincinnati  
805 Central Avenue, Suite 700  
Cincinnati, Ohio 45202

**To Developer:**  
RBM Development Company, LLC  
5375 Medpace Way,  
Cincinnati, Ohio 45227  
Attention: Stephen Ewald, General Counsel

with a copy to:

Keating Muething & Klekamp PLL  
One East Fourth Street, Suite 1400  
Cincinnati, Ohio 45202  
Attention: [James J. McGraw/Andrew Spoor,  
Esq.]

If Developer sends a notice to the City alleging that the City is in default under this Agreement or any other Project Document, Developer 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, Ohio 45202.

**8. REPRESENTATIONS, WARRANTIES, AND COVENANTS.** Developer hereby makes the following representations, warranties, and covenants to induce the City to enter into this Agreement:

(i) Developer is a limited liability company duly organized and validly existing under the laws of the State of Ohio, and is qualified to conduct business in the State of Ohio, has properly filed all certificates and reports required to be filed by it in order to have the right to conduct its business under the laws of the State of Ohio, and is not in violation of any laws of the State of Ohio relevant to the transactions contemplated by this Agreement or any other Project Document.

(ii) Developer has full power and authority to execute and deliver this Agreement and every other Project Document to which it is or will be a party and to carry out the transactions provided for herein and therein. This Agreement and each other Project Document to which Developer is a party has by proper action been duly authorized, executed, and delivered by Developer and all actions necessary have been taken to constitute this Agreement and the other Project Documents to which Developer is a party, when executed and delivered, valid and binding obligations of Developer.

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

(iv) There are no actions, suits, proceedings, or governmental investigations pending, or to the knowledge of Developer, threatened against or affecting Developer at law or in equity or before or by any governmental authority that, if determined adversely to it, would impair its financial condition or its ability to perform its obligations under this Agreement or any other Project Documents.

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

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

(vii) With reference to Section 301-20 (*Delinquencies in Accounts Receivable and Loans Receivable; Policy*) of the Cincinnati Municipal Code, neither Developer nor its affiliates are in breach of any of their obligations to the City under any existing agreements with the City nor does Developer or any of its affiliates owe any fines, penalties, judgment awards, or any other amounts to the City.

## **9. REPORTING REQUIREMENTS.**

(A) Submission of Records and Reports; Records Retention. Developer shall collect, maintain, and furnish to the City upon the City's request such accounting, financial, business, administrative, operational and other reports, records, statements, and information as may be requested by the City pertaining to Developer, the Project, or this Agreement, including, without limitation, reviewed financial statements, bank statements, income tax returns, information pertinent to the determination of finances of the Project, and such reports and information as may be required for compliance with programs and projects funded by the City, Hamilton County, the State of Ohio, or any federal agency (collectively, "**Records and Reports**"). All Records and Reports compiled by Developer and furnished to the City shall be in such form as the City may from time to time require. Developer shall retain all Records and Reports until the date that is 3 years following the satisfaction of the Bond Obligations, or such later time as may be required by applicable law (the "**Retention Termination Date**").

(B) City's Right to Inspect and Audit. During construction of the Project and thereafter until the Retention Termination Date, Developer shall permit the City and its designees and auditors to have full access to and to inspect and audit the Records and Reports. In the event any such inspection or audit discloses a material discrepancy with information previously provided by Developer to the City, Developer shall reimburse the City for its out-of-pocket costs associated with such inspection or audit.

### **(C) Reports Related to Intersection Improvements.**

(i) Annual Reports. Beginning after the Effective Date of this Agreement and continuing each year during construction of the Intersection Improvements, Developer shall submit a report to the City detailing all of the following: (a) the number of employees first hired by Developer, Medpace, and any other companies benefitting at the Phase 3 Project Site on or after the Effective Date of this Agreement, (b) the number of employees first employed at the Medpace Campus prior to the Effective Date

and retained at the Phase 3 Project Site on or after the Effective Date, (c) the corresponding payroll information for the employees at the Phase 3 Project Site, and (d) the total investment made by Developer to date (collectively, the “**Annual Roadwork Report**”). Annual Roadwork Reports shall be submitted by Developer for each year (or part of a year) during the construction of the Intersection Improvements and each report shall be submitted no later than February 1, following the year first covered by such Annual Roadwork Report.

(ii) Close-Out Reporting. No later than 30 days from the Intersection Improvement Completion Deadline, Developer must submit a report to the City detailing (a) the amount of allocated Intersection Improvement Funds used for the Intersection Improvements, (b) amount of Intersection Improvement Funds being returned by Developer (if any), (c) number of jobs actually created as a result of the Intersection Improvements, (d) summary of the impact the Intersection Improvement Funds had on the operations of Developer and of Medpace; and (e) any other information that the City may reasonably request in order to satisfy its obligations to ODOT and ODOD with respect to the State Grant Conditions.

(D) Confidential Information. Developer may specify that certain Records and Reports are or may be confidential to the business of Developer or its affiliates by conspicuously marking such Records and Reports as “confidential,” “trade secret,” “do not disclose,” or the like, in which event the City shall use reasonable efforts to ensure that such Records and Reports remain confidential; provided, however, that the City’s obligations under this clause shall be subject and subordinate to the City’s obligations under public records laws in all respects, and the City will in no way be liable for disclosures made in order to comply with public records requests.

## **10. GENERAL PROVISIONS.**

### **(A) Assignment; Change in Control.**

(i) Assignment. Developer shall not assign its rights or interests under this Agreement to any third party without the prior written consent of the City Manager; provided however, that the City will not unreasonably withhold its consent to the assignment by Developer to an entity wholly-owned or controlled by Developer’s majority interest member, Dr. August J. Troendle, or his revocable trust, the August J. Troendle Revocable Trust (either, or together, being “**Troendle**”). The City may require the execution of an amendment hereto or other clerical documentation to effect such assignment or substitution of parties.

(ii) Change of Control. Developer shall not permit a Change of Control (as defined below) without the prior written consent of the City. As used herein, “**Change of Control**” means a change in the ownership of Developer such that Troendle, or any entity directly or indirectly controlled by Troendle, has less than a 50.1% direct or indirect voting interest in Developer and lacks the power to direct or cause the direction of the management and policies of Developer, whether through the ownership of ownership interests in Developer, by contract, or otherwise.

(B) Entire Agreement; Conflicting Provisions. This Agreement, together with the other Project Documents, 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. In the event that any of the provisions of this Agreement purporting to describe specific provisions of other Project Documents are in conflict with the specific provisions of such other Project Documents, the provisions of such other Project Documents shall control.

(C) Amendments and Waivers. The provisions of this Agreement may be amended, waived, or otherwise modified only by a written amendment signed by both parties.

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

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

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

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

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

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

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

(K) No Brokers. Developer hereby represents to the City 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 Agreement.

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

(M) Recognition of City Support. In connection with the construction and opening of the Project, Developer shall acknowledge the support of the City with respect to the Project in all printed promotional materials (including, without limitation, informational releases, pamphlets and brochures, construction signs, project and identification signage, and stationary) and any publicity (such as but not limited to materials appearing on the Internet, television, cable television, radio, or in the press or any other printed media) relating to the Project. In identifying the City as a Project partner, Developer shall use either the phrase "Project Assistance by the City of Cincinnati" or a City of Cincinnati logotype or other form of acknowledgement that has been approved in advance in writing by the City.

(N) Applicable Laws. Developer shall obtain and maintain all necessary City and other governmental permits, licenses, and other approvals and shall comply with all applicable federal, state, and local laws, codes, ordinances, and other governmental requirements, including, without limitation, those set forth on Exhibit J (Additional Requirements) that which are applicable to the Project.

(O) Counterparts and Electronic Signatures. This Agreement may be executed in several counterparts, each of which shall be regarded as an original and all of which shall constitute one and the same Agreement. This Agreement may be executed and delivered by electronic signature.

(P) Transfer of Fee or Leasehold Title to Port Authority. Nothing in this Agreement shall be construed to prohibit Developer (or its affiliates) from entering into a sale (or lease) and leaseback arrangement with respect to portion(s) of the Phase 3 Project Site in which fee or leasehold title to the Phase 3 Project Site (or any portion thereof) is held by the Port Authority (the "**Port Authority**")



**Arrangement**"); *provided, however*, that (i) the purpose for the Port Authority Arrangement is to take advantage of the sales tax exemption on the purchase of Phase 3 Project building materials, and (ii) Developer shall provide the City with such documents and other information with respect to this arrangement as the City may reasonably request, including the final form of the Port Authority Arrangement, at least 10 business days prior to any conveyance of any portion of the Phase 3 Project Site to the Port Authority. Developer may not assign its rights, obligations, or any other interest under this Agreement to any other party except as in accordance with Section 10(A), but at any time, subject to the provisions of this paragraph, once Developer has obtained or the fee interest in the Phase 3 Project Site, Developer (or its affiliates) may convey fee or leasehold interest to the Port Authority, in the manner, and subject to the terms described, above. It is also understood and agreed that the Port Authority may convey such interest back to Developer pursuant to the terms contained in the agreement memorializing the Port Authority Arrangement. Developer hereby provides notice to the City that Developer (or its affiliates) will enter into the Port Authority Arrangement.

## **11. FEES AND EXPENSES.**

(A) Initial Administrative Fee. Upon the execution of this Agreement, Developer shall pay the City a non-refundable administrative fee of \$15,000 to cover the City's out-of-pocket and administrative costs and expenses in establishing the project-based TIF, preparing this Agreement and other documents relating hereto, and effecting the transactions contemplated hereby.

(B) City Solicitor Legal Fee. Upon the closing of the TIF Bonds, Developer shall pay the City a non-refundable legal services fee of \$20,000 from the TIF Bond proceeds as consideration for the resources expended by the City of Cincinnati Solicitor's office to advance the Project, finance the Public Infrastructure Improvements, finance the Intersection Improvements, and in addition to the fees of the City's outside legal counsel contemplated in Section 11(C).

(C) City's Outside Counsel Fees Associated with TIF Bonds. Developer shall pay any and all outside counsel fees incurred by the City related to the negotiations and issuance of the TIF Bonds out of the proceeds of the TIF Bonds, or in some other manner mutually acceptable to Developer and the City.

(D) Monitoring and Servicing Fee; Out-of-Pocket Expenses. The City shall withhold and retain from the Service Payments an annual monitoring and servicing fee equal to the greater of (i) 1.0% of the Service Payments paid (or due, if unpaid) with respect to the Property the current tax year, or (ii) the documented, reasonable out-of-pocket fees, costs, charges, and expenses incurred by the City in connection with the negotiation, preparation, execution, delivery, and performance of this Agreement and the other Project Documents, together with the City's monitoring and servicing costs and expenses with respect to the transactions contemplated thereby. To the extent the Service Payments are not made or are ineligible to be made under the Service Agreement for any reason, the City may elect to require Developer to pay such monitoring and servicing fees in another manner. This Section 11(D) shall terminate and cease to be effective in the event the City's obligation to transfer amounts to the Port Authority for payment of the Bond Obligations permanently cease in accordance with the provisions of this Agreement and the other Project Documents. For the avoidance of doubt, suspension (without permanent termination) of the City's transferring amounts to the Port Authority for payment of the Bond Obligations shall not cause the provisions of this Section 11(D) of this Agreement to cease or be modified in any way (either permanently or during the period of any such suspension). The fees described in this Section 11(D) are not refundable once withheld by the City or otherwise paid.

## **12. EXHIBITS.** The following exhibits are attached hereto and made a part hereof:

- |                    |   |
|--------------------|---|
| <u>Exhibit A-1</u> | - <i>Site Plan for Medpace Campus</i>                                   |
| <u>Exhibit A-2</u> | - <i>Legal Description – CPU Site</i>                                   |
| <u>Exhibit A-3</u> | - <i>Legal Description – Office Site</i>                                |
| <u>Exhibit A-4</u> | - <i>Legal Description – Garage Site</i>                                |
| <u>Exhibit A-5</u> | - <i>Site Plan &amp; Legal Description of Intersection Improvements</i> |
| <u>Exhibit B-1</u> | - <i>Description of Private Improvements</i>                            |
| <u>Exhibit B-2</u> | - <i>Description of Public Infrastructure Improvements</i>              |

<u>Exhibit B-3</u>	- <i>Description of Intersection Improvements</i>
<u>Exhibit C-1</u>	- <i>Preliminary Budget – Private Improvements</i>
<u>Exhibit C-2</u>	- <i>Preliminary Budget – Public Infrastructure Improvements</i>
<u>Exhibit C-3</u>	- <i>Preliminary Budget – Intersection Improvements</i>
<u>Exhibit D-1</u>	- <i>Sources of Funds – Private Improvements</i>
<u>Exhibit D-2</u>	- <i>Sources of Funds – Public Infrastructure Improvements</i>
<u>Exhibit D-3</u>	- <i>Sources of Funds – Intersection Improvements</i>
<u>Exhibit E</u>	- <i>Form of Service Agreement</i>
<u>Exhibit F</u>	- <i>Form of Completion Guaranty</i>
<u>Exhibit G</u>	- <i>Disbursement of City Public Infrastructure Improvement Grant</i>
<u>Exhibit H</u>	- <i>ODOT and ODOD Grant Conditions</i>
<u>Exhibit I</u>	- <i>Disbursement of Intersection Improvement Funds</i>
<u>Exhibit J</u>	- <i>Additional Requirements</i> (incl. Addendum I - City's Prevailing Wage Determination)

*[SIGNATURES ON FOLLOWING PAGE]*

Executed by the entities below on the dates indicated below their signatures, effective as of the latest of such dates (the “**Effective Date**”).

**CITY OF CINCINNATI**

By: \_\_\_\_\_  
Sheryl M.M. Long, City Manager

Date: \_\_\_\_\_, 2024

**RBM DEVELOPMENT COMPANY, LLC**

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

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

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

Date: \_\_\_\_\_, 2024

Approved as to Form:

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

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

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

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

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

Exhibit A-1  
to Funding and Development Agreement  
(Medpace Phase 3 Expansion Project)

*Site Plan for Medpace Campus*



Exhibit A-2  
to Funding and Development Agreement  
(Medpace Phase 3 Expansion Project)

*Legal Description – CPU Site*

**Auditor's Parcel No. 036-0001-0013-00**

All the following described real estate, land and premises, situate, lying and being in Madisonville, Cincinnati, Hamilton County, Ohio and being all that lot of ground and premises is Section Sixteen (16), Township Four (4), Fractional Range Two (2), Miami Purchase.

Beginning at a stake in the center of a street fifty (50) feet wide, now known as Hetzell Street, a distance of 546  $\frac{3}{10}$  feet East from the West line of said Section 16, and being 230 feet south of the South line of B.M. Stewart's tract, formerly owned by Edward N. Hidden; thence running South 87  $\frac{1}{2}$  degrees East 324  $\frac{7}{10}$  feet; thence South 2  $\frac{1}{4}$  degrees West 235 feet to the North line of the Marietta and Cincinnati Railroad, (now known as The Baltimore and Ohio Railroad); thence westerly with said Railroad line 150 feet (148.33 feet per survey of Roger B. Ward, dated October 1968); thence North 8  $\frac{1}{2}$  degrees West 32  $\frac{1}{2}$  feet; thence westerly with said Railroad line 176  $\frac{5}{10}$  feet; thence North 2  $\frac{1}{4}$  degrees East 265  $\frac{9}{10}$  feet to the place of beginning, containing 1  $\frac{96}{100}$  acres of land, more or less, subject, however to all legal highways and an existing sewer line easement across the premises owned by the City of Cincinnati.

Exhibit A-3  
to Funding and Development Agreement  
(Medpace Phase 3 Expansion Project)

*Legal Description – Office Site*

**3.5258 ACRES**

Situated in Section 16, Town 4, Fractional Range 2, City of Cincinnati, County of Hamilton, State of Ohio, being located on the south side of Medpace Way, and on the north side of Hetzel Street, and being more particularly described as follows:

Commencing at the southwesterly most corner of Port of Greater Cincinnati Development Authority (Official Record 13213, Page 2422), in the northerly line of an existing 50-foot right-of-way of Hetzel Street, and in the easterly line of an existing 60-foot right-of-way of Old Red Bank Road, being a 5/8 iron pin with cap (set);

Thence continuing with the said northerly right-of-way of Hetzel Street, being the southerly line of Port of Greater Cincinnati Development Authority, South 85°22' 17" East for a distance of 250.00 feet to a point, being a 5/8 iron pin with cap (set);

Thence continuing with the said northerly right-of-way of Hetzel Street, South 85°22'17" East for a distance of 18.00 feet to a point, being a chiseled notch (set) in a concrete driveway being the true Point of Beginning for the property described herein;

Thence leaving the right-of-way and continuing, North 4°55'22" East for a distance of 205.00 feet to a point, being at 5/8 iron pin with cap (set) at a concrete wall footer;

Thence continuing South 85°22'17" East for a distance of 57.46 feet to a point, being a 5/8" iron pin with no cap (found);

Thence continuing with the common line of the Port Authority and 300 Medpace Way, LLC, North 4°11 '33" East for a distance of 161.37 feet to a point, being a 5/8" iron pin with no cap (found);

Thence continuing with the said common line, North 35°37'14" East for a total distance of 164.18 feet to a point in the southerly line of Medpace Way, being a chiseled notch in a sidewalk (set);

Thence continuing with the said southerly line of Medpace Way, South 70°04'36" East for a distance of 98.66 feet to a point, being a 5/8" iron pin with cap (set);

Thence leaving the easterly line of Medpace Way and continuing with the common line with 200 Medpace Way, LLC for the following five (5) courses;

South 54°31'38" East for a distance of 145.23 feet to a mag nail (set); South 04°26' 11" West for a distance of 201.62 feet to a mag nail (set); South 04°55'22" West for a distance of 151.93 feet to a mag nail (set); South 63°52'25" East for a distance of 71.44 feet to a mag nail (set); South 04°37'43" West for a distance of 26.89 feet to a point in the northerly right-of-way of Hetzel Street, being a 5/8" iron pin with cap (set);

Thence continuing with the said northerly right-of-way of Hetzel Street for the following two (2) courses:

North 85°22' 17" West for a distance of 106.44 feet to a point, being a 5/8" iron pin with cap (set);

North 85°22' 17" West for a distance of 321.60 feet to the said Point of Beginning.

The above-described parcel of land contains 3.5258 acres (153,582 .07 S.F.), and is subject to all easements and rights-of-way of record.

The original source of bearings for this survey are based on a plat of survey by Kleingers and Associates and a dedication plat of Medpace Way (P.B. 430, PG. 20-21) of the Hamilton County Recorder's Office).

The above description was prepared by Robert H. Roush, Jr., Ohio Professional Surveyor, No. 7999, for Surveying and Mapping, LLC, based upon a survey made by me or others under my direction, in August 2023, and that all monuments have been found or set as shown. Iron pins denoted as (set) are 5/8" diameter with a yellow plastic cap stamped "**SAM** LLC".





Exhibit A-4  
to Funding and Development Agreement  
(Medpace Phase 3 Expansion Project)

*Legal Description – Garage Site*

**CONSOLIDATED LEGAL DESCRIPTION**  
**2.3668 ACRES**

Situated in Section 16, Town 4, Fractional Range 2, City of Cincinnati, County of Hamilton, Ohio, being a consolidation of the tracts of land conveyed to 200 Medpace Way, LLC in O.R. 15136, PG 882, and O.R. 15136, PG 887 of the Hamilton County, Ohio Recorder's Office, being more particularly described as follows:

Beginning	at a point in the northwest intersection of the rights-of-way of Covington Avenue and Stewart Avenue, being the southeasterly corner of the Grantor, and being a 5/8" iron pin with cap (set);
Thence	continuing with the northerly right-of-way of Covington Avenue and the Grantor's southerly line North 85°36'38" West for a distance of 570.99 feet to a point in the westerly right-of-way of Armada Place, being a 5/8" iron pin with cap (set);
Thence	leaving the said rights-of-way and continuing with the division line with 200 Medpace Way, LLC (Remainder Tract), North 85°36'38" West for a distance of 78.92 feet mag nail (set);
Thence	continuing with the said division line, North 04°25'22" East for a distance of 141.25 feet to a point, being a mag nail (set);
Thence	continuing North 04°25'22" East for a distance of 18.00 feet to a point, being a mag nail (set);
Thence	continuing with the Grantor's new northerly line, South 85°34'38" East for a distance of 646.36 feet to a point in the said westerly right-of-way of Stewart Avenue, being a cross notch set in sidewalk;
Thence	continuing with said westerly right-of-way, South 03°08'22" West for a distance of 18.00 feet to a point;
Thence	continuing with said westerly right-of-way, South 03°08'22" West for a distance of 140.91 feet to the said Point of Beginning.

The above-described consolidated parcel of land contains 2.3668 acres (103,096.70 S.F.), and is subject to all easements and rights-of-way of record.

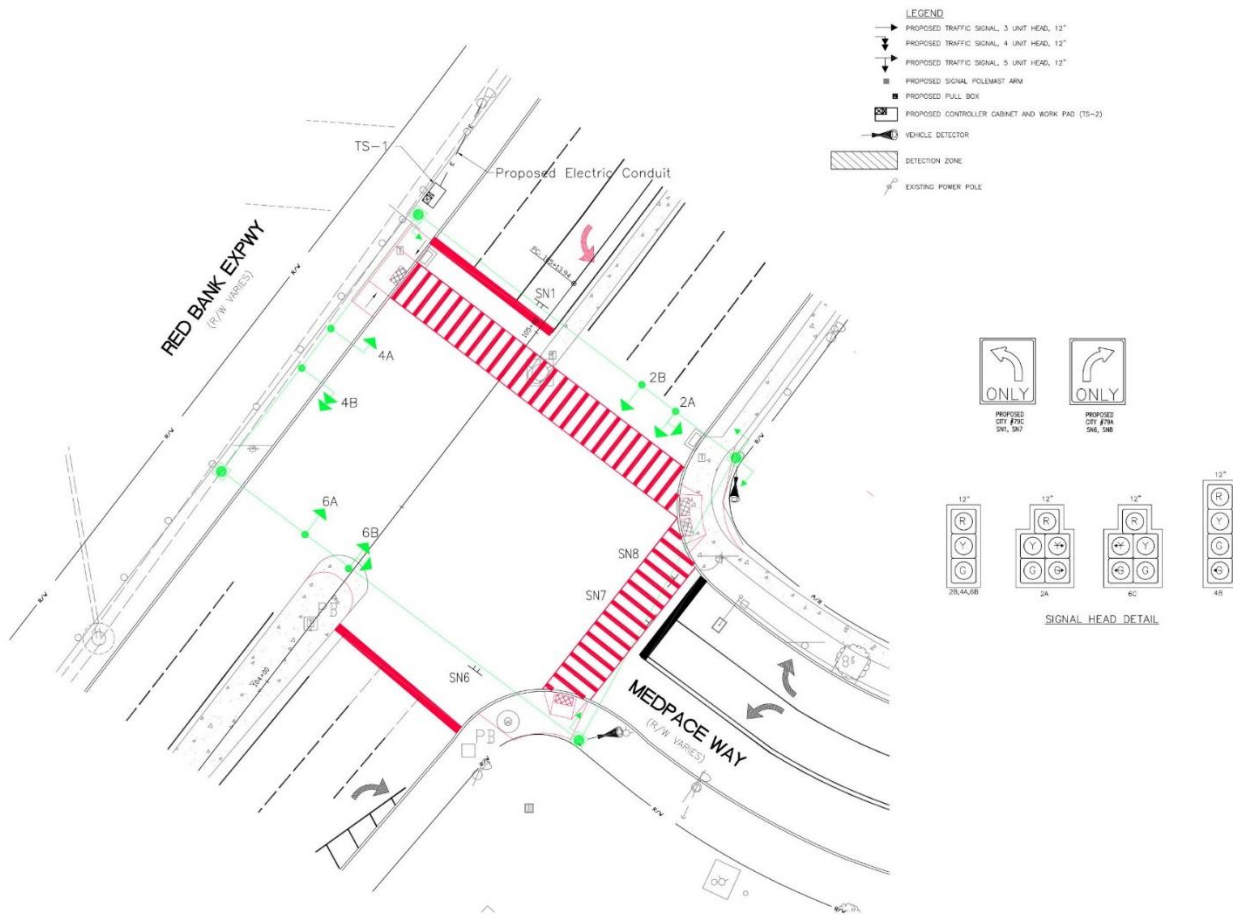
The original source of bearings for this survey are based on a plat of survey by Kleingers and Associates and a dedication plat of Medpace Way (P.B. 430, PG. 20-21) of the Hamilton County Recorder's Office).

The above description was prepared by Robert H. Roush, Jr., Ohio Professional Surveyor, No. 7999, for Surveying and Mapping, LLC, based upon a survey made by me or others under my direction, in August 2023, and that all monuments have been found or set as shown. Iron pins denoted as (set) are 5/8" diameter with a yellow plastic cap stamped "SAM LLC".

**Exhibit A-5**  
to Funding and Development Agreement  
(Medpace Phase 3 Expansion Project)

*Site Plan & Legal Description of Intersection Improvements*

**I. Site Plan**



**II. Legal Description**

Situated in Section 22, Town 4, Fractional Range 2, Town 4, Sectional Range 2, City of Cincinnati, Hamilton County, Ohio and, and being more particularly described as follows:

Commencing at the north corner of Section 22, Town 4, Fractional Range 2, also being the centerline of Madison Road and Red Bank Expressway;

Thence with Section 22, S 03°17'22" E, a distance of 546.07 feet to a point in the north Right of way of Medpace Way;

Thence leaving said Section 22 and following the said Right of way, N 85°45'46" E, 45.00 feet, to a point;

Thence continuing with said Right of way; N 86°42'38" W, 55.79 feet, to a point;

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Thence continuing with the Right of way, with a curve to the right having an arc length of 75.84 feet, a radius of 120.00 feet and being subtended by a chord bearing N 68°36'25 W for 74.58 feet to a point;

Thence continuing with said Right of way, N 50°30' 03" W, 1.38 feet, to a point; on the easterly Right of way of Red Bank Expressway; being the **Point of Beginning**.

Thence leaving the northern Right of way of Medpace Way, S 39°29' 52" W, 60.00 feet, to a point on the southerly side of Medpace Way;

Thence continuing along the southerly Right of way of Medpace Way , N 50°30' 08" W, 10.00 feet, to a point;

Thence continuing with the southerly Right of way of Medpace Way, with a curve to the left having an arc length of 23.29 feet, a radius of 15.00 feet and being subtended by a chord bearing S 85°00'33" W for 21.02 feet to a point on the easterly Right of way of Red Bank Expressway;

Thence continuing with the southerly Right of way of Red Bank Expressway, S 40°31'13" W, 10.01 feet;

Thence leaving said right of way, N 52°26'52" W, 101.55 feet, to a point of the westerly Right of way of Red Bank Express Way;

Thence continuing with said westerly Right of way, N 37°33'08" E, 107.16 feet, to a point;

Thence continuing with the westerly right-of-way of Red Bank Expressway with a curve to the left having an arc length of 29.78 feet, a radius of 1440.00 feet and being subtended by a chord bearing N 36°57'36" E for 29.78 to a point;

Thence leaving said westerly right of way, S 52°26'52" W, 106.50 feet, to a point of the easterly Right of way of Red Bank Expressway;

Thence continuing with the easterly right-of-way of Red Bank Expressway with a curve to the left having an arc length of 38.68 feet, a radius of 1545.00 feet and being subtended by a chord bearing S 36°52'46" W for 38.68 to a point;

Thence leaving the easterly right-of-way of Red Bank Expressway with a curve to the left having an arc length of 20.74 feet, a radius of 15.00 feet and being subtended by a chord bearing S 5°02'39" E for 19.13 to a point on the northerly Right of way of Medpace Way;

Thence continuing said northerly right of way, S 50°30'03" E, 10.00 feet, to the **Point of Beginning**.

Containing 0.365 acre of land, more or less, subject to all easements, conditions, covenants, restrictions, and rights-of-way of record. The Basis of Bearings is from a field survey reference by Kleingers & Associates from a survey of the Childrens Home of Cincinnati. This legal description describes the area for the proposed traffic signal and associated road improvements to Red Bank Expressway at the intersection of Red Bank Expressway and Medpace Way

Exhibit B-1  
to Funding and Development Agreement  
(Medpace Phase 3 Expansion Project)

*Description of Private Improvements*

Private Improvements (CPU Building & New 300 Office Building)

Private Improvements will consist of Developer's design and construction of:

- New CPU Building
  - An approximately 75,000 square foot facility initially used to host clinical pharmacology units of the Company
- New 300 Office Building
  - An approximately 579,000 square foot, seven story office tower with an integrated approximately 287-space parking garage.

Exhibit B-2  
to Funding and Development Agreement  
(Medpace Phase 3 Expansion Project)

*Description of Public Infrastructure Improvements*

Public Infrastructure Improvements (Off-Street Parking Facility)

The Public Infrastructure Improvements for the Phase 3 Project scope includes, but is not limited to, all design and construction associated with demolition, and construction, installation signage, earth work, storm water management and all other utilities. The location of parking garage is depicted on Exhibit A-1 and will all be constructed in a single phase as follows:

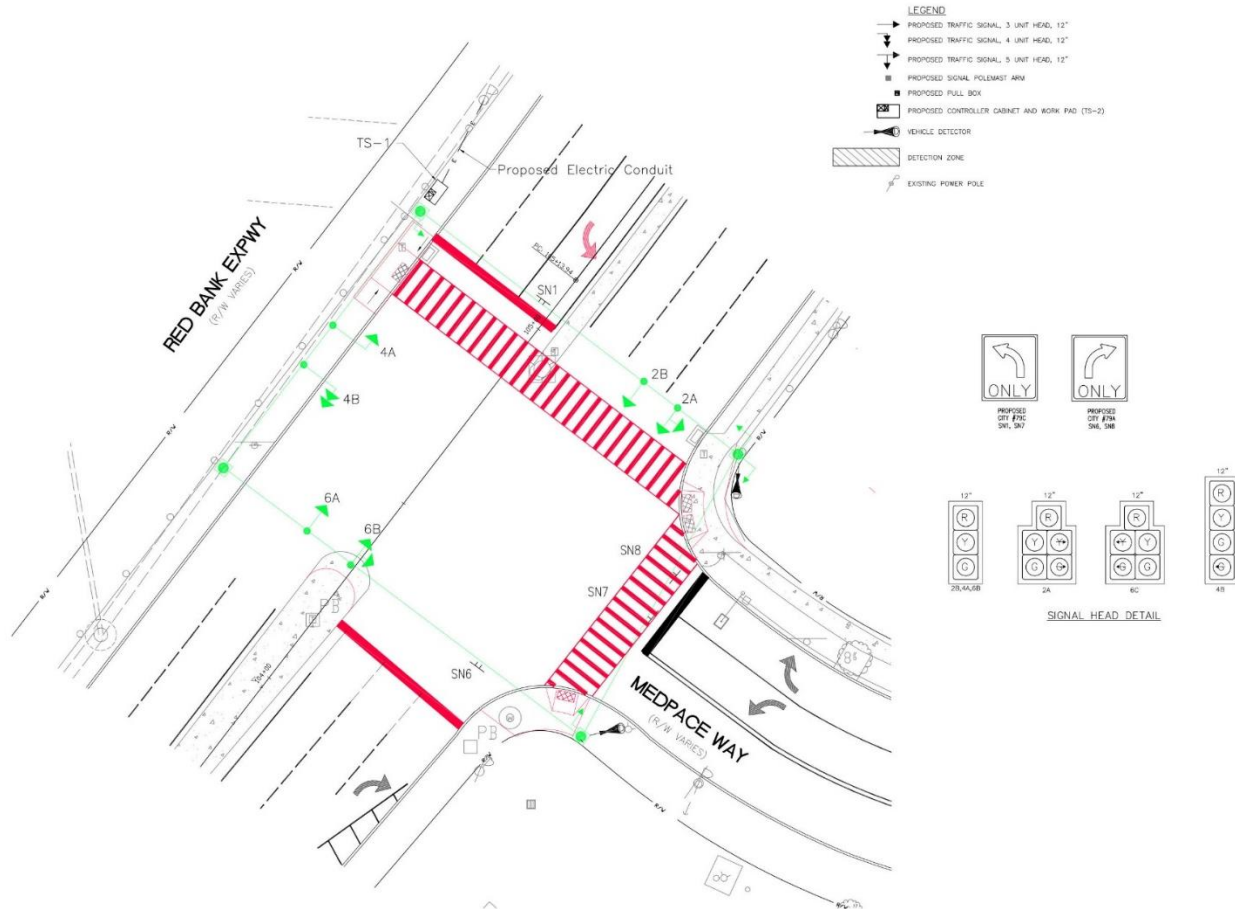
Public Infrastructure Improvements will consist of Developer's design and construction of:

- An approximately 343,000 square foot, 1,107-space standalone parking garage.
  - The parking garage will consist of all work associated with the garage area, including the necessary foundation, footings, caissons, concrete floor, walls, steel, underground utilities, meter pit, fire main service, floor drains, elevators and stairs, garage level lobby finishes, electric heaters, masonry, plumbing, HVAC, sprinkler and electric.
- All design, engineering, plans, specifications and soft costs associated with public improvements
- Demolition
  - Removal and milling of asphalt
  - Removal of underground utilities and foundations, as required.
- Site/Earthwork Improvements
  - Earthwork; rough and fine grading; site preparation of all blocks as necessary for vertical development of the public infrastructure improvements
- Utilities
  - Installation electric and associated lighting, fiber and other communication lines throughout the Garage Site
  - Installation of other new utilities or relocation of existing utilities as needed throughout the project site
- Roads/Driveways/Walkways
  - Installation of street-lights, vegetation, signage, fixtures, exhibits, and installations
  - Roadways and walkways striped, marked, and designated with wayfinding signage

Exhibit B-3  
to Funding and Development Agreement  
(Medpace Phase 3 Expansion Project)

*Description of Intersection Improvements*

Intersection Improvement Description



Developer's roadwork will consist of infrastructure improvements at the intersection of Red Bank Expressway and Medpace Way on the west side of the Medpace Campus. The eligible roadway improvements include new pavement markings, adjustment of the existing elevated medians to allow for proper vehicle movement, and a new traffic signal. Accordingly, Developer shall cause the completion of all of the following with respect to the Intersection Improvements at the Intersection Improvement Site:

1. Roadwork Improvements.
  - a. Site Preparation
  - b. Pavement
  - c. Drainage
2. Technological Improvements.
  - a. Installation of traffic signals,
  - b. Installation of crosswalk signals
  - c. Installation of signage.

Exhibit C-1  
to Funding and Development Agreement

(Medpace Phase 3 Expansion Project)

*Preliminary Budget – Private Improvements*

	<b>USES</b>		
	<b>Private Improvements</b> <i>Building 300</i>	<b>Private Improvements</b> <i>CPU Building</i>	<b>Total</b>
Land	23,077,154	1,000,000	24,077,154
Parking	10,455,984	In Core & Shell	10,455,984
Office Core & Shell	108,266,433	26,800,000	135,066,433
Office TI	47,010,002	In Core & Shell	47,010,002
IT/AV	8,000,000	200,000	8,200,000
FF&E	28,200,000	2,500,000	30,700,000
Sitework	7,873,377	In Core & Shell	7,873,377
<b>Total Hard Costs</b>	<b>232,882,950</b>	<b>30,500,000</b>	<b>263,382,950</b>
Soft Costs @ 10%			26,338,295
<b>Total Project Costs</b>			<b>289,721,245</b>

Exhibit C-2  
to Funding and Development Agreement  
(Medpace Phase 3 Expansion Project)

*Preliminary Budget – Public Infrastructure Improvements*

<b>USES</b>		
	<b>Public Improvements</b> <i>Parking Garage</i>	<b>Total</b>
Construction Hard Costs	33,795,810	33,795,810
<b>Total Hard Costs</b>	<b>33,795,810</b>	33,795,810
Land		1,500,000
Soft Costs		1,879,581
<b>Total Public Infrastructure Costs</b>		<b>37,175,391</b>



Exhibit C-3  
to Funding and Development Agreement  
(Medpace Phase 3 Expansion Project)

*Preliminary Budget – Intersection Improvements*

<b>USES</b>					
	<b>City Funds</b>	<b>ODOD Grant</b>	<b>ODOT Grant</b>	<b>Medpace, Inc. Equity</b>	<b>Total</b>
Roadwork Improvements <i>(site preparation, pavement, drainage, etc.)</i>	22,000.00	40,000.00	25,000	7,000	<b>94,000.00</b>
Technological Improvements <i>(traffic signals, crossing signals, signage, etc.)</i>	83,000.00	160,000.00	100,000	7,000	<b>350,000.00</b>
<b>Subtotal</b>	<b>105,000</b>	<b>200,000</b>	<b>125,000</b>	<b>14,000</b>	<b>444,000.00</b>
Contingency @ 25%	95,000.00			16,000.00	<b>111,000.00</b>
<b>Total Project Costs</b>	<b>200,000.00</b>	<b>200,000.00</b>	<b>125,000.00</b>	<b>30,000.00</b>	<b>555,000.00</b>

The parties may elect to revise this budget to reallocate the funds between budget line items through a letter signed by both the City and Developer. However, in no event will the City add any additional funds to this budget. In the event of cost overruns, it shall be Developer's responsibility to complete the Intersection Improvements.

Exhibit D-1  
to Funding and Development Agreement  
(Medpace Phase 3 Expansion Project)

*Sources of Funds – Private Improvements*

<b>SOURCES</b>	
Developer Equity	\$226,150,763.00
Tenant Contribution (Medpace)	\$30,020,482.00
CPU Costs (Medpace)	\$33,550,000.00
<b>Total</b>	<b>\$289,721,245.00</b>

Exhibit D-2  
to Funding and Development Agreement  
(Medpace Phase 3 Expansion Project)

*Sources of Funds – Public Infrastructure Improvements*

<b>SOURCES</b>	
Senior Bonds (less financing costs, reserve fund, etc.)	\$27,595,246.98
Subordinate Bonds (less financing costs, reserve fund, etc.)	\$8,080,144.02
City Public Infrastructure Improvement Funds (City capital funds)	\$1,500,000.00
<b>Total</b>	<b>\$37,175,391.00</b>

Exhibit D-3  
to Funding and Development Agreement  
(Medpace Phase 3 Expansion Project)

*Sources of Funds – Intersection Improvements*

<b>SOURCES</b>	
City Match	\$200,000
Private Contribution	\$30,000
ODOT Jobs & Commerce Grant	\$125,000
ODOD 629 Grant	\$200,000
<b>Total</b>	<b>\$555,000</b>

Exhibit E  
to Funding and Development Agreement  
(Medpace Phase 3 Expansion Project)

*Form of Service Agreement*

SEE ATTACHED

[Each of the CPU Site and Office Site will have their own respective Service Agreements]

[SPACE ABOVE FOR RECORDER'S USE]

Contract No: \_\_\_\_\_

**SERVICE AGREEMENT**  
(Medpace Phase 3 Expansion Project)

This Service Agreement (this "**Agreement**") is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2024 (the "**Effective Date**"), by and among the **CITY OF CINCINNATI**, an Ohio municipal corporation, 801 Plum Street, Cincinnati, Ohio 45202 (the "**City**") and **[Owner of Parcel]**, an Ohio limited liability company, 5375 Medpace Way, Cincinnati, Ohio 45227 ("**Owner**"), pursuant to the terms of a certain *Funding and Development Agreement* between the City and RBM Development Company, LLC, an Ohio limited liability company (the "**Developer**") and an affiliate of Owner, dated [\_\_\_\_], 2024 (the "**Development Agreement**"). Capitalized terms used, but not defined, herein shall have the meanings ascribed thereto in the Development Agreement.

Recitals:

A. Owner is the fee owner of [[approximately \_\_\_\_] acres of real property located at 5401 Hetzel Avenue, Cincinnati, Ohio 45227, as more particularly described on Exhibit A (Legal Description) hereto (the "**Property**")]] [[approximately 3.52] acres of real property located at [5375] Medpace Way, Cincinnati, Ohio 45227, as more particularly described on Exhibit A (Legal Description) hereto (the "**Property**")]].

B. Pursuant to the terms of the Development Agreement, Developer has agreed to construct or cause to be constructed (i) the Private Improvements, which includes the construction of (a) a new approximately 75,000 square foot commercial building on the CPU Site (the "**CPU Project**"), and (b) a new approximately 580,000 square foot, seven story office building and an approximately 287-space integrated structured parking garage and related private improvements on the Office Site (the "**Office Project**"), and (ii) the Public Infrastructure Improvements, which includes an approximately 1,107-space parking garage (collectively, the "**Improvements**" or the "**Project**").

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

D. In furtherance of the public purpose and to facilitate the Project, and as authorized by Ordinance No. \_\_\_\_-2024 passed by City Council on \_\_\_\_\_, 2024 (the "**TIF Ordinance**"), the City has established a so-called project-based TIF for several parcels, including the Property, under Section

5709.40(B) of the Ohio Revised Code ("**ORC**"), such parcels being referred to hereinafter as the "**TIF Parcels**".

E. Under the TIF Ordinance and in accordance with ORC Section 5709.40(B), et seq. and this Agreement, the increase in assessed value of the Property subsequent to passage of the TIF Ordinance shall be exempt from real property taxes (the "**TIF Exemption**"), and all present and future owners of the Property, or any portion thereof, shall be required to make service payments in lieu of taxes, in semi-annual installments, in an amount equal to the amount of real property taxes that would have been paid on the Exempt Improvements (as defined below) had the TIF Exemption not been granted ("**Statutory Service Payments**").

F. Pursuant to its authority under Ohio law, including, without limitation, its home rule authority and ORC Section 5709.91, the City requires the Owner to pay Minimum Service Payments (as defined below) as required hereunder (the payments received by the City in the form of Statutory Service Payments and Minimum Service Payments, less any fees charged with respect to the Statutory Service Payments by Hamilton County, being referred to herein collectively as "**Service Payments**").

G. The Property is located within the City School District of the City of Cincinnati, and the Board of Education of the City School District of the City of Cincinnati ("**Board of Education**") has, by resolution adopted on February 5, 2020, and by an agreement entered into with the City dated April 28, 2020, approved an exemption of 100% of the assessed valuation of the improvements to the Property for 30 years (subject to the obligation of the City to make payments to the Board of Education as provided in Section II.C.2 of that agreement).

H. As provided in the Development Agreement, the City intends to use the Statutory Service Payments, less any fees due to the Hamilton County Auditor with respect to the Statutory Service Payments, to (i) satisfy its obligation to make payments to the Board of Education (the "**School District Compensation**"), (ii) cover certain fees to the City provided in the Development Agreement, (iii) pay the Bond Obligations (as defined in the Development Agreement) issued by the Port of Greater Cincinnati Development Authority (the "**Port Authority**"), pursuant to a Trust Agreement between the Port Authority and the trustee for the Bonds (the "**Trust Agreement**") and approved by the City, and (iv) to the extent there are any excess Statutory Service Payments, for any lawful purpose.

I. The parties intend that this Agreement, as amended and supplemented from time to time, shall constitute the agreement contemplated by ORC Section 5709.40, et seq. and shall define the obligations of Owner, for itself and its successors-in-interest and assigns, with respect to the Service Payments. The Minimum Service Payments, whether paid to the City or to the Bond Trustee, shall constitute minimum service payments obligations pursuant to ORC Section 5709.91, secured by a tax lien as provided in ORC Section 5709.91.

J. Execution of this Agreement has been authorized by City Council by the TIF Ordinance and Ordinance No. [ ]-2024, passed by City Council on [ ], 2024.

NOW, THEREFORE, in consideration of the premises and the mutual covenants hereinafter contained, the City and the Owner agree as follows:

1. **CONSTRUCTION OF IMPROVEMENTS.** The Owner will cooperate with the Developer to cause the construction of the [CPU Project] [Office Project] component of the Improvements in accordance with the terms of the Development Agreement. Failure to use and operate the Improvements as required under the Development Agreement shall not relieve the Owner of its obligations to make Service Payments as required hereunder. During the Exemption Period, the Owner shall not change the principal use of the Improvements without the City's prior written consent.

2. **OBLIGATION TO MAKE SERVICE PAYMENTS.**

A. Declaration that Exempt Improvements are a Public Purpose. The City hereby confirms that, pursuant to ORC Section 5709.40, et seq., and the TIF Ordinance, the City declared that 100% of the increase in the assessed value of the Property subsequent to the passage of the TIF Ordinance (the “**Exempt Improvements**”) constitutes a public purpose and is entitled to exemption from real property taxes for a period of 30 years commencing on the first day of the tax year in which any Exempt Improvements resulting from construction of a structure on the Property first appear on the tax list and duplicate of real and public utility property and that commences after the effective date of the TIF Ordinance (the “**Exemption Period**”).

B. Commencement of Statutory Service Payments. The Owner shall commence paying Statutory Service Payments no later than the final date for payment (the last day that payment can be made without penalty or interest) of the first semi-annual installment of real property taxes in the first calendar year after the first tax year in which any Exempt Improvements resulting from construction of a structure on the Property first appear on the Hamilton County Auditor's tax duplicate. (For example, if Exempt Improvements associated with the construction of a structure on the Property first appear on the tax rolls on January 1, 2025, the Owner's first semi-annual tax payment will be for the tax bill for the First Half 2025, which will become due and payable to the County Treasurer on or about January 2026). The Owner shall pay Statutory Service Payments in semi-annual installments (i) on the earlier of such final date for payment of the first semi-annual installment of real property taxes, or February 1, in each year, and (ii) on the earlier of such final date for payment of the second semi-annual installment of real property taxes, or August 1, in each year (each such final date for payment is referred to herein as a “**Service Payment Date**”). The Owner shall continue to make Statutory Service Payments until such time as the Owner has paid the final Statutory Service Payment applicable to the Exemption Period.

C. Amount of Statutory Service Payments. Each semi-annual Statutory Service Payment shall be paid to the Hamilton County Treasurer in an amount equal to one-half ( $\frac{1}{2}$ ) of the annual amount that would have been payable in that year as real property taxes with respect to the Exempt Improvements had an exemption not been granted. (However, if after the first semi-annual Statutory Service Payment has been determined and paid, the total annual amount for that year is adjusted by the taxing authorities, the amount of the second semi-annual Statutory Service Payment shall be adjusted accordingly.) The Statutory Service Payments shall vary as the assessed value of the Exempt Improvements and the applicable tax rate vary from time to time.

D. Estimation. If, as of the Service Payment Date, the amount of the real property taxes that would have been payable on the Exempt Improvements (if not exempt) cannot be or has not been finally determined, the amount of such taxes shall be estimated by the Hamilton County Auditor or by the City (even though such taxes may be subject to contest, later determination, or adjustment because of revaluation of the Exempt Improvements) for the applicable tax year. If the sum of Statutory Service Payments so calculated and paid in any year is subsequently determined not to be equal to the total amount of real property taxes that would have been paid in that year with respect to the Exempt Improvements (if not exempt), the Owner or the City shall promptly pay or repay any deficiency or excess, as appropriate, to the other within 30 days after written demand; *provided, however*, that nothing in this sentence shall be construed to require the City to repay to the Owner any amount that would reduce the total payments in any year to an amount less than the Statutory Service Payments required to be paid in that year.

The Minimum Service Payments, if and when due, unless invoiced by the Hamilton County Treasurer, shall be invoiced to the Owner(s) by the Port Authority's third-party TIF administrator (the “**Administrator**”) on behalf of the City, or by the Bond Trustee on direction of the Administrator, no later than each Minimum Service Payment Date, as applicable and shall be timely paid to the Bond Trustee. Notwithstanding the foregoing, failure by the Administrator, or any other party, to invoice a Minimum Service Payment shall not relieve the Owner from its obligation to pay such amounts hereunder.

Total Service Payment Amounts (as defined below) for each TIF Parcel are set forth in Exhibit C (*Schedule of Total Service Payment Amounts for All TIF Parcels*) hereto.



E. Minimum Service Payments.

In addition to the words and terms defined elsewhere in this Agreement:

**"Aggregate Minimum Service Payment Amount"** means, for any given Test Date, the Aggregate Service Payment Shortfall Amount with respect to all Deficient Parcels with a Service Payment Shortfall as of the applicable Test Date, less any amounts on deposit in the Revenue Fund (as defined in the Trust Agreement) under the Trust Agreement, other than amounts transferred to the Revenue Fund from the Debt Service Reserve Fund in excess of the Reserve Requirement (as those terms are defined in the Trust Agreement), available for payment of debt service charges and administrative expenses on the Bonds as of the applicable Test Date.

**"Aggregate Service Payment Shortfall Amount"** means the total sum of the Service Payment Shortfalls for all Deficient Parcels as of any given Test Date.

**"Deficient Parcel"** means, as of any given Test Date (as defined below), a TIF Parcel which produces Net Service Payments actually collected equal to less than one-half (1/2) of the applicable Total Service Payment Amount for that TIF Parcel.

**"Minimum Service Payment"** means, for any given Minimum Service Payment Date, the amount due with respect to the Property if it has a Service Payment Shortfall as of the applicable Test Date, determined by multiplying the Percentage of Shortfall for the Property times the Aggregate Minimum Service Payment Amount as of the applicable Test Date.

**"Net Service Payments"** means, as of any given Test Date, the Statutory Service Payments received by the City for the immediately preceding Service Payment Date net of (1) any fees charged with respect to the Statutory Service Payments by Hamilton County, (2) the City's monitoring and servicing costs and expenses with respect to the transactions contemplated by the Development Agreement the "City Monitoring and Service Fee"), and (2) the School District Compensation.

**"Percentage of Shortfall"** means, with respect to any Deficient Parcel, the Service Payment Shortfall for such Deficient Parcel, divided by the Aggregate Service Payment Shortfall Amount.

**"Service Payment Shortfall"** means, with respect to any Deficient Parcel, the amount, if any, by which the actual Net Service Payments as of any Test Date are less than one-half (½) of the applicable the Total Service Payment Amount for such Deficient Parcel.

There is hereby established the **"Total Service Payment Amount"** as shown on Exhibit B (*Schedule of Total Service Payment Amounts*) hereto, which amount is calculated based upon the anticipated amount of real property taxes that would have been payable with respect to the Exempt Improvements, as fully constructed, had an exemption not been granted under the TIF Ordinance. If and to the extent there is a Service Payment Shortfall for the Property on any given April 15 (with respect to the first half tax bill) or October 15 (with respect to the second half tax bill) (each a **"Test Date"**), the Owner shall pay directly to the Bond Trustee, no later than no later than May 1 or November 1, respectively (or on such other date as may be reflected on Exhibit B hereto, each being a **"Minimum Service Payment Date"**), an amount equal to the allocated Minimum Service Payment for the Property.

In the event that Statutory Service Payments are not yet due (for example, because no real property tax has commenced to accrue for the Exempt Improvements) or never come due, the Owner shall nevertheless be required to pay Minimum Service Payments to the Bond Trustee, on the Minimum Service Payment Dates in the amount of the Minimum Service Payment as calculated above. The Owner shall make all Minimum Service Payments to the Bond Trustee on the Minimum Service Payment Dates. The Owner shall simultaneously send copies of checks (or evidence of electronic payment to the Bond Trustee, if applicable) and any cover letter to the Bond Trustee to the City c/o City Treasurer, Room 202, City Hall, 801 Plum Street, Cincinnati, Ohio 45202. Each payment must be made in immediately available funds by not later than 2:00 p.m. Eastern time on the date such payment is due. So long as Bond Obligations are outstanding, upon receipt of notice of nonpayment and at the direction of the Administrator, the City shall

promptly certify the amount of the unpaid Minimum Service Payment as a lien on the Property and undertake all other required actions to enable the Minimum Service Payment to be collected as a tax payment under ORC Section 5709.91.

F. Late Payment. If any Statutory Service Payment or Minimum Service Payment, or any installment of either, is not paid when due, then, to the extent that Hamilton County does not impose a late fee or delinquency charge, the Owner shall pay to the City, as a late payment charge, the amount of the charges for late payment of real property taxes, including penalty and interest, that would have been payable pursuant to ORC Section 323.121 on the delinquent amount. In addition, if the Owner fails to make any Minimum Service Payment required hereunder, the Owner shall pay, in addition to the Minimum Service Payment the Owner was required to pay and any late payment charges as stated above, such amount as is required to reimburse the City for all costs and other amounts (including, without limitation, attorneys' fees) paid or incurred by the City to enforce the Service Payment obligations against the Owner or against the Property. The Owner acknowledges that delays in the making of any Service Payments may, among other things, result in delays in the City's ability to timely transfer required amounts to the Port Authority for payment of the Bond Obligations.

**3. PAYMENT OBLIGATIONS TO HAVE LIEN PRIORITY.** The Statutory Service Payments and Minimum Service Payments shall be treated as a tax lien in the same manner as real property taxes and will have the same lien, rights, and priority as all other real property taxes. Such a lien shall attach and may be perfected, collected, and enforced as provided by law, including enforcement by foreclosure upon such lien pursuant to the procedures and requirements of Ohio law relating to mortgages, liens, and delinquent real estate taxes. The Owner hereby agrees that the obligations to make Statutory Service Payments and Minimum Service Payments shall have the same priority as the obligation to pay real estate taxes in the event of any bankruptcy or other like proceeding instituted by or against the Owner. The Owner agrees not to contest the lien, rights, or priority of the Statutory Service Payments or the Minimum Service Payments with respect to the Property.

**4. RECORDING; OBLIGATIONS TO RUN WITH THE LAND; ASSIGNMENT.**

A. Recording. Promptly after the execution of this Agreement, the Owner shall cause this Agreement to be recorded in the Hamilton County, Ohio Recorder's Office, at its expense, prior to any mortgage, assignment, or other conveyance of any part of the Improvements or the Property, and failure to do so shall constitute a default under this Agreement. All instruments of conveyance of the Improvements or the Property or the Owner's ownership of the same (or portions thereof) to subsequent mortgagees, successors, assigns or transferees shall be subject to this Agreement, and the Owner shall cause all instruments of conveyance of interests in all or any portion of the Property to subsequent mortgagees, successors, lessees, assigns, or other transferees to be made expressly subject to this Agreement. The Owner shall provide a recorded copy of this Agreement to the City within 5 business days after recording.

B. Covenants Running with the Land. The Owner agrees that the obligation to perform and observe the agreements on the Owner's part contained herein shall be covenants running with the land and, in any event and without regard to technical classification or designation, legal or otherwise, shall be binding and enforceable by the City against the Owner and the Owner's successors-in-interest and transferees as Owners from time to time of the fee simple interest in the Property, without regard to whether the City has at any time been, remains, or is an owner of any land or interest therein to, or in favor of, which these covenants relate. The Owner and the Owner's successors-in-interest and transferees as Owners from time to time of the fee simple interest in the Property by virtue of their acquisition thereof, acknowledge that the provisions of ORC Section 5709.91, which specify that the Service Payments will be treated in the same manner as taxes for all purposes of the lien described in ORC Section 323.11 including, but not limited to, the priority of the lien and the collection of Statutory Service Payments and Minimum Service Payments, applies to the Property and any improvements thereon.

C. Obligations are Absolute and Unconditional. The obligations of the Owner, as fee simple owner, to make Service Payments under this Agreement will not be terminated for any cause including, without limitation, failure to commence or complete the Improvements; any acts or circumstances that may constitute failure of consideration, destruction of or damage to the Improvements; commercial frustration of

purpose; or any change in the constitution, tax or other laws or judicial decisions or administrative rulings of or administrative actions by or under authority of the United States of America or of the State of Ohio or any political subdivision thereof. The obligation to make Service Payments shall survive the termination of this Agreement to the extent this Agreement terminates prior to the payment in full of all Service Payments with respect to the Exempt Improvements.

## **5. PAYMENT OF TAXES; TAX CONTESTS.**

A. Payment of Taxes. With respect to real property taxes that are not exempted under the TIF Ordinance, the Owner shall pay or cause to be paid, as the same become due, (i) all such taxes, assessments, whether general or special, and governmental charges of any kind whatsoever that may at any time be lawfully assessed or levied against or with respect to the Property and/or the non-exempt improvements or any personal property or fixtures of the Owner installed or brought thereon (including, without limitation, any taxes levied against the Owner with respect to income or profits from operations at the Property and which, if not paid, may become or be made a lien on the Property or the Exempt Improvements), and (ii) all utility and other charges incurred in the operation, maintenance, use, and occupancy of the Property and the Improvements.

B. Tax Contests. Except for Section 6 hereof, nothing in this Agreement is intended to prevent the Owner, at its expense and in good faith, from applying for exemption of any non-exempt improvements, or contesting the amount or validity of any such taxes, assessments, or other charges, including contesting the real estate valuation of the Property and the Improvements. Nothing in this paragraph shall be construed to relieve the Owner of the duty to make the Minimum Service Payments as required by this Agreement or to reduce the Total Service Payment Amounts hereunder.

**6. TAX EXEMPTION.** The Owner (including, without limitation, any successors and assigns of the Owner, as applicable), shall not, without the consent of the City, seek any tax exemption for the Property, or any portion thereof, other than the exemption provided hereunder and pursuant to the TIF Ordinance during the Exemption Period. Owner hereby agrees (on its own behalf and, for the avoidance of doubt, on behalf of its successors and assigns) that the ownership of the Property by a non-profit entity, or port authority that would otherwise be exempt from real property taxes shall in no way derogate or limit the obligation to pay Service Payments hereunder (including, without limitation, the obligation to pay Minimum Service Payments). Notwithstanding the foregoing, this Section shall cease to apply once the Bond Obligations are no longer outstanding, as certified by the Bond Trustee, in consultation with the City Finance Department.

## **7. INSURANCE COVERAGE AND PROCEEDS.**

A. Coverage. The Owner shall provide and maintain, or cause to be provided and maintained, special form (formerly known as "all risk") full replacement cost property insurance on the Improvements and other improvements on the Property or any replacements or substitutions therefor (to the extent the same are owned by the Owner) from an insurer that is financially responsible, of recognized standing, and authorized to write insurance in the State. Such insurance policy shall be in such form and with such provisions as are generally considered reasonable and appropriate for the type of insurance involved and shall prohibit cancellation or modification by the insurer without at least thirty days' prior written notice to the City, the Port Authority, the Bond Trustee and the Owner. The Owner shall provide proof of such insurance promptly upon request by the City, Port Authority or Bond Trustee.

B. Proceeds. The policies of any property insurance, including builder's risk insurance, as required under Section 7.A. of this Agreement, shall name the City and, while any Bond Obligations are outstanding, the Port Authority and the Bond Trustee (if any) as additional loss payees. In the event of any damage to, or destruction of, all or any of the Improvements, the proceeds of such insurance (the "**Property Insurance Proceeds**") shall be applied (i) first, to repair, rebuild, restore, or replace the property damaged, or destroyed to the same (or better) condition as existed immediately prior to the damage or destruction, but only if such repair, restoration or replacement is permitted under the terms of the Owner Mortgage Financing (as defined below), (ii) second, otherwise pursuant to the terms of any financing provided to the Owner by third-party (non-affiliate) mortgage lenders ("**Owner Mortgage Financing**"), and (iii) third, the

remainder to the Owner or the first lien holder under the Owner Mortgage Financing. In the event that the Improvements are deemed irreparable by the Owner, the Property Insurance Proceeds will be applied (1) first, pursuant to the terms of any Owner Mortgage Financing, (2) second, to the redemption of a pro-rata portion of the Bond Obligations determined by multiplying the then outstanding principal amount of the Bond Obligations by the quotient of (x) the assessed valuation (as determined from time to time by the Hamilton County Auditor, the "**Assessed Valuation**") prior to the casualty or condemnation resulting in proceeds being generated of the Property upon or within which the Exempt Improvements are or were located, and (y) the total aggregated Assessed Valuation of all TIF Parcels, and (3) third, the remainder to the Owner.

**8. CONDEMNATION PROCEEDS.** In the event any portion of the Property or the Improvements shall be taken as a result of the exercise of the power of eminent domain by any governmental entity or other person, association, or corporation possessing the right to exercise the power of eminent domain, the proceeds of such eminent domain award received by the Owner shall be used for the same purposes specified with respect to insurance proceeds in Section 7 above.

**9. NOTICES.** All notices or other communications under this Agreement shall be deemed given on receipt when personally delivered, or 48 hours after being mailed by U.S. registered or certified mail, postage prepaid, addressed to the City at 801 Plum Street, Cincinnati, Ohio 45202, Attention: City Manager, with a copy to the Director of the Department of Community and Economic Development, City of Cincinnati, 805 Central Avenue, Suite 700, Cincinnati, Ohio 45202; and, at Owner's address set forth in the introductory paragraph hereof. If the Owner sends a notice to the City alleging that the City is in default under this Agreement, the Owner 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, Ohio 45202. The City and the Owner may, by notice given under this Agreement, designate any further or different addresses to which subsequent notices or other communications shall be sent for the respective party.

**10. COVENANTS AND REPRESENTATIONS.** The Owner represents that it is a duly organized and existing Ohio limited liability company as identified in the introductory paragraph of this Agreement, that it is in good standing under the laws of the State of Ohio, and that it is qualified to do business in the State of Ohio. The Company covenants that it will remain in existence and so qualified as long as it is required to make Service Payments hereunder as Owner.

**11. EXEMPTION APPLICATION.** The Owner, or its representatives (as applicable), shall prepare, execute, and (following the City's prior receipt of copies for review and approval in the City's sole and absolute discretion) file, in a timely fashion after the Effective Date (but not later than January 31, 2025), such applications, documents, and other information with the appropriate officials of the State of Ohio and Hamilton County, or other public body as may be required to effect and maintain during the Exemption Period as described in ORC Chapter 5709 the exemption from real property taxation as contemplated by said Chapter. The Owner and the City currently expect that such exemption from real property taxation shall apply initially to the 2025 tax year. As a covenant running with the land, the Owner shall continuously use due diligence and employ commercially reasonable efforts to keep such exemption in force, not permitting the same to lapse or be suspended or revoked for any reason within the Owner's control. In the event that subsequent to the allowance of such exemption, the same is at any time revoked or suspended due to the act or omission of the Owner, the Owner shall nevertheless continue to make Service Payments throughout the Exemption Period.

**12. DEFAULTS AND REMEDIES.** If the Owner fails to make any Service Payment when due (time being of the essence), or if the Owner fails to observe or perform any other obligation hereunder and such other non-payment failure continues for more than 30 days after the City notifies the Owner in writing thereof, the City, and the Port Authority and the Bond Trustee as third party beneficiaries while Bonds are outstanding, shall be entitled to exercise and pursue any and all rights and remedies available to it hereunder, at law or in equity, including, without limitation, (i) foreclosing the lien created hereby, and (ii) terminating the Owner's rights hereunder without modifying or abrogating the Owner's obligation to make Service Payments; *provided, however*, that if the nature of the default (other than a Payment Default, with respect to which there is no cure period) is such that it cannot reasonably be cured during such 30-day cure period, the Owner shall not be in default under this Agreement so long as the Owner commences to cure the default within such cure period and thereafter diligently completes such cure within 60 days after the

Owner's receipt of the City's initial notice of default from the City, Port or Bond Trustee. The Owner shall pay to the City, Port Authority or Bond Trustee upon demand an amount equal to all costs and damages suffered or incurred by the City, Port Authority or Bond Trustee in connection with such default, including, without limitation, attorneys' fees. Waiver of any default shall not be deemed to extend to any subsequent or other default under this Agreement and shall be made by the City with the consent of the Port Authority or Bond Trustee while Bonds are outstanding. All rights and remedies hereunder are cumulative.

**13. DURATION OF AGREEMENT.** This Agreement shall become effective on the Effective Date and, except with respect to those provisions expressly stated to survive the expiration of this Agreement (including, without limitation, the obligation to continue to make Service Payments), shall expire on the day following the date of payment of the final Service Payment applicable to the Exemption Period, unless terminated earlier in accordance with the terms of this Agreement. This Agreement shall survive any foreclosures, bankruptcy, or lien enforcement proceedings. Upon such expiration, the City shall deliver to the Owner such documents and instruments as the Owner may reasonably request to evidence such expiration.

**14. GENERAL PROVISIONS.**

A. Counterparts. This Agreement may be executed by the parties hereto in several counterparts, each of which shall be regarded as an original and all of which shall constitute one and the same Agreement.

B. Captions. Captions have been provided herein for the convenience of the reader and shall not affect the construction of this Agreement.

C. Governing Law and Choice of Forum. This Agreement shall be governed by the laws of the City of Cincinnati and the State of Ohio and shall be interpreted and enforced in accordance with the laws of this State without regard to the principles of conflicts of laws. All unresolved claims and other matters in question between the City and the Owner shall be decided in the Hamilton County Court of Common Pleas. The parties hereby waive trial by jury.

D. Severability. If any provision of this Agreement is determined to be illegal, invalid, or unenforceable, it is the intention of the parties that the remainder of this Agreement shall not be affected thereby, and in lieu of each provision that is illegal, invalid, or unenforceable, there shall be added as a part of this Agreement provision as similar in terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable.

E. Additional Documents. The City and the Owner agree to execute any further agreements, documents or instruments as may be reasonably necessary to fully effectuate the purpose and intent of this Agreement to the extent permitted by this Agreement and in compliance with all laws and ordinances controlling this Agreement.

F. Entire Agreement; Amendments. This Agreement, together with the Development Agreement and other Project Documents, constitutes the entire agreement of the parties with respect to the subject matter hereof and supersedes all prior understandings and agreements of the parties. This Agreement may be amended only by a written amendment signed by all parties and the Port Authority and the Bond Trustee while any Bonds are outstanding.

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

- |                  |  |
|------------------|--|
| <u>Exhibit A</u> | - <i>Legal Description</i>   |
| <u>Exhibit B</u> | - <i>Schedule of Total Service Payment Amounts</i>                     |
| <u>Exhibit C</u> | - <i>Schedule of Total Service Payment Amounts for All TIF Parcels</i> |

*[Signature and Notary Pages Follow]*



This Service Agreement is executed by the City and the Owner by their duly-authorized officers or representatives as of the Effective Date.

**CITY OF CINCINNATI**

By: \_\_\_\_\_  
Sheryl M.M. Long, City Manager

STATE OF OHIO                    )  
  ) SS:  
COUNTY OF HAMILTON        )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2024, by \_\_\_\_\_ the \_\_\_\_\_ of the City of Cincinnati, an Ohio municipal corporation, on behalf of the corporation.

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

Approved as to Form:

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

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

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

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

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

*[Owner Signature Page Follows]*

**[OWNER],**

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

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

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

STATE OF \_\_\_\_\_ )  
 ) SS:  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2024, by \_\_\_\_\_, the \_\_\_\_\_ of [Owner], an Ohio limited liability company, on behalf of the company.

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

This instrument prepared by: City of Cincinnati, Office of the City Solicitor; 801 Plum Street, Room 214;  
Cincinnati, Ohio 45202

Exhibit A  
to Service Agreement

{00394470-10}



*Legal Description*

[INTENTIONALLY OMITTED – TO BE ATTACHED TO EXECUTION VERSION]

Exhibit B

to Service Agreement

*Schedule of Total Service Payment Amounts*

[*INTENTIONALLY OMITTED – TO BE ATTACHED TO EXECUTION VERSION*]

Exhibit C  
to Service Agreement

*Schedule of Total Service Payment Amounts for All TIF Parcels*

[INTENTIONALLY OMITTED – TO BE ATTACHED TO EXECUTION VERSION]

Exhibit F  
to Funding and Development Agreement  
(Medpace Phase 3 expansion project)

*Form of Completion Guaranty*

SEE ATTACHED

## COMPLETION GUARANTY

This Completion Guaranty (this “**Guaranty**”) is made as of the Effective Date (as defined on the signature page hereof) by [\_\_\_\_], an Ohio [\_\_\_\_] the address of which is [\_\_\_\_] (“**Guarantor**”) in favor of the **CITY OF CINCINNATI**, an Ohio municipal corporation, the address of which is 801 Plum Street, Cincinnati, Ohio 45202 (the “**City**”).

### Recitals:

A. The City and RBM Development Company, LLC, an Ohio limited liability company (“**Obligor**”), are parties to a *Funding and Development Agreement* dated [\_\_\_\_], 2024 (the “**Agreement**”). Capitalized terms used, but not defined, herein shall have the meanings ascribed thereto in the Agreement.

B. Pursuant to the Agreement, among other things, Obligor is to construct (i) the Private Improvements, which include (a) an approximately 75,000 square foot commercial building intended to be used by Medpace as its new clinical pharmacology unit, and (b) a new approximately 580,000 square foot, seven story office building with an approximately 287-space integrated structured parking garage and related private improvements, and (ii) the Public Infrastructure Improvements, which includes an approximately 1,107-space parking garage (each as more fully set forth and described in the Agreement and collectively, the “**Project**”).

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

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

### 1. Guaranty.

(A) Guarantor hereby absolutely, unconditionally, and irrevocably guarantees to the City the full and prompt performance by Obligor of Obligor's obligations under the Agreement to complete the construction of the Project in substantial accordance with the Final Plans, as determined by the City in its sole and absolute discretion, subject to the terms and conditions of the Agreement, including payment to the City of any and all losses, damages and expenses (including, without limitation, attorneys' fees) suffered or incurred by the City and arising out of the failure by Obligor under the Agreement to do so, regardless of whether such losses, damages or expenses are expressly provided for under the Agreement or are then otherwise allowable by law (collectively, the “**Guaranteed Obligations**”).

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

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

2. Liability of Guarantor.

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

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

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

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

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

4. Effect of this Guaranty. Guarantor hereby warrants to the City that: (a) Guarantor (i) has a financial interest in the Project[ and is an affiliate of Obligor]; (ii) is duly organized, validly existing and in good standing under the laws of the State of Ohio; (iii) has full power, authority and legal right to execute, acknowledge and deliver this Guaranty; and (iv) there are no actions, suits or proceedings pending or to the knowledge of Guarantor, threatened against Guarantor, at law or in equity, or before any governmental

department, commission, board, bureau, agency or instrumentality which involve the possibility of any judgment or order that may result in any material adverse effect upon Guarantor; and (b) this Guaranty constitutes Guarantor's binding and enforceable legal obligation.

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

6. General Provisions.

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

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

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

(D) Time of Essence. Time shall be of the essence as to the performance of Guarantor's obligations pursuant to this Guaranty.

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

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

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

(H) Entire Agreement. This Guaranty represents the complete understanding between or among the parties hereto as to the subject matter hereof, and supersedes all prior negotiations,

representations, warranties, statements, or agreements, either written or oral, between or among the parties hereto as to the same.

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

*[Signature Page Follows]*



Executed and effective as of \_\_\_\_\_, 20\_\_\_\_ (the “**Effective Date**”).

GUARANTOR:

[\_\_\_\_\_]

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

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

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

Approved as to Form:

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

This instrument prepared by:      City of Cincinnati, Office of the City Solicitor  
801 Plum Street, Room 214  
Cincinnati, Ohio 45202

Exhibit G  
to Funding and Development Agreement  
(Medpace Phase 3 Expansion Project)

*Disbursement of City Public Infrastructure Improvement Funds*

(A) Conditions to be Satisfied Prior to Disbursement of City Public Infrastructure Improvement Funds. The City shall be under no obligation to disburse the City Public Infrastructure Improvement Funds unless and until the following conditions are satisfied and continue to be satisfied or waived, in the City's sole and absolute discretion:

- (i) Developer has provided the City with the executed Completion Guaranty;
- (ii) Developer has provided the City with evidence of insurance required under this Agreement;
- (iii) Developer has provided the City with evidence that it has obtained all licenses, permits, governmental approvals, and the like necessary for the construction work;
- (iv) Developer has provided the City with evidence that Developer has secured all other funds necessary to complete the Project;
- (v) The City has approved of the Due Diligence Materials and construction shall have commenced and be proceeding in accordance with the City-approved plans and specifications, budget, and construction schedule;
- (vi) Developer has provided the City with such other documents, reports and information relating to the Project as the City has reasonably requested; and
- (vii) Developer is not in default under this Agreement.

(B) Disbursement of City Public Infrastructure Improvement Funds. Provided all of the requirements for disbursement of the City Public Infrastructure Improvement Funds shall have been satisfied, the City will provide the City Public Infrastructure Improvement Funds to Developer (or, as may be otherwise set forth in the Port Authority Documents, the Port Authority) on a reimbursement basis, the proceeds of which were used by Developer to pay for those hard construction costs of the Public Infrastructure Improvements itemized on Exhibit B-2. For the avoidance of doubt, Developer shall not use any portion of the City Public Infrastructure Improvement Funds for the Private Improvements, the Intersection Improvements, design fees or other soft costs, or for the purchase of inventory, supplies, furniture, trade fixtures, or any other items of personal property, or to establish a working capital fund. Developer shall not be entitled to a disbursement of City Public Infrastructure Improvement Funds to pay for costs incurred prior to the Effective Date. Developer shall not request a disbursement of City Public Infrastructure Improvement Funds for any expenditure that is not itemized on or contemplated by the approved budget or if the costs for which the disbursement is being requested exceeds the applicable line item in the budget; however, Developer may request, in writing, that funds be transferred between line items, with the City's approval thereof not to be unreasonably withheld. Disbursements from the project account shall be limited to an amount equal to the actual cost of the work, materials and labor incorporated in the work up to the amount of such items as set forth in Developer's request for payment. Anything contained in this Agreement to the contrary notwithstanding, the City shall not be obligated to make or authorize any disbursements from the project account if the City determines, in its reasonable discretion, that the amounts remaining from all funding sources with respect to the Public Infrastructure Improvements are not sufficient to pay for all the costs to complete construction. Developer acknowledges that the obligation of the City to disburse the Funds to Developer shall be limited to the City Public Infrastructure Improvement Funds to be made available by the City under this Agreement. Developer shall be responsible for obtaining all additional funds from other resources to complete the Public Infrastructure Improvements

(including, but not limited to, proceeds of Bond Obligations). Notwithstanding anything in this Agreement to the contrary, the City's obligation to make the Funds available to Developer, to the extent such Funds have not been disbursed, shall terminate 30 days following completion of construction, as evidenced by a certificate of occupancy with respect thereto.

(C) Draw Procedure.

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

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

(iii) Construction Meetings. After the commencement of construction for the Public Infrastructure Improvements and continuing throughout the duration of the construction, Developer shall invite the City to all regularly scheduled meetings between Developer and its lenders on the Public Infrastructure Improvements to enable the City to keep abreast of the Public Infrastructure Improvements' construction progress and the status of all Public Infrastructure Improvement costs, draw requests from Developer's lenders, change orders, and anticipated date of the Public Infrastructure Improvements' completion.

(D) Retainage. After review and approval of a disbursement request, the City shall disburse 90% of the amount requested (with retainage of 10%). The retained amount shall be disbursed when (i) the Public Infrastructure Improvements have been completed, and evidence thereof, in form satisfactory to the City, has been delivered to the City, and (ii) Developer has complied with all of its other obligations under this Agreement as determined by the City in its sole discretion. For the avoidance of doubt, Developer may, upon the provision of the required documentation and the satisfaction of the other disbursement conditions in this Exhibit, request disbursement of the entire amount of City Public Infrastructure Improvement Funds in one lump sum, in which case such amount would not be subject to retainage.

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

Exhibit H  
to Funding and Development Agreement  
(Medpace Phase 3 Expansion Project)

*ODOT and ODOD Grant Conditions*

**ODOT Requirements.**

From the time that construction associated with the Intersection Improvements commences, and until such time as all construction work and reporting associated with the Intersection Improvements has been completed, Developer, on behalf of itself and its assignees and successors in interest, agrees as follows:

1. Developer will ensure that applicants are hired and that employees are treated during employment without regard to their race, religion, color, sex, national origin (ancestry), disability, genetic information, age (40 years or older), sexual orientation, or military status (past, present, or future). Such action shall include, but not be limited to, the following: Employment, Upgrading, Demotion, or Transfer; Recruitment or Recruitment Advertising; Layoff or Termination; Rates of Pay or other forms of Compensation; and Selection for Training including Apprenticeship.

2. Developer agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. Developer will, in all solicitations or advertisements for employees placed by or on behalf of Developer, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, national origin (ancestry), disability, genetic information, age (40 years or older), sexual orientation, or military status (past, present, or future).

3. **Compliance with Regulations:** Developer (hereinafter includes consultants) will comply with the Acts and Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Federal Highway Administration (FHWA), as they may be amended from time to time, which are herein incorporated by reference and made a part of this Agreement.

4. **Nondiscrimination:** Developer, with regard to the work performed by it during this Agreement, will not discriminate on the grounds of race, color, national origin (ancestry), sex, age (40 years or older), disability, low-income status, or limited English proficiency in the selection and retention of Developer, including procurements of materials and leases of equipment. Developer will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations as set forth in Appendix E, including employment practices when the Agreement covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.

5. **Solicitations for Developer, including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by Developer for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential contractor or supplier will be notified by Developer of Developer's obligations under this contract and the Acts and the Regulations relative to nondiscrimination on the grounds of race, color, national origin (ancestry), sex, age (40 years or older), disability, low-income status, or limited English proficiency.

6. **Information and Reports:** Developer will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the ODOT or FHWA to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, Developer will so certify to ODOT or FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.

7. During the performance of this Agreement, Developer, for itself, its assignees, and successors in interest agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

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a. **Pertinent Non-Discrimination Authorities:**

- i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21
- ii. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. §4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-Aid programs and projects)
- iii. Federal-Aid Highway Act of 1973 (23 U.S.C. § 324 et seq.) (prohibits discrimination on the basis of sex)
- iv. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794 et seq.), as amended (prohibits discrimination on the basis of disability) and 49 CFR Part 27
- v. The Age Discrimination Act of 1975, as amended (42 U.S.C. § 6101 et seq.) (prohibits discrimination on the basis of age)
- vi. Airport and Airway Improvement Act of 1982 (49 U.S.C. § 471, Section 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex)
- vii. The Civil Rights Restoration Act of 1987 (PL 100-209) (broadened the scope, coverage, and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of Federal-Aid recipients, sub-recipients, and COUNTY (or other)s, whether such programs or activities are Federally funded or not
- viii. Titles II and III of the Americans with Disabilities Act (42 U.S.C. §§ 12131-12189), as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38 (prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities
- ix. The Federal Aviation Administration’s Non-Discrimination Statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex)
- x. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations)
- xi. Executive Order 13166, Improving Access to Services for People with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100)
- xii. Title VIII of the Civil Rights Act of 1968 (Fair Housing Act), as amended (prohibits discrimination in the sale, rental, and financing of dwellings on the basis of race, color, religion, sex, national origin, disability, or familial status (presence of child under the age of 18 and pregnant women)
- xiii. Title IX of the Education Amendments Act of 1972, as amended (20 U.S.C. 1681 et seq.) (prohibits discrimination on the basis of sex in education programs or activities)
- xiv. Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA 38 U.S.C. 4301-4335) (prohibits discrimination on the basis of present, past or future military service)
- xv. Genetic Information Nondiscrimination Act (GINA) (29 CFR Part 1635, 42 U.S.C. 2000ff)

### **ODOD Requirements.**

- 1. Project Goals.** The primary focus of the ODOD Grant is to complete an eligible roadwork project, being the Intersection Improvements as described in this Agreement. In addition, one of the secondary goals is the creation or retention of jobs. The Intersection Improvements, and ODOD Grant assistance provided, will facilitate the creation of 1,500 new, full-time equivalent jobs, and the retention of 1,893 existing jobs, by the Metric Evaluation Date of **December 31, 2028**. Developer is required to report any job creation or retention required under Section 9 of this Agreement.
- 2. Payment of ODOD Grant Funds.** The City shall disburse the ODOD Grant funds on a reimbursement basis. Developer shall submit to the City for review and approval requests for reimbursement detailing expenditures which have then been incurred by Developer in accordance with the Project budget included in Exhibit C-3. The payment of the requests for reimbursement shall be based upon 50% reimbursement of the actual eligible costs of the Intersection Improvements. Travel expenses are not eligible for reimbursement with ODOD Grant funds. The City shall be the sole judge of the adequacy of reimbursement requests. All expenses to be reimbursed with ODOD Grant funds shall be supported by contracts, invoices, vouchers, paid receipts and other documentation as appropriate to evidence the costs incurred by Developer to perform the work described in Exhibit B-3. Developer shall submit to the City such documentation necessary to substantiate a reimbursement request.
- 3. Non-Discrimination.**

  - (a) Minority Hiring Goal. Developer shall make a good faith effort to employ minority persons in the completion of the Intersection Improvements, and the completion and operation of the Intersection Improvements and in the fulfillment of Developer's job creation obligations in the same percentage as the average percentage of minority persons who reside in the county in which the Intersection Improvements are located and any contiguous Ohio counties.
  - (b) Equal Employment Opportunity. Developer shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, disability, age, military status or ancestry. Developer shall ensure that applicants for employment are considered for employment, and that employees are treated during employment, without regard to their race, religion, color, sex, national origin, disability, age, military status or ancestry. Developer will incorporate the requirements of this paragraph in all of its contracts for any of the work undertaken on the Intersection Improvements (other than subcontracts for standard commercial supplies or raw materials), and Developer will require all of its contractors for any part of such work to incorporate such requirements in all subcontracts for such work.
- 4. Adherence to State and Federal Laws and Regulations.** Developer shall comply with all applicable federal, state, and local laws in the performance of Developer's obligations under this Agreement, the completion of the Intersection Improvements and the completion and the operation of the Intersection Improvements as long as Developer has any obligation to the City under this Agreement. Without limiting the generality of such obligation, Developer shall pay or cause to be paid all unemployment compensation, insurance premiums, workers' compensation premiums, income tax withholding, social security withhold, and any and all other taxes or payroll deductions required for all employees engaged by Developer in connection with the Intersection Improvements, and Developer shall comply with all applicable environmental, zoning, planning and building laws and regulations.

Exhibit I  
to Funding and Development Agreement  
(Medpace Phase 3 Expansion Project)

*Disbursement of Intersection Improvement Funds*

(A) Conditions to be Satisfied Prior to Disbursement of Intersection Improvement Funds. The City shall be under no obligation to disburse the Intersection Improvement Funds unless and until the following conditions are satisfied and continue to be satisfied or waived, in the City's sole and absolute discretion:

(i) Developer has provided the City with the executed Payment and Performance Bond;

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

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

(iv) Developer has provided the City with evidence that it has obtained all other funds necessary to complete the Intersection Improvements;

(v) Developer has provided the City with such other documents, reports and information relating to the Intersection Improvements as the City has reasonably requested; and

(vi) Developer is not in default under this Agreement.

(B) Disbursement of Intersection Improvement Funds. Provided all of the requirements for disbursement of the Intersection Improvement Funds shall have been satisfied, the City shall disburse the Intersection Improvement Funds to Developer. The City shall make no more than two disbursements of the Intersection Improvement Funds on a reimbursement basis. Developer shall not be entitled to a disbursement of Intersection Improvement Funds to pay for costs incurred prior to the Effective Date. Developer shall request the Intersection Improvement Funds and shall use the Intersection Improvement Funds solely for the purposes permitted under this Agreement. Nothing in this Agreement shall permit, or shall be construed to permit, the expenditure of Intersection Improvement Funds for the acquisition of supplies or inventory, or for the purpose of purchasing materials not used in the construction, or for establishing a working capital fund, or for any other purpose expressly disapproved in writing by the City. Developer shall not request a disbursement of Intersection Improvement Funds for any expenditure that is not itemized on or contemplated by the approved budget or if the costs for which the disbursement is being requested exceeds the applicable line item in the budget; however, Developer may request, in writing, that funds be transferred between line items, with the City's approval thereof to be condition on the terms of the ODOT Grant and ODOD Grant, but otherwise not to be unreasonably withheld. Disbursements from the project account shall be limited to an amount equal to the actual cost of the work, materials, and labor incorporated in the work up to the amount of such items as set forth in Developer's request for payment. Anything contained in this Agreement to the contrary notwithstanding, the City shall not be obligated to make or authorize any disbursements from the project account if the City determines, in its reasonable discretion, that the amounts remaining from all funding sources with respect to the Intersection Improvements are not sufficient to pay for all the costs to complete construction. Developer acknowledges that the obligation of the City to disburse the Intersection Improvement Funds to Developer for construction shall be limited to the Intersection Improvement Funds to be made available by the City under this Agreement, and actually received by the City from ODOT and ODOD, respectively. Developer shall provide all additional funds from other resources to complete the Intersection Improvements. Notwithstanding anything in this Agreement to the contrary, the City's obligation to make the Intersection Improvement Funds available to Developer, to the extent such Intersection Improvement Funds have not been disbursed,

shall terminate 30 days following the completion of the Intersection Improvements, as determined by the City in its sole and absolute discretion. For the avoidance of doubt, the issuance of a letter by DOTE confirming the satisfactory completion of the Intersection Improvements, following expiration of the Warranty Period and as confirmed at the Warranty Inspection, shall be deemed completion of the Intersection Improvements.

(C) Draw Procedure

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

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

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



Exhibit J  
to Funding and Development Agreement  
(Medpace Phase 3 Expansion Project)

*Additional Requirements*

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

This Exhibit serves two functions:

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

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

(A) Construction Workforce.

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

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

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

halfway through the construction contract (or in the case of a construction contract of six months or more, within 60 days of beginning the construction contract) (collectively, the “**Construction Workforce Goals**”).

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

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

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

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

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

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

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

(B) Trade Unions; Subcontracts; Competitive Bidding.

(i) Meeting and Confering with Trade Unions.

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

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

(ii) Contracts and Subcontracts; Competitive Bidding.

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

city purchasing agent or a board or commission for the procurement or disposal of supplies, service or construction.”

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

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

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

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

(1) “Bid” means an offer in response to an invitation for bids to provide construction work.

(2) “Invitation to Bid” means the solicitation for quoted prices on construction specifications and setting a time, date and place for the submission of and public reading of bids. The place for the public reading of bids shall be chosen at the discretion of Developer; however, the place chosen must be accessible to the public on the date and time of the public reading and must have sufficient room capacity to accommodate the number of respondents to the invitation to bid.

(3) “Trade Craft” means (a) general construction work, (b) electrical equipment, (c) plumbing and gas fitting, (d) steam and hot water heating and air conditioning and ventilating apparatus, and steam power plant, (e) elevator work, and (f) fire protection.

(4) “Public Notification” means (a) advertisement of an invitation to bid with ACI (Allied Construction Industries) and the Dodge Report, and (b) dissemination of the advertisement (either by mail or electronically) to the South Central Ohio Minority Business Council, Greater Cincinnati Northern Kentucky African-American Chamber of Commerce, and the Hispanic Chamber of Commerce. The advertisement shall include a description of the “scope of work” and any other information reasonably necessary for the preparation of a bid, and it shall be published and disseminated no less than fourteen days prior to the deadline for submission of bids stated in the invitation to bid.

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

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

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

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

(F) Small Business Enterprise Program.

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

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

- (1) Including qualified SBEs on solicitation lists.
- (2) Assuring that SBEs are solicited whenever they are potential sources. Contractor must advertise, on at least two separate occasions, both in local minority publications and in other local newspapers of general circulation, invitations to SBEs to provide services, to supply materials or to bid on construction contracts for the Project. Contractor is encouraged to use the internet and similar types of advertising to reach a broader audience, but these additional types of advertising cannot be used as substitutes for the above.
- (3) When economically feasible, dividing total requirements into small tasks or quantities so as to permit maximum SBE participation.
- (4) When needs permit, establishing delivery schedules that will encourage participation by SBEs.

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

(iv) Subject to clause (i) above, Developer shall provide to the City, prior to commencement of the Project, a report listing all of the contractors and subcontractors for the Project, including information as to the owners, dollar amount of the contract or subcontract, and other information that may be deemed

necessary by the City Manager. Developer or its general contractor shall update the report monthly by the 15<sup>th</sup>. Developer or its general contractor shall enter all reports required in this subsection via the City's web page referred to in clause (i) above or any successor site or system the City uses for this purpose. Upon execution of this Agreement, Developer and its general contractor shall contact the Department of Economic Inclusion to obtain instructions, the proper internet link, login information, and password to access the site and set up the necessary reports.

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

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

(G) Equal Employment Opportunity.

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

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

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

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

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

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

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

(M) Wage Enforcement.

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

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

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

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

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

(d) If this Agreement is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this Agreement shall include in its contracts with all Contractors language that requires the Contractors to provide the authorizations set forth

in subsection (c) above and that further requires each Contractor to include in its contracts with Subcontractors those same obligations for each Subcontractor and each lower tier subcontractor.

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

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

(N) Americans With Disabilities Act; Accessibility.

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

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

(O) Electric Vehicle Charging Stations in Garages.

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

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

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

(Q) Use of Nonfranchised Commercial Waste Haulers Prohibited. The City requires that persons providing commercial waste collection services (as that term is defined under CMC Chapter 730) within the City of Cincinnati obtain a franchise, and the City maintains a list of franchised commercial waste haulers. Developer is prohibited from using or hiring (or causing to be used or hired) a nonfranchised commercial waste hauler to provide commercial waste collection services in connection with the performance of this Agreement, and Developer is responsible for ensuring that any commercial waste collection services provided in connection with the performance of this Agreement are provided by a franchised commercial waste hauler. Questions related to the use of commercial waste franchisees can be directed to, and a list of current franchisees can be obtained from, the City's Office of Environment & Sustainability by calling (513)352-3200.



*Addendum I*  
*to*  
*Additional Requirements Exhibit*

City's Prevailing Wage Determination

TO BE ATTACHED TO EXECUTION VERSION