



City of Cincinnati

801 Plum Street
Cincinnati, OH 45202

Agenda - Final

Budget and Finance Committee

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

Tuesday, January 19, 2021

1:00 PM

Council Chambers, Room 300

ROLL CALL

AGENDA

1. [202002358](#) ORDINANCE, dated 12/30/2020, submitted by Mayor John Cranley, from Andrew W. Garth, Interim City Solicitor, MODIFYING the provisions of Title III, Chapter 324, "Minority and Women Business Enterprise Program," of the Cincinnati Municipal Code by AMENDING Section 324-49, "Economic Inclusion Advocacy and Accountability Board," to permit renewal of board members' terms for two additional three-year terms.

Sponsors: Cranley
Attachments: [Transmittal](#)
[Ordinance](#)

2. [202100002](#) MOTION, submitted by Councilmember Landsman, Due to a dramatic decrease in attendance at sports events and concerts, arena vendors are making significantly less than they would in a regular season unaffected by the pandemic. To better understand how we can help, WE MOVE that the Administration provide a report on the impact of a vending lease fee freeze until the arenas resume to full capacity.

Sponsors: Landsman
Attachments: [MOTION](#)

3. [202100047](#) MOTION, submitted by Vice Mayor Smitherman, WE MOVE that the City Manager provide a report identifying any city department that may need additional staff hires and/or resources to meet the current workload.

Sponsors: Smitherman
Attachments: [Motion - Smitherman](#)

4. [202002354](#) ORDINANCE (EMERGENCY) submitted by Paula Boggs Muething, City Manager, on 1/4/2021, AUTHORIZING the City Manager to apply for, accept, and appropriate a grant in an amount of up to \$20,000 from the Devou Good Foundation to the Department of Transportation and Engineering Transportation Planning and Urban Design General Fund non-personnel operating budget account no. 050x232x7200 for the purpose of providing resources to implement a citywide billboard campaign for Vision Zero; and AUTHORIZING the Director of Finance to deposit the grant resources into the Department of Transportation and Engineering General Fund revenue account no. 050x8571.

Sponsors: City Manager

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

5. [202002355](#) ORDINANCE submitted by Paula Boggs Muething, City Manager, on 1/6/2021, AUTHORIZING the City Manager to accept and deposit a donation from the Cincinnati Fire Foundation in an amount of up to \$20,000 into the General Fund revenue account no. 050x8571; AUTHORIZING the transfer and appropriation of up to \$20,000 from the unappropriated surplus of General Fund 050 to the Fire Department's General Fund non-personnel operating budget account no. 050x271x7300 for the purpose of purchasing equipment and training for the expansion of the Cincinnati Fire Department's EMS Mountain Bike Unit.

Sponsors: City Manager

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

6. [202002356](#) ORDINANCE (EMERGENCY) submitted by Paula Boggs Muething, City Manager, on 1/6/2021, AUTHORIZING the City Manager to accept and appropriate a grant in the amount of up to \$1,000 from the Greater Cincinnati Foundation Harry F. and Mary Ann Fry Fund to the City Manager's Office General Fund non-personnel operating budget account no. 050x101x7400 for the purpose of providing resources for the operation of the Office of Human Relations; and further AUTHORIZING the Director of Finance to deposit the grant funds into General Fund revenue account no. 050x8571.

Sponsors: City Manager

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

7. [202002357](#) ORDINANCE submitted by Paula Boggs Muething, City Manager, on 1/6/2021, AUTHORIZING the City Manager to apply for, accept, and appropriate a grant in the amount of up to \$160,000 from the State of Ohio, Office of Criminal Justice Services for the purpose of funding personnel costs and equipment for Title III investigations; and AUTHORIZING the Finance Director to deposit the grant funds into Law Enforcement Grant Fund 368, Project Account No. 21ODLE.

Sponsors: City Manager

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

8. [202002362](#) ORDINANCE (EMERGENCY) VERSION B submitted by Paula Boggs Muething, City Manager, on 1/6/2021, MODIFYING Article XV, "Retirement System," of the Administrative Code of the City of Cincinnati by amending Section 1, "Board of Trustees," Section 3, "Organization of Board," Section 7, "Actuary," and Section 9, "Actuarial Investigations," to harmonize the Administrative Code with the provisions of the Collaborative Settlement Agreement reached in Sunyak, et al. v. City of Cincinnati, et al., Case Number 1:11-cv-445 in the United States District Court, Southern District of Ohio, Western Division.

Sponsors: City Manager

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

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

Sponsors: City Manager

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

10. [202100178](#) COMMUNICATION, dated 01/12/2021, submitted by Councilmember Mann, from William E. Moller, Chair, Cincinnati Retirement System, Board of Trustees, REQUESTING on behalf of the Cincinnati Retirement System (CRS) Board of Trustees. The CRS Board is responding to # 202002362, Ordinance (Emergency) Version B, Modifying Administrative Code, Article XV, "Retirement System". The intent of the ordinance is to modify the Administrative Code to comply with the Collaborative Settlement Agreement (CSA) approved on October 15, 2015 by the United States District Court, Southwestern Ohio District. The CSA includes CRS Board reforms. The CRS Board appreciates that the City Administration has asked for the CRS Board input and has made some changes based on that input. Nonetheless, the CRS Board request no changes to the ordinance which would benefit the long-term stability of the Board. The City Administration has directed the Board to the Budget and Finance Committee for consideration of this request.
- Sponsors:** Mann
- Indexes:** Cincinnati Retirement System (CRS)
- Attachments:** [CRS Board Response PAGE 1](#)
[CRS Board Response PAGE 2](#)
11. [202100077](#) RESOLUTION (LEGISLATIVE) submitted by Paula Boggs Muething, City Manager, on 1/13/2021, DECLARING the necessity of assessing for the control of blight and disease of shade trees along the streets and the public right-of-way, and for planting, care, maintenance, trimming, and removing of shade trees in and along the streets within the City of Cincinnati's Urban Forestry Maintenance District for the year 2022.
- Sponsors:** City Manager
- Attachments:** [Transmittal](#)
[Resolution](#)
[Exhibit A](#)
[Exhibit B](#)
12. [202100096](#) ORDINANCE (EMERGENCY) submitted by Paula Boggs Muething, City Manager, on 1/13/2021, ACCEPTING AND CONFIRMING the dedication to public use for right of way purposes the street known as Sanctuary Place and a portion of the street known as Renslar Avenue located in California neighborhood of Cincinnati, in accordance with the plat entitled "The Sanctuary at River Green Right of Way Dedication Plat."
- Sponsors:** City Manager
- Attachments:** [Transmittal](#)
[Ordinance](#)
[Attachment](#)

13. [202100097](#) ORDINANCE submitted by Paula Boggs Muething, City Manager, on 1/13/2021, AUTHORIZING the City Manager to execute a Grant of Easement in favor of RGW Development, LLC pursuant to which the City of Cincinnati will grant driveway encroachment easement to construct and maintain paved driveways upon portions of the Columbus Avenue public right-of-way in the Hyde Park neighborhood of Cincinnati.
- Sponsors:** City Manager
- Attachments:** [Transmittal](#)
[Ordinance](#)
[Attachment](#)
14. [202100098](#) ORDINANCE submitted by Paula Boggs Muething, City Manager, on 1/13/2021, AUTHORIZING the City Manager to execute a Grant of Encroachment Easement in favor of the Port of Greater Cincinnati Development Authority and NAP 8 & Main LLC pursuant to which the City of Cincinnati will grant an aerial encroachment for a projecting canopy located in 721 Main Street that encroaches upon a portion of the Main Street public right-of-way in the Central Business District of Cincinnati.
- Sponsors:** City Manager
- Attachments:** [Transmittal](#)
[Ordinance](#)
[Attachment](#)
15. [202100179](#) ORDINANCE (EMERGENCY) submitted by Paula Boggs Muething, City Manager, on 1/19/2021, AUTHORIZING the City Manager to accept and appropriate a donation in the amount of up to \$2,000 from the U.S. Chamber of Commerce Foundation to the Office of Environment and Sustainability's General Fund non-personnel operating budget account no. 050x104x7200 for the purpose of providing support for the U.S. Chamber of Commerce Foundation's Beyond 34 Initiative; and AUTHORIZING the Director of Finance to deposit the donated resources into the General Fund revenue account no. 050x8571.
- Sponsors:** City Manager
- Attachments:** [Transmittal](#)
[Ordinance](#)

16. [202100181](#) ORDINANCE (EMERGENCY) submitted by Paula Boggs Muething, City Manager, on 1/19/2021, AUTHORIZING the City Manager to accept and appropriate grant resources in an amount of up to \$391,950 from the Ohio Environmental Protection Agency's Diesel Mitigation Trust Fund to existing capital improvement program project account no. 980x981x212505, "Fleet Replacements," for the purpose of replacing a select number of diesel vehicles within the City fleet.
- Sponsors:** City Manager
- Attachments:** [Transmittal](#)
[Ordinance](#)
17. [202100182](#) ORDINANCE (EMERGENCY) submitted by Paula Boggs Muething, City Manager, on 1/19/2021, LEVYING special assessments for the purpose of the special assessment project at 2347 Reading Road in the City of Cincinnati involving the City of Cincinnati, Ohio Energy Special Improvement District; and further REPEALING Ordinance No. 443-2019, in order to correspondingly amend and restate the levying of special assessments associated with the project.
- Sponsors:** City Manager
- Attachments:** [Transmittal](#)
[Ordinance](#)
[Attachments](#)
18. [202100183](#) ORDINANCE (EMERGENCY) submitted by Paula Boggs Muething, City Manager, on 1/19/2021, DETERMINING to proceed with the special assessment project at 2347 Reading Road in the City of Cincinnati involving the City of Cincinnati, Ohio Energy Special Improvement District; and further REPEALING Ordinance No. 442-2019, in order to correspondingly amend and restate the determination to proceed with the assessment project.
- Sponsors:** City Manager
- Attachments:** [Transmittal](#)
[Ordinance](#)
[Attachments](#)
19. [202100184](#) RESOLUTION (LEGISLATIVE) submitted by Paula Boggs Muething, City Manager, on 1/19/2021, DECLARING by legislative resolution the necessity of the special assessment project at 2347 Reading Road in the City of Cincinnati, Ohio involving the City of Cincinnati, Ohio Energy Special Improvement District.
- Sponsors:** City Manager
- Attachments:** [Transmittal](#)
[Ordinance](#)
[Attachments](#)

20. [202100193](#) PETITION, dated 01/15/2021, submitted by Councilmember Mann, from C. Ndukwe, Petitioner, REGARDIN Second Amendment to the Petition for Special Assessment for Special Energy Improvement Projects and Affidavit.

Sponsors: Budget and Finance Committee

Attachments: [Second Amendment to Petition and Supplemental Plan - 2347 Reading](#)

ADJOURNMENT

2020 02358

Date: December 30, 2020

To: Mayor John Cranley
From: Andrew W. Garth, Interim City Solicitor *AWG*
Subject: **Ordinance – Modifying CMC Chapter 324, Section 324-49 Economic Inclusion Advocacy and Accountability Board**

Transmitted herewith is an ordinance captioned as follows:

MODIFYING the provisions of Title III, Chapter 324, “Minority and Women Business Enterprise Program,” of the Cincinnati Municipal Code by AMENDING Section 324-49, “Economic Inclusion Advocacy and Accountability Board,” to permit renewal of board members’ terms for two additional three-year terms.

AWG/CFG/(lnk)
Attachment
329113

City of Cincinnati

CFG

AWB

An Ordinance No. _____

-2021

MODIFYING the provisions of Title III, Chapter 324, "Minority and Women Business Enterprise Program," of the Cincinnati Municipal Code by AMENDING Section 324-49, "Economic Inclusion Advocacy and Accountability Board," to permit renewal of board members' terms for two additional three-year terms.

WHEREAS, the mission of the Economic Inclusion Advocacy and Accountability Board ("Board") is to promote economic inclusion, serve as a public advocate for the Department of Economic Inclusion, assist the Department of Economic Inclusion in fulfilling the recommendations of the Economic Inclusion Advisory Council, and measure the impact of the economic inclusion programs and initiatives within the City of Cincinnati; and

WHEREAS, the Board is composed of up to twenty-five members, up to eight of which are appointed for one-year terms, up to eight of which are appointed for two-year terms, and up to nine of which are appointed for three-year terms; and

WHEREAS, existing Section 324-49 (d) of the Cincinnati Municipal Code, "Term," provides that upon the expiration of the initial term of each Board member, that member may be reappointed for one additional three-year term; and

WHEREAS, the City now desires to allow reappointment of Board members for two additional three-year terms upon the expiration of their initial terms; now, therefore,

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

Section 1. That Cincinnati Municipal Code Section 324-49, "Economic Inclusion Advocacy and Accountability Board," is hereby amended as follows:

Sec. 324-49. – Economic Inclusion Advocacy and Accountability Board.

(a) *Mission, duties of Board.*

- (1) The mission of the Economic Inclusion Advocacy and Accountability Board shall be to promote economic inclusion, serve as a public advocate for the Department of Economic Inclusion, assist the Department of Economic Inclusion in fulfilling the recommendations of the Economic Inclusion Advisory Council and measure the impact of the economic inclusion programs and initiatives within the City of Cincinnati.

- (2) The Economic Inclusion Advocacy and Accountability Board shall have the following functions and duties associated with economic inclusion and the programs set forth in this Chapter;
- (i) Recommending policies to implement the City's economic inclusion programs and services;
 - (ii) Recommending strategies to implement recommendations of the Economic Inclusion Advisory Council or its successor advisory group;
 - (iii) Measuring the community impact of the City's and the Department of Economic Inclusion's economic inclusion programs and initiatives;
 - (iv) Preparing and distributing to the community an annual report on the City's inclusion efforts; and
 - (v) Ensuring that minority- and women-owned business inclusion programs and initiatives continue in the future.
- (b) *Board members; appointment.* The Economic Inclusion Advocacy and Accountability Board shall consist of up to twenty-five (25) members appointed by the Mayor of the City of Cincinnati with the approval of City Council. The following organizations may each recommend three members to the Mayor: Urban League of Greater Southwestern Ohio, African American Chamber of Commerce, Hispanic Chamber of Commerce, and Asian Chamber of Commerce. The members shall be diverse in terms of race, ethnicity, gender and age, shall have knowledge of minority-owned or women-owned business growth and development issues, and shall be residents of Hamilton County, Ohio.
- (c) The Director of the Department of Economic Inclusion shall be an ex-officio board member and shall not count as one of the fifteen appointed board members required in paragraph (b) of this Section, above.
- (d) *Term.* In the Economic Inclusion Advocacy and Accountability Board's first year, up to eight members of the board shall be appointed for a term of one year, up to eight members shall be appointed for a term of two years, and up to nine members shall be appointed for a term of three years. Upon the expiration of the initial term of each member, each member's appointment may be renewed for ~~one~~ two additional three-year terms. The terms of the board members shall be staggered so that each year, up to eight or nine members will be eligible for either renewal of their terms or replacement by a new board member.
- (e) *Frequency of meetings.* The Economic Inclusion Advocacy and Accountability Board shall meet on a quarterly basis, or more frequently as needed.
- (f) *By-laws.* The Economic Inclusion Advocacy and Accountability Board is authorized to pass by-laws or other regulations governing the board as long as such by-laws or regulations do not conflict with any provision of this Section 324-49.

- (g) *Committees.* The Economic Inclusion Advocacy and Accountability Board, through its bylaws, shall establish a structure of standing committees with specific areas of responsibility for accomplishing the mission and duties of the Board.
- (h) *Severability.* The provisions of this Section 324-49 are severable from the other provisions in Chapter 324. If any other provision is held invalid, this Section 324-49 shall not be made invalid as well.
- (i) *Board to exist indefinitely.* The expiration of the provisions of Chapter 324 shall not apply to the provisions of this Section 324-49. This Section 324-49 shall remain in effect indefinitely. It is the intent of this ordinance to create an Economic Inclusion Advocacy and Accountability Board that shall continue in existence regardless of the status of the other provisions of Chapter 324.

2. That existing Section 324-49, “Economic Inclusion Advocacy and Accountability Board,” of the Cincinnati Municipal Code is hereby repealed.

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

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

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

New language underscored. Deleted language indicated by strikethrough.

City of Cincinnati

CFG

An Ordinance No. _____

-2021

MODIFYING the provisions of Title III, Chapter 324, “Minority and Women Business Enterprise Program,” of the Cincinnati Municipal Code by **AMENDING** Section 324-49, “Economic Inclusion Advocacy and Accountability Board,” to permit renewal of board members’ terms for two additional three-year terms.

WHEREAS, the mission of the Economic Inclusion Advocacy and Accountability Board (“Board”) is to promote economic inclusion, serve as a public advocate for the Department of Economic Inclusion, assist the Department of Economic Inclusion in fulfilling the recommendations of the Economic Inclusion Advisory Council, and measure the impact of the economic inclusion programs and initiatives within the City of Cincinnati; and

WHEREAS, the Board is composed of up to twenty-five members, up to eight of which are appointed for one-year terms, up to eight of which are appointed for two-year terms, and up to nine of which are appointed for three-year terms; and

WHEREAS, existing Section 324-49 (d) of the Cincinnati Municipal Code, “Term,” provides that upon the expiration of the initial term of each Board member, that member may be reappointed for one additional three-year term; and

WHEREAS, the City now desires to allow reappointment of Board members for two additional three-year terms upon the expiration of their initial terms; now, therefore,

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

Section 1. That Cincinnati Municipal Code Section 324-49, “Economic Inclusion Advocacy and Accountability Board,” is hereby amended as follows:

Sec. 324-49. – Economic Inclusion Advocacy and Accountability Board.

(a) *Mission, duties of Board.*

- (1) The mission of the Economic Inclusion Advocacy and Accountability Board shall be to promote economic inclusion, serve as a public advocate for the Department of Economic Inclusion, assist the Department of Economic Inclusion in fulfilling the recommendations of the Economic Inclusion Advisory Council and measure the impact of the economic inclusion programs and initiatives within the City of Cincinnati.

City of Cincinnati



801 Plum Street, Suite 346B
Cincinnati, Ohio 45202

Phone: (513) 352-5232
Email: greg.landsman@cincinnati-oh.gov
Web: www.cincinnati-oh.gov

202100002

Greg Landsman
Councilmember

December 30, 2020

MOTION

Due to a dramatic decrease in attendance at sports events and concerts, arena vendors are making significantly less than they would in a regular season unaffected by the pandemic. To better understand how we can help, **WE MOVE** that the Administration provide a report on the impact of a vending lease fee freeze until the arenas resume to full capacity.

Councilmember Greg Landsman



Christopher E. C. Smitherman
Cincinnati Vice Mayor

January 5, 2021

MOTION

WE MOVE that the City Manager provide a report identifying any city department that may need additional staff hires and/or resources to meet the current workload.

Vice Mayor Christopher Smitherman

_____	_____
_____	_____
_____	_____
_____	_____

Statement: Many city departments have experienced an increase in their workload and have simultaneously experienced staffing shortages. We wish to identify these departments and areas to provide our city workers with the resources needed to meet their current responsibilities.

COMMITTEES

Chair: Law & Public Safety • Committees: Economic Growth & Zoning • Neighborhoods

January 4, 2021

To: Members of the Budget and Finance Committee 202002354
From: Paula Boggs Muething, City Manager
Subject: Emergency Ordinance – Vision Zero, Devou Good Foundation Grant

Attached is an Emergency Ordinance captioned:

AUTHORIZING the City Manager to apply for, accept, and appropriate a grant in an amount of up to \$20,000 from the Devou Good Foundation to the Department of Transportation and Engineering Transportation Planning and Urban Design General Fund non-personnel operating budget account no. 050x232x7200 for the purpose of providing resources to implement a citywide billboard campaign for Vision Zero; and **AUTHORIZING** the Director of Finance to deposit the grant resources into the Department of Transportation and Engineering General Fund revenue account no. 050x8571.

This Emergency Ordinance authorizes the City Manager to apply for, accept, and appropriate a grant in the amount up to \$20,000 from the Devou Good Foundation to the Department of Transportation and Engineering (DOTE) Transportation Planning and Urban Design General Fund non-personnel operating budget account no. 050x232x7200 for the purpose of providing resources to implement a citywide billboard campaign for Vision Zero.

The Vision Zero Network is a collaborative campaign helping communities reach their goals of Vision Zero by eliminating all traffic fatalities and severe injuries while increasing safe, healthy, equitable mobility for all. This Emergency Ordinance also authorizes the Director of Finance to deposit the resources into General Fund revenue account no. 050x8571.

The City commitment of local matching funds will be provided by in-kind design services valued at up to \$5,000 and provided by existing staff in the Department of Transportation and Engineering. There are no new FTEs associated with this grant. DOTE applied for the grant on December 14, 2020. However, funding will not be accepted without City Council authorization.

The reason for the emergency is the immediate need to apply and accept the grant award as soon as possible because the grant resources are limited and will be made on a first-come, first-served basis.

This Emergency Ordinance is in accordance with the “Collaborate” goal to “Work in synergy with the Cincinnati community,” as described on pages 207 – 212 of Plan Cincinnati (2012).

The Administration recommends passage of this Emergency Ordinance.

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

Attachment



EMERGENCY

ZDS

- 2021

AUTHORIZING the City Manager to apply for, accept, and appropriate a grant in an amount of up to \$20,000 from the Devou Good Foundation to the Department of Transportation and Engineering Transportation Planning and Urban Design General Fund non-personnel operating budget account no. 050x232x7200 for the purpose of providing resources to implement a citywide billboard campaign for Vision Zero; and **AUTHORIZING** the Director of Finance to deposit the grant resources into the Department of Transportation and Engineering General Fund revenue account no. 050x8571.

WHEREAS, the Vision Zero Network is a collaborative campaign helping communities reach their goals of Vision Zero by eliminating all traffic fatalities and severe injuries while increasing safe, healthy, equitable mobility for all; and

WHEREAS, the City commitment of local matching funds will be provided by in-kind design services valued at up to \$5,000 and provided by existing staff in the Department of Transportation and Engineering; and

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

WHEREAS, the Department of Transportation and Engineering applied for the grant on December 14, 2020; however, the funding will not be accepted without Council authorization; and

WHEREAS, this ordinance is in accordance with the “Collaborate” goal to “Work in synergy with the Cincinnati community,” as described in pages 207 – 212 of Plan Cincinnati (2012); now, therefore,

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

Section 1. That the City Manager is hereby authorized to apply for, accept, and appropriate a grant in an amount of up to \$20,000 from the Devou Good Foundation to the Department of Transportation and Engineering Transportation Planning and Urban Design General Fund non-personnel operating budget account no. 050x232x7200 for the purpose of providing resources to implement a citywide billboard campaign for Vision Zero.

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

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

Section 4. That this ordinance shall be an emergency measure necessary for the preservation of public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to apply and accept the grant award as soon as possible because the grant resources are limited and will be made on a first-come, first-served basis.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

January 6, 2021

To: Mayor and Members of City Council 202002355

From: Paula Boggs Muething, City Manager

Subject: Ordinance – Cincinnati Fire Foundation EMS Bike Unit Monetary Donation

Attached is an Ordinance captioned:

AUTHORIZING the City Manager to accept and deposit a donation from the Cincinnati Fire Foundation in an amount of up to \$20,000 into the General Fund revenue account no. 050x8571; **AUTHORIZING** the transfer and appropriation of up to \$20,000 from the unappropriated surplus of General Fund 050 to the Fire Department’s General Fund non-personnel operating budget account no. 050x271x7300 for the purpose of purchasing equipment and training for the expansion of the Cincinnati Fire Department’s EMS Mountain Bike Unit.

Approval of this Ordinance authorizes the City Manager to accept and deposit a donation from the Cincinnati Fire Foundation in the amount of up to \$20,000 into General Fund revenue account no. 050x8571. This Ordinance further authorizes the transfer and appropriation of up to \$20,000 from the unappropriated surplus of General Fund 050 to the Fire Department’s General Fund non-personnel operating budget account no. 050x271x7300 for the purpose of purchasing equipment and training for the Cincinnati Fire Department’s EMS Mountain Bike Unit.

This donation does not require additional FTE or matching funds.

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

The Administration recommends passage of this Ordinance.

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

Attachment



AUTHORIZING the City Manager to accept and deposit a donation from the Cincinnati Fire Foundation in an amount of up to \$20,000 into the General Fund revenue account no. 050x8571; **AUTHORIZING** the transfer and appropriation of up to \$20,000 from the unappropriated surplus of General Fund 050 to the Fire Department's General Fund non-personnel operating budget account no. 050x271x7300 for the purpose of purchasing equipment and training for the expansion of the Cincinnati Fire Department's EMS Mountain Bike Unit.

WHEREAS, the Cincinnati Fire Department ("CFD") performs valuable services for the City of Cincinnati and its residents, including administration of the Department's EMS Mountain Bike Unit; and

WHEREAS, the Mountain Bike Unit is in need of equipment and training; and

WHEREAS, the Cincinnati Fire Foundation has generously offered to donate up to \$20,000 to CFD for the purchase of said equipment and training; and

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

WHEREAS, there are no matching funds required with acceptance of this donation; and

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

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

Section 1. That the City Manager is hereby authorized to accept and deposit a donation in an amount of up to \$20,000 into the General Fund revenue account no. 050x8571 from the Cincinnati Fire Foundation for the purpose of purchasing equipment and training for the expansion of the Cincinnati Fire Department's EMS Mountain Bike Unit.

Section 2. That the Director of Finance is authorized to appropriate an amount of up to \$20,000 from the unappropriated surplus of General Fund 050 to the Fire Department General Fund non-personnel operating budget account number 050x271x7300.

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

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

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

January 6, 2021

To: Mayor and Members of City Council **202002356**

From: Paula Boggs Muething, City Manager

Subject: Emergency Ordinance – Greater Cincinnati Foundation Grant

Attached is an Emergency Ordinance captioned:

AUTHORIZING the City Manager to accept and appropriate a grant in the amount of up to \$1,000 from the Greater Cincinnati Foundation Harry F. and Mary Ann Fry Fund to the City Manager's Office General Fund non-personnel operating budget account no. 050x101x7400 for the purpose of providing resources for the operation of the Office of Human Relations; and further **AUTHORIZING** the Director of Finance to deposit the grant funds into General Fund revenue account no. 050x8571.

This Emergency Ordinance authorizes the City Manager to accept and appropriate a grant in the amount up to \$1,000 from the Greater Cincinnati Foundation Harry F. and Mary Ann Fry Fund to the City Manager's Office non-personnel operating budget account no. 050x101x7400 for the purpose of providing resources for the operation of the Office of Human Relations.

This Emergency Ordinance also authorizes the Director of Finance to deposit the grant funds into the General Fund revenue account no. 050x8571.

The grant requires no local match; and there are no new FTEs associated with this grant.

The reason for the emergency is the immediate need to accept grant resources in a timely manner.

This Emergency Ordinance is in accordance with the "Collaborate" goal to "Work in synergy with the Cincinnati community" and the strategy to "Unite our communities" as described on page 207-212 of Plan Cincinnati (2012).

The Administration recommends passage of this Emergency Ordinance.

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

Attachment



EMERGENCY

KKF

- 2021

AUTHORIZING the City Manager to accept and appropriate a grant in the amount of up to \$1,000 from the Greater Cincinnati Foundation Harry F. and Mary Ann Fry Fund to the City Manager's Office General Fund non-personnel operating budget account no. 050x101x7400 for the purpose of providing resources for the operation of the Office of Human Relations; and further **AUTHORIZING** the Director of Finance to deposit the grant funds into General Fund revenue account no. 050x8571.

WHEREAS, there is a funding opportunity available from the Greater Cincinnati Foundation Harry F. and Mary Ann Fry Fund ("Fry Fund") in the amount of up to \$1,000 for the purpose of providing resources for the operation of the Office of Human Relations; and

WHEREAS, there was no application process for the grant, and the Foundation approached the City to offer the grant as occurred with other grants provided by the Fry Fund to the City in past years; and

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

WHEREAS, this ordinance is in accordance with the "Collaborate" goal to "Work in synergy with the Cincinnati community" and the strategy to "Unite our communities" as described on pages 207-212 of Plan Cincinnati (2012); now, therefore,

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

Section 1. That the City Manager is hereby authorized to accept and appropriate a grant in the amount of up to \$1,000 from the Greater Cincinnati Foundation Harry F. and Mary Ann Fry Fund to the City Manager's Office General Fund non-personnel operating budget account no. 050x101x7400 for the purpose of providing resources for the operation of the Office of Human Relations.

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

Section 3. That the proper City officials are authorized to use and expend the sum of up to \$1,000 in accordance with the terms of the grant and Sections 1 and 2 hereof.

Section 4. That this ordinance shall be an emergency measure necessary for the preservation of public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to accept grant resources in a timely manner.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

January 6, 2021

To: Mayor and Members of City Council 202002357

From: Paula Boggs Muething, City Manager

Subject: Ordinance – FY 2020 Ohio Drug Law Fund Enforcement Grant

Attached is an Ordinance captioned:

AUTHORIZING the City Manager to apply for, accept, and appropriate a grant in the amount of up to \$160,000 from the State of Ohio, Office of Criminal Justice Services for the purpose of funding personnel costs and equipment for Title III investigations; and **AUTHORIZING** the Finance Director to deposit the grant funds into Law Enforcement Grant Fund 368, Project Account No. 21ODLE.

This Ordinance would authorize the City Manager to apply for, accept, and appropriate a grant in the amount up to \$160,000 from the State of Ohio, Office of Criminal Justice Services to fund personnel costs and equipment for Title III investigations.

Electronic surveillance is cost intensive, progressive and requires a tremendous amount of manpower. If awarded, this grant will supplement Cincinnati Police Department (CPD) resources; helping to bridge the fiscal gap to abate Drug Trafficking Organization (DTO) operations, thereby reducing violence and drug overdoses. The grant requires matching funds of \$53,334, which will be provided from Narcotics Unit investigators' on-duty time. There are no new FTE associated with this grant. This Ordinance would also authorize the Finance Director to deposit the grant funds into Law Enforcement Grant Fund 368, Project Account No. 21ODLE.

As the grant application deadline is January 6, 2021, the Cincinnati Police Department will have applied for this grant prior to this Ordinance receiving approval from the City Council. Should this Ordinance not be approved, the grant funding will not be accepted.

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

The Administration recommends passage of this Ordinance.

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

Attachment



AUTHORIZING the City Manager to apply for, accept, and appropriate a grant in the amount of up to \$160,000 from the State of Ohio, Office of Criminal Justice Services for the purpose of funding personnel costs and equipment for Title III investigations; and **AUTHORIZING** the Finance Director to deposit the grant funds into Law Enforcement Grant Fund 368, Project Account No. 21ODLE.

WHEREAS, there is a grant available in the amount of up to \$160,000 from the State of Ohio, Office of Criminal Justice Services for the purpose of funding personnel costs and equipment for Title III investigations; and

WHEREAS, electronic surveillance is cost-intensive, progressive, and requires a tremendous amount of manpower; and

WHEREAS, this grant will supplement Cincinnati Police Department (CPD) resources, helping to bridge the fiscal gap and allowing for additional abatement of drug trafficking organization operations, thereby reducing violence and drug overdoses; and

WHEREAS, CPD has already applied for the grant, but will not accept any funds without approval of Council; and

WHEREAS, local matching resources of approximately \$53,334 are required and will be provided from Narcotics Unit investigators' on-duty time; and

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

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

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

Section 1. That the City Manager is hereby authorized to apply for, accept, and appropriate a grant in the amount of up to \$160,000 from the State of Ohio, Office of Criminal Justice Services for the purpose of funding personnel costs and equipment for Title III investigations.

Section 2. That the Director of Finance is hereby authorized to deposit the grant resources into Law Enforcement Grant Fund 368, Project Account No. 21ODLE.

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

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

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

January 6, 2021

To: Mayor and Members of City Council 202002362
From: Paula Boggs Muething, Interim City Manager
Subject: **Modifying Administrative Code Article XV "Retirement System" B
VERSION**

Transmitted herewith is an Emergency Ordinance captioned:

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

cc: Paula Tilsley, Executive Director Cincinnati Retirement System

EMERGENCY

City of Cincinnati

LES/B

AWB

An Ordinance No. _____

- 2021

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

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

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

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

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

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

Sec. 1. Board of Trustees.

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

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

- ii. ~~Four~~ Two members, who ~~may~~shall be employee members of the system, shall be elected by deferred ~~members~~ retirees and active members, as defined in Sections 203-1-~~DM1~~ and 203-1-A23, who are not currently receiving a retirement benefit.
 - iii. ~~One~~ Three members, who ~~may~~shall be a retired members of the system, shall be elected by persons who are receiving retirement allowances, optional benefits, or survivor benefits from the system.
- b) ~~The Mayor shall appoint a nominating committee to recruit and recommend candidates for appointment to the board. At least two of the~~ The appointed members of the board shall have the following qualifications:
- i. ~~Baccalaureate degree from an accredited college or university in~~ finance, economics, business, or other field of study involving financial management; or addition to the expertise required pursuant to subsection (b)(ii) herein.
 - ii. ~~A minimum of ten years of experience in~~ pension administration, pension actuarial practice, institutional investment management, employee benefits/investment law, banking, asset/liability management for an insurance company, or university or college professor with a focus on fiduciary or trust fund law or quantitative background in financial theory or actuarial math. corporate or municipal finance, institutional investments, law, corporate governance, risk management, health care administration, employee benefits, retirement plan administration, insurance or actuarial science.
 - iii. ~~Except for any appointed member appointed on the basis of expertise in municipal finance, the appointed member shall not be a current or former City employee; a current or former appointed City official; a participant, retiree, or beneficiary in the retirement system; a representative from any union representing City employees; or an immediate relative or spouse of a City employee or City retiree.~~
 - iiiv. ~~The appointed member shall not have any business, personal, or family interests related to the~~ City or the retirement system that would constitute a conflict of interest, or that would create the appearance of a conflict of interest, with the duties of a trustee. Being a member of the Cincinnati Retirement System or a beneficiary of the Cincinnati Retirement System shall not constitute a conflict of interest.
 - iv. ~~Residency shall not be considered as a qualification for~~ any appointed member.
 - vi. ~~A current or former elected~~ City official appointed as a member of the board pursuant to this subsection b)iii herein does not have to meet the requirements of subsection b)i and b)ii of this section. No more than two current or former elected City officials appointed as members of the board pursuant to this subsection b)iii herein shall be eligible to simultaneously serve as members of the board.
- c) ~~Board members shall serve four-year terms, except that:~~
- i. ~~when the Mayor makes initial appointments to the board under this Article, the Mayor shall appoint two members to serve four-year terms, two members to serve~~

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

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

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

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

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

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

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

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

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

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

i. Success at meeting the investment and funding objectives.

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

Sec. 3. - Organization of Board.

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

Sec. 7. - Actuary.

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

Sec. 9. - Actuarial Investigations.

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

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

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

Section 3. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter be effective immediately. The reason for the emergency is the immediate need to update the Administrative Code so that the Board of the Cincinnati Retirement System's ability to meet and conduct business is not affected.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

New language underscored. Deletions indicated by strike-through.

September 23, 2020

202001602

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

Transmitted herewith is an Emergency Ordinance captioned:

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

cc: Paula Tilsley, Executive Director
Cincinnati Retirement System

EMERGENCY

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- 2020

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

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

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

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

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

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

Sec. 1. Board of Trustees.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

i. Success at meeting the investment and funding objectives.

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

Sec. 3. - Organization of Board.

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

Sec. 7. - Actuary.

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

Sec. 9. - Actuarial Investigations.

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

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

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

Section 3. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter be effective immediately. The reason for the emergency is the immediate need to update the Administrative Code so that the Board of the Cincinnati Retirement System’s ability to meet and conduct business is not affected.

Passed: _____, 2020

John Cranley, Mayor

Attest: _____
Clerk

New language underscored. Deletions indicated by strike-through.

January 12, 2021

Councilmember David Mann, Chairperson
Budget and Finance Committee
City of Cincinnati
City Hall
801 Plum Street
Cincinnati, Ohio 45202

Dear Mr. Mann:

I am submitting this request on behalf of the Cincinnati Retirement System (CRS) Board of Trustees. The CRS Board is responding to #202002362, Ordinance (Emergency) Version B, Modifying Administrative Code, Article XV, "Retirement System". The intent of the ordinance is to modify the Administrative Code to comply with the Collaborative Settlement Agreement (CSA) approved on October 15, 2015 by the United States District Court, Southwestern Ohio District. The CSA includes CRS Board reforms.

The CRS Board appreciates that the City Administration has asked for the CRS Board input and has made some changes based on that input. Nonetheless, the CRS Board requests two changes to the ordinance which would benefit the long-term stability of the Board. The City Administration has directed the Board to the Budget and Finance Committee for consideration of this request.

Sec. 1. Board of Trustees, d)

The ordinance, as written, limits the number of years a Board member may serve to three four-year terms, or twelve years **in total for a lifetime**. The CRS Board requests that this be changed to three four-year **consecutive** terms. That is, for example, a Board member may return to the Board after completing three consecutive terms as long as the Board member is out of office for one term. With regard to no lifetime limit, the Board's requested change is similar to City Charter, Article IX, Nominations and Elections, 2a concerning City Council term limits under which former City Council members may return to office.

While the Board recognizes the need to have new representation and viewpoints, the Board also recognizes the need to have experience and continuity given that CRS is a complex system with \$2.25 billion in assets. In addition, it is a challenge to find interested candidates for Board membership. The Board believes that allowing a return to the Board rather than a lifetime limit would help to ameliorate these concerns.

Sec. 1. Board of Trustees, e), ii.

The CSA established a Board of Trustees including two employee members, three retiree members, and four members appointed by the Mayor, with the advice and consent of City Council. The employee and retiree representatives are elected by their constituent groups. The CSA objective is to have equitable representation from three groups with potentially different perspectives and interests within the context of the Board's fiduciary duty.

If an elected position would become vacant with an unexpired term, the ordinance would allow the unexpired term vacancy to exist for up to nine months until the next regularly scheduled election. The reason given for this is that elections may take up to nine months to complete from the nomination phase through the election phase. Although the Board does not dispute the election timeline, it is concerned that a vacancy for an extended period of time disrupts the equitable representation and increases the risk of not having a quorum (six members) or sufficient members to approve action (five members). The concern about disruption of equitable representation is especially important for the employee group because the CSA provides for only two employee members. A vacant employee Board position significantly dilutes the employee group representation. It is also noteworthy that the appointed position vacancies can be filled without such a delay.

The CRS Board requests that for employee or retiree unexpired term vacancies, that the remaining employee member or remaining retiree members be able to select a replacement from their constituent group until the regularly scheduled election process is concluded. This ability would help to preserve the equitable representation contemplated by the CSA. This method of filling CRS Board vacated positions is conceptually similar to the City Charter, Article II, Legislative Power, Section 4 b, regarding the filling of Council unexpired terms through successor designation.

The CRS Board appreciates the opportunity to present this request to the Budget and Finance Committee. The CRS Board is certainly willing to work with the City Solicitor to draft an ordinance which includes the Board's two changes.

Sincerely,



William E. Moller, Chair
Cincinnati Retirement System
Board of Trustees

January 13, 2021

TO: Mayor and Members of City Council

202100077

FROM: Paula Boggs Muething, City Manager

SUBJECT: **Resolution—2022 Urban Forestry Special Assessment**

Attached is a legislative resolution captioned:

DECLARING the necessity of assessing for the control of blight and disease of shade trees along the streets and the public right-of-way, and for planting, care, maintenance, trimming, and removing of shade trees in and along the streets within the City of Cincinnati’s Urban Forestry Maintenance District for the year 2022.

The Board of Park Commissioners at their **December 17, 2020**, meeting recommended an assessment rate of \$0.21 per front foot to continue funding of street tree maintenance and planting services in 2022.

It was determined that this rate of funding is sufficient to continue current service levels and various program activities.

The Administration recommends the adoption of this resolution.

Attachment I – Assessment Resolution

Attachment 2 – Work Plan Narrative and Budget

cc: Kara Kish, Director of Parks
Robin O. Hunt, Supervisor of Urban Forestry
Andrew Garth, Interim City Solicitor

Legislative Resolution

KKF *AWB*

RESOLUTION NO. _____ - 2021

DECLARING the necessity of assessing for the control of blight and disease of shade trees along the streets and the public right-of-way, and for planting, care, maintenance, trimming, and removing of shade trees in and along the streets within the City of Cincinnati's Urban Forestry Maintenance District for the year 2022.

WHEREAS, the City of Cincinnati created an Urban Forestry Maintenance District for the purpose of controlling the blight and disease of shade trees within the public right-of-way, and for the planting, care, and maintenance of shade trees as authorized by Ohio Revised Code Section 727.011; and

WHEREAS, the Board of Park Commissioners created the Urban Forestry Program to serve the needs of the Urban Forestry Maintenance District; and

WHEREAS, the Board of Park Commissioners, by resolution on December 17, 2020, urged the continuation of the Urban Forestry Program in accordance with the plans, estimates, and schedules currently filed with the Clerk of Council; and

WHEREAS, the Board of Park Commissioners also recommends levying an assessment of \$0.21 per front foot to fund the 2022 Urban Forestry Program, which is the same assessment rate as for the program for the previous year; now, therefore,

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

Section 1. That it is hereby declared necessary and conducive to public health, convenience, safety, and welfare to continue the Urban Forestry Program for the control of blight and disease of shade trees along the streets and the public right-of-way, and for the planting, care, maintenance, trimming, and removing of shade trees along the streets and the public right-of-way within the City of Cincinnati's Urban Forestry Maintenance District, which includes all territory within, and coextensive with, the City's boundaries, for the year 2022.

Section 2. That the plans and estimates of costs to fund the Urban Forestry Program, now on file with the Clerk of Council, are hereby approved.

Section 3. That the City of Cincinnati shall pay at least two percent of the total cost and expense of the Urban Forestry Program, and assume the costs for intersections and uncollectible assessments against state and federally-owned property. The assessment shall be by the front foot method, at the rate of \$0.21 per front foot, upon all lots and lands bounding and abutting public right-of-way in the Urban Forestry Maintenance District.

Section 4. That the assessment shall be paid in cash to the City Treasurer within thirty days after the passage of the assessing ordinance. Assessments not paid in cash within the period shall be certified by the proper City of Cincinnati official to the Hamilton County Auditor for collection and shall be paid in one annual installment, at the same time and in the same manner as real property taxes due and payable in December 2022.

Section 5. That the City of Cincinnati does not intend to issue securities in anticipation of the levy or collection of the assessment.

Section 6. That the City Administration shall prepare, in accordance with the method of assessment set forth in Section 3 hereof, an estimate of the amount of the assessment against each lot or parcel to be assessed, and shall file it in the Office of the Clerk of Council.

Section 7. That notice of the passage of this resolution shall be given pursuant to Sections 727.13 and 727.14 of the Ohio Revised Code.

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

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

RECOMMENDED ASSESSMENT BUDGET FOR 2022
Urban Forestry Street Tree Program
Natural Resource Management Section
Cincinnati Park Board

Assessment rate is \$0.21/ft

EXPENSES		Proposed 2022 Budget	% of budget
Personnel	\$655,000.00		
Fringes	\$230,000.00		
Est. Overtime	\$75,000.00		
	Total	\$960,000.00	40%
Capital Equipment		\$30,000.00	1%
Contractual			
Maintenance			
Emergency		\$350,000.00	15%
Preventive		\$564,000.00	24%
Stump Grinding		\$132,000.00	5.5%
Planting			
Planting		\$325,000.00	14%
Young Tree Maintenance		\$20,000.00	0.8%
Materials & Supplies		19,000	1%
TOTAL		<u>\$2,400,000.00</u>	100.0%

REVENUE

792 assessment	\$2,400,000.00	
Carryover to 2022	\$285,000.00	(used to get PM Cycle back on track)
Fund 428	\$202,064.00	(Emergency Fund)

**2022 Street Tree Program
Recommended Budget Report**

Expense Descriptions:

Personnel – \$960,000

Salary and fringes for 50% Division Manager of Natural Resources, 50% Senior GIS Analyst, Urban Forestry Supervisor, four Urban Forestry Specialists, two Florists, one Administrative Technician, one seasonal Recreational Specialist for GIS and Street Tree Inventory, one seasonal Recreational Specialist dedicated to young tree maintenance and one Tree Crew Leader to assist with work order management.

Capital Equipment – \$30,000

Capital equipment replacement – replacement pickup truck.

Maintenance – \$1,046,000

Emergency - Continuation of the routine and emergency street tree maintenance contract.

Preventive – Pruning and Removals will begin with the communities Hartwell, Carthage, Roselawn, Bond Hill, Paddock Hills, Pleasant Ridge, and Kennedy Heights; fall 2022 will begin in California, Mt. Washington, East End, Linwood, Columbia Tusculum, Mt. Lookout, Oakley and Madisonville. This will put the PM cycle back on track

Continue to water, fertilize, and replace trees within Business Districts.

Stump Grinding - Continuing routine stump grinding contract.

Planting – \$325,000

Spot Planting - maintain citywide planting program to support development projects and to replace trees removed in all communities.

Comprehensive Planting – conduct targeted plantings in designated reforestation neighborhoods determined by the 2020 Urban Tree Canopy Analysis

Young Tree Maintenance – water and fertilize young trees

Miscellaneous Non-Personnel – \$19,000

Municipal Garage costs, fuel, training, etc.

Date: January 13, 2021

To: Mayor and Members of City Council **202100096**

From: Paula Boggs Muething, City Manager

Subject: EMERGENCY ORDINANCE – ACCEPTING AND CONFIRMING DEDICATION OF THE SANCTUARY AT RIVER GREEN RIGHT OF WAY (SANCTUARY PLACE AND A PORTION OF RENSLAR AVENUE)

Attached is an emergency ordinance captioned as follows:

ACCEPTING AND CONFIRMING the dedication to public use for right of way purposes the street known as Sanctuary Place and a portion of the street known as Renslar Avenue located in California neighborhood of Cincinnati, in accordance with the plat entitled “*The Sanctuary at River Green Right of Way Dedication Plat.*”

The City of Cincinnati and Panama RE Investments, LLC (“Developer”) are parties to a *Property Sale and Development Agreement* dated December 1, 2017, pursuant to which Developer agreed to construct certain public infrastructure improvements including the public rights-of-way known as Sanctuary Place and a portion of the street known as Renslar Avenue. The Developer has completed construction of the Public Infrastructure Improvements and has prepared a right of way dedication plat entitled “*The Sanctuary at River Green Right of Way Dedication Plat*” to dedicate the Public Infrastructure Improvements to public use for right of way purposes forever.

The City Engineer has examined the Dedication Plat as to its technical features and found it to be correct.

The City Planning Commission approved the Dedication Plat at its meeting on December 18, 2020.

The reason for the emergency is the immediate need for the City to obtain control and provide maintenance to the dedicated rights-of-way at the earliest possible date.

The Administration recommends passage of the attached emergency ordinance.

Attachment I – Dedication Plat

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

EMERGENCY

City of Cincinnati

JRS *AWB*

An Ordinance No. _____ - 2021

ACCEPTING AND CONFIRMING the dedication to public use for right of way purposes the street known as Sanctuary Place and a portion of the street known as Renslar Avenue located in the California neighborhood of Cincinnati, in accordance with the plat entitled “*The Sanctuary at River Green Right of Way Dedication Plat.*”

WHEREAS, the City of Cincinnati (“City”) and Panama RE Investments, LLC (“Developer”) are parties to a *Property Sale and Development Agreement* dated December 1, 2017, pursuant to which Developer agreed to construct certain public infrastructure improvements including the public rights-of-way known as Sanctuary Place and a portion of the street known as Renslar Avenue (the “Public Infrastructure Improvements”) in the California neighborhood of Cincinnati; and

WHEREAS, by virtue of a plat of subdivision entitled “*The Sanctuary at River Green Phase I,*” executed on February 21, 2018 and recorded on March 8, 2018 in Plat Book 464, pages 73-74, Hamilton County, Ohio Records, Developer dedicated certain portions of Sanctuary Place and Renslar Avenue to public use for right of way purposes; and

WHEREAS, Developer has completed construction of the Public Infrastructure Improvements and has prepared a right of way dedication plat entitled “*The Sanctuary at River Green Right of Way Dedication Plat*” to dedicate the Public Infrastructure Improvements to public use for right of way purposes forever, a copy of which is attached hereto as Attachment A (the “Dedication Plat”); and

WHEREAS, the City Manager, in consultation with the City Engineer, has examined the technical features of the Dedication Plat and found it to be correct, has inspected and approved the Public Infrastructure Improvements, and recommends that the Council accept the Public Infrastructure Improvements as public rights-of-way; and

WHEREAS, the City Planning Commission approved the Dedication Plat at its meeting on December 18, 2020; now, therefore,

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

Section 1. That the City hereby accepts and confirms the dedication of the street known as Sanctuary Place and a portion of the street known as Renslar Avenue as public rights-of-way in accordance with the plat entitled “*The Sanctuary at River Green Right of Way Dedication Plat*”

(the "Dedication Plat"), which Dedication Plat is attached to this ordinance as Attachment A and incorporated herein by reference.

Section 2. That the City Solicitor shall cause an authenticated copy of this ordinance and the Dedication Plat to be filed with the Hamilton County, Ohio Auditor's Office and to be recorded in the Hamilton County, Ohio Recorder's Office.

Section 3. That the City Manager and other City officials are authorized to take all necessary and proper actions to carry out the provisions of this ordinance and to facilitate the dedication and acceptance of the public rights-of-way, including, without limitation, by executing the Dedication Plat and any and all ancillary real estate documents and by generating and installing any and all necessary street identification signs or other street signage.

Section 4. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need for the City to obtain control and provide maintenance to the dedicated rights-of-way at the earliest possible date.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

ATTACHMENT A

THE SANCTUARY AT RIVER GREEN
 PHASE I
 RIGHT OF WAY DEDICATION PLAT

BENNETT TOMPKINS MILITARY SURVEY No. 395
 ANDERSON TOWNSHIP
 CITY OF CINCINNATI
 HAMILTON COUNTY, OHIO

PRIVATE DRAINAGE LIMITS

PRIVATE DRAINAGE LIMITS SHOWN ON THIS PLAT ARE NOT ACCEPTED BY THE CITY OF CINCINNATI. THE CITY OF CINCINNATI HAS THE RIGHT TO REQUIRE THE INSTALLATION OF A PUBLIC DRAINAGE SYSTEM OR TO REPAIR CHANGES OF INSTALLATIONS IN SAID LIMITS. THE SAID LIMITS AND ALL IMPROVEMENTS THEREON SHALL BE MAINTAINED BY THE OWNER. THESE ASSUMPTIONS AND LIMITATIONS SHALL APPLY TO ALL UTILITIES, INCLUDING BUT NOT LIMITED TO STRUCTURE ALTERATIONS, PLUMBING OR OTHER MATERIALS AND MODIFICATIONS SHALL BE MADE TO THE SAID LIMITS. THE CITY OF CINCINNATI HAS THE RIGHT TO REQUIRE THE INSTALLATION OF A PUBLIC DRAINAGE SYSTEM OR TO REPAIR CHANGES OF INSTALLATIONS IN SAID LIMITS. THE SAID LIMITS AND ALL IMPROVEMENTS THEREON SHALL BE MAINTAINED BY THE OWNER. THESE ASSUMPTIONS AND LIMITATIONS SHALL APPLY TO ALL UTILITIES, INCLUDING BUT NOT LIMITED TO STRUCTURE ALTERATIONS, PLUMBING OR OTHER MATERIALS AND MODIFICATIONS SHALL BE MADE TO THE SAID LIMITS.

RIGHT OF WAY RESTRICTIONS:

NO PART OF ANY DRIVEWAY (POND) WITH THE ROAD RIGHT OF WAY SHALL BE RE-INSTALLED (POND) FEET OF ANY INLET, FIRE HYDRANT, UTILITY POLE OR CUVT WISE ANCHOR.

UNDERGROUND SPRINKLER SYSTEMS SHALL NOT BE PERMITTED WITHIN THE RIGHT OF WAY. IF A RE-INSTALLATION OR REPAIR OF ANY OF THESE SYSTEMS IS REQUIRED BY THE CITY OF CINCINNATI, THE CITY OF CINCINNATI HAS THE RIGHT OF WAY TO REPAIR, REPLACE, RELOCATE, OR REMOVE ANY SUCH SYSTEMS. TRANSPORTATION AND ENGINEERING THE CITY OF CINCINNATI.

CITY OF CINCINNATI CITY ENGINEER

DATE: _____ DAY OF _____ 20____

NOTE:

THE SANCTUARY AT RIVER GREEN SUBDIVISION PHASE I RECORDED PLAT IS RECORDED IN THE HAMILTON COUNTY RECORDER'S OFFICE AS PLAT BOOK 484, PAGES 73 & 74 H.C.R.O.
 THIS DRAWING REPRESENTS THE SEPARATE INSTRUMENT FOR DEDICATING THE RIGHT OF WAY TRACTS IN THAT SUBDIVISION INDIVIDUALLY.
 (SEE SHEET 2 OF 2)

CITY OF CINCINNATI ZONING

RP-R - REVSFRONT RESIDENTIAL/RECREATIONAL DISTRICT
 MINIMUM LOT AREA - 4,000 SQ.FT.
 MINIMUM LOT AREA, PORCHES - 2,000 SQ.FT.
 SIDE YARD LEAST WIDTH/FRONT 3 FEET/ 6 FEET
 SIDE YARD ROW HOUSES LEAST WIDTH/ROW: 0 FEET / 3 FEET
 MAXIMUM HEIGHT: 25 FEET
 MAXIMUM BUILDING COVERAGE: 50%

OTHER & DEVELOPER
 PANAMA R.E. INVESTMENTS, LLC
 1008 MAIN STREET - (ST. 87)
 CINCINNATI, OHIO 45202

SURVEY NOTES:

CONFORMANCE IN GENERAL WITH SURVEY
 ALL MONUMENTS IN GOOD CONDITION UNLESS OTHERWISE NOTED.

DEDICATION STATEMENT

BE, THE UNDERSIGNED, BEING THE OWNERS AND JOHN HOLDER, DO HEREBY ADAPT AND APPROVE AS SHOWN HEREON, TO PUBLIC USE FOR STREET PURPOSES FURNISH. WE ALSO HEREBY AGREE TO WAIVE ALL RIGHTS AND INTERESTS IN THE SAID PROPERTY AND ALL PROPERTY ON THE DATE OF ACCEPTANCE.

OWNER: PANAMA R.E. INVESTMENTS, LLC

BY: _____ DATE: _____
 ITS: _____ DATE: _____

STATE OF OHIO)
 COUNTY OF HAMILTON)

BE IT KNOWN THAT ON THIS _____ DAY OF _____, BEFORE ME A NOTARY PUBLIC IN AND FOR SAID STATE, PERSONALLY APPEARED _____ OF PANAMA R.E. INVESTMENTS, LLC, WHO, THEN AND THERE, DID ACKNOWLEDGE THIS ACT AND DEED FOR THE USES AND PURPOSES IN SAID INSTRUMENT MENTIONED.

IN WITNESS WHEREOF, I HAVE HERETOBY SUBSCRIBED MY NAME AND AFFIX MY NOTARY SEAL ON THE DAY AND YEAR LAST FORESAID.

NOTARY PUBLIC _____ BY COMMISSION EXPIRES _____

APPROVED:

CITY OF CINCINNATI STORMWATER MANAGEMENT UTILITY ENGINEER DATE _____

APPROVED:

SEWER CHIEF ENGINEER, M.S.D. DATE _____

PRIVATE SEWER EASEMENT

THE CITY OF CINCINNATI DOES NOT ACCEPT ANY PRIVATE SEWER EASEMENTS SHOWN ON THIS PLAT. THE CITY OF CINCINNATI HAS THE RIGHT TO REQUIRE THE INSTALLATION AND MAINTENANCE OF ALL PRIVATE SEWER LINES WITHIN THE SUBDIVISION. OPERATION AND MAINTENANCE OF ALL PRIVATE SEWER LINES WITHIN THE SUBDIVISION IS THE OBLIGATION OF THE OWNER. THE CITY OF CINCINNATI HAS THE RIGHT TO REQUIRE THE INSTALLATION AND MAINTENANCE OF ALL PRIVATE SEWER LINES WITHIN THE SUBDIVISION. OPERATION AND MAINTENANCE OF ALL PRIVATE SEWER LINES WITHIN THE SUBDIVISION IS THE OBLIGATION OF THE OWNER. THE CITY OF CINCINNATI HAS THE RIGHT TO REQUIRE THE INSTALLATION AND MAINTENANCE OF ALL PRIVATE SEWER LINES WITHIN THE SUBDIVISION. OPERATION AND MAINTENANCE OF ALL PRIVATE SEWER LINES WITHIN THE SUBDIVISION IS THE OBLIGATION OF THE OWNER.

PLAT APPROVED BY THE CITY OF CINCINNATI PLANNING COMMISSION ON THE _____ DAY OF _____, 20____.

DIRECTOR, DEPARTMENT OF CITY PLANNING

APPROVED AS TO FORM: ASSISTANT CITY SOLICITOR DATE _____

CITY OF CINCINNATI COUNCIL

THE COMMISSIONERS OF THE BOARD OF WAY TRACTS REFERENCED ARE ACCEPTED BY THE COUNCIL OF THE CITY OF CINCINNATI, HAMILTON COUNTY, OHIO BY ORDINANCE _____ DATED _____ DAY OF _____, 20____.

PATRICK DURANSY, CINCINNATI CITY MANAGER DATE _____

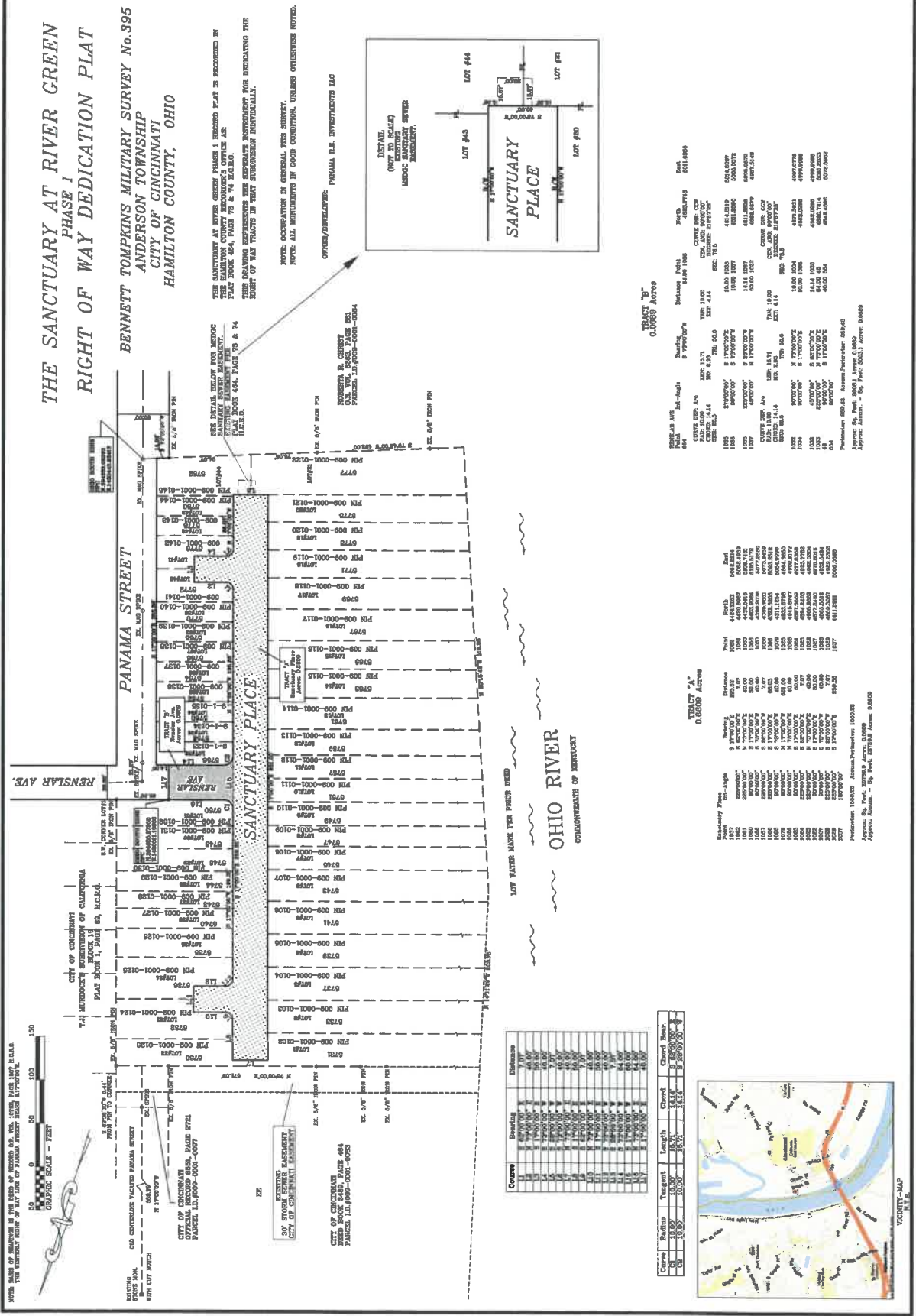
LANDSDALE SURVEYING, INC.
 1008 MAIN STREET - (ST. 87)
 CINCINNATI, OHIO 45202
 PHONE (513) 761-1776
 FAX (513) 761-1777
 DATE: 4/10/2019
 DRAWN BY: MJK
 SCALE: _____
 SHEET 1 OF 2

I HEREBY CERTIFY THAT I HAVE SUPERVISED THE SURVEYING AT SHOWN.
 ALL MONUMENTS IN GOOD CONDITION UNLESS OTHERWISE NOTED.



JAY S. OLSZEWSKI, P.E.
 OHIO REGISTERED SURVEYOR #9-7199

DATE: 4/10/2019	SCALE: 1"=50'
SHEET # 02 2	
LANDALE SURVEYING, INC.	
1009 MAIN STREET - (ST. RT. 28)	
HAMILTON, OHIO 45006-1919	

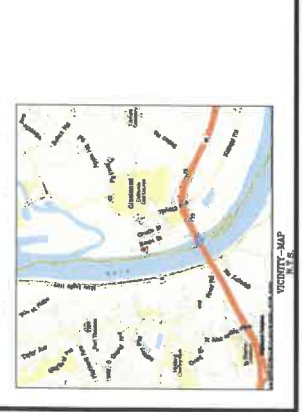


TRACT "B"
 0.10650 ACRES

Station	Dist. from Sta. 0+00	Bearing	Distance	Point	East	North
1+00	0+00	S 89° 00' 00" W	100.00	1+00	100.00	0.00
2+00	1+00	S 89° 00' 00" W	100.00	2+00	200.00	0.00
3+00	2+00	S 89° 00' 00" W	100.00	3+00	300.00	0.00
4+00	3+00	S 89° 00' 00" W	100.00	4+00	400.00	0.00
5+00	4+00	S 89° 00' 00" W	100.00	5+00	500.00	0.00
6+00	5+00	S 89° 00' 00" W	100.00	6+00	600.00	0.00
7+00	6+00	S 89° 00' 00" W	100.00	7+00	700.00	0.00
8+00	7+00	S 89° 00' 00" W	100.00	8+00	800.00	0.00
9+00	8+00	S 89° 00' 00" W	100.00	9+00	900.00	0.00
10+00	9+00	S 89° 00' 00" W	100.00	10+00	1000.00	0.00
11+00	10+00	S 89° 00' 00" W	100.00	11+00	1100.00	0.00
12+00	11+00	S 89° 00' 00" W	100.00	12+00	1200.00	0.00
13+00	12+00	S 89° 00' 00" W	100.00	13+00	1300.00	0.00
14+00	13+00	S 89° 00' 00" W	100.00	14+00	1400.00	0.00
15+00	14+00	S 89° 00' 00" W	100.00	15+00	1500.00	0.00
16+00	15+00	S 89° 00' 00" W	100.00	16+00	1600.00	0.00
17+00	16+00	S 89° 00' 00" W	100.00	17+00	1700.00	0.00
18+00	17+00	S 89° 00' 00" W	100.00	18+00	1800.00	0.00
19+00	18+00	S 89° 00' 00" W	100.00	19+00	1900.00	0.00
20+00	19+00	S 89° 00' 00" W	100.00	20+00	2000.00	0.00

TRACT "A"
 0.66010 ACRES

Station	Dist. from Sta. 0+00	Bearing	Distance	Point	East	North
1+00	0+00	S 89° 00' 00" W	100.00	1+00	100.00	0.00
2+00	1+00	S 89° 00' 00" W	100.00	2+00	200.00	0.00
3+00	2+00	S 89° 00' 00" W	100.00	3+00	300.00	0.00
4+00	3+00	S 89° 00' 00" W	100.00	4+00	400.00	0.00
5+00	4+00	S 89° 00' 00" W	100.00	5+00	500.00	0.00
6+00	5+00	S 89° 00' 00" W	100.00	6+00	600.00	0.00
7+00	6+00	S 89° 00' 00" W	100.00	7+00	700.00	0.00
8+00	7+00	S 89° 00' 00" W	100.00	8+00	800.00	0.00
9+00	8+00	S 89° 00' 00" W	100.00	9+00	900.00	0.00
10+00	9+00	S 89° 00' 00" W	100.00	10+00	1000.00	0.00
11+00	10+00	S 89° 00' 00" W	100.00	11+00	1100.00	0.00
12+00	11+00	S 89° 00' 00" W	100.00	12+00	1200.00	0.00
13+00	12+00	S 89° 00' 00" W	100.00	13+00	1300.00	0.00
14+00	13+00	S 89° 00' 00" W	100.00	14+00	1400.00	0.00
15+00	14+00	S 89° 00' 00" W	100.00	15+00	1500.00	0.00
16+00	15+00	S 89° 00' 00" W	100.00	16+00	1600.00	0.00
17+00	16+00	S 89° 00' 00" W	100.00	17+00	1700.00	0.00
18+00	17+00	S 89° 00' 00" W	100.00	18+00	1800.00	0.00
19+00	18+00	S 89° 00' 00" W	100.00	19+00	1900.00	0.00
20+00	19+00	S 89° 00' 00" W	100.00	20+00	2000.00	0.00



Curve

Station	Radius	Tangent	Length	Chord	Chord Bearing
1+00	100.00	0.00	0.00	0.00	S 89° 00' 00" W
2+00	100.00	0.00	0.00	0.00	S 89° 00' 00" W
3+00	100.00	0.00	0.00	0.00	S 89° 00' 00" W
4+00	100.00	0.00	0.00	0.00	S 89° 00' 00" W
5+00	100.00	0.00	0.00	0.00	S 89° 00' 00" W
6+00	100.00	0.00	0.00	0.00	S 89° 00' 00" W
7+00	100.00	0.00	0.00	0.00	S 89° 00' 00" W
8+00	100.00	0.00	0.00	0.00	S 89° 00' 00" W
9+00	100.00	0.00	0.00	0.00	S 89° 00' 00" W
10+00	100.00	0.00	0.00	0.00	S 89° 00' 00" W
11+00	100.00	0.00	0.00	0.00	S 89° 00' 00" W
12+00	100.00	0.00	0.00	0.00	S 89° 00' 00" W
13+00	100.00	0.00	0.00	0.00	S 89° 00' 00" W
14+00	100.00	0.00	0.00	0.00	S 89° 00' 00" W
15+00	100.00	0.00	0.00	0.00	S 89° 00' 00" W
16+00	100.00	0.00	0.00	0.00	S 89° 00' 00" W
17+00	100.00	0.00	0.00	0.00	S 89° 00' 00" W
18+00	100.00	0.00	0.00	0.00	S 89° 00' 00" W
19+00	100.00	0.00	0.00	0.00	S 89° 00' 00" W
20+00	100.00	0.00	0.00	0.00	S 89° 00' 00" W

GRAPHIC SCALE - FEET

0 50 100 150

DEDICATION STATEMENT:

WE, THE UNDERSIGNED, BEING THE OWNERS AND LIEN HOLDER, DO HERBY ADOPT AND CONFIRM THIS PLAT AND DEDICATE SANCTUARY PLACE AND PORTION OF RENSLAR AVENUE, AS SHOWN HERON, TO PUBLIC USE FOR STREET PURPOSES FOREVER. WE ALSO GUARANTEE THE PAYMNET OF ALL TAXES AND ASSESSMENTS THAT ARE A LIEN ON THE PROPERTY ON THE DATE OF ACCEPTANCE.

OWNER: PANAMA R.E. INVESTMENTS, LLC

BY: _____ DATE: _____

ITS: _____ DATE: _____

STATE OF OHIO)
) :ss
COUNTY OF HAMILTON)

BE IT KNOWN THAT ON THIS ____ DAY OF _____, 20____ BEFORE ME A NOTARY PUBLIC IN AND FOR SAID STATE, PERSONALLY APPEARED _____ OF

PANAMA R.E. INVESTMENTS, LLC, WHO, THEN AND THERE, DID ACKNOWLEDGE THE SIGNING AND EXECUTION OF THE FOREGOING INSTRUMENT TO BE HIS/HER VOLUNTARY ACT AND DEED, FOR THE USES AND PURPOSES IN SAID INSTRUMENT MENTIONED.

IN WITNESS WHEREOF, I HAVE HEREUNTO SUBSCRIBED MY NAME AND AFFIX MY NOTARY SEAL ON THE DAY AND YEAR LAST AFORESAID.

NOTARY PUBLIC _____ MY COMMISSION EXPIRES _____

APPROVED:

CITY OF CINCINNATI STORMWATER MANAGEMENT UTILITY ENGINEER DATE _____

APPROVED:

SEWER CHIEF ENGINEER, MSD _____ DATE _____

PRIVATE SEWER EASEMENT

THE CITY OF CINCINNATI DOES NOT ACCEPT ANY PRIVATE SEWER EASEMENTS SHOWN ON THIS PLAT AND THE CITY OF CINCINNATI IS NOT OBLIGATED TO MAINTAIN, REPAIR OR OPERATE ANY PRIVATE SEWER LINE WITHIN THE SUBDIVISION. OPERATION AND MAINTENANCE OF ALL PRIVATE SEWER LINES WITHIN THE SUBDIVISION IS THE OBLIGATION OF THE OWNERS OF LOTS IN THE SUBDIVISION USING THE PRIVATE SEWER LINE.

THE PRIVATE STORM WATER EASEMENTS ARE DEPICTED ON THE SANCTUARY AT RIVER GREEN PHASE 1 RECORD PLAT, AS RECORDED IN PLAT BOOK 464, PAGES 73 & 74 H.C.R.O.

PLAT APPROVED BY THE CITY OF CINCINNATI PLANNING COMMISSION ON THE _____ DAY OF _____, 20____ AD.

KATHERINE KEOUGH-JURS
DIRECTOR, DEPARTMENT OF CITY PLANNING

APPROVED AS TO FORM: _____ DATE _____
ASSISTANT CITY SOLICITOR

CITY OF CINCINNATI COUNCIL

THE DEDICATION OF THE RIGHT OF WAY TRACTS DEPICTED ARE ACCEPTED BY THE COUNCIL OF THE CITY OF CINCINNATI, HAMILTON COUNTY, OHIO BY ORDINANCE # _____ DATED THE _____ DAY OF _____, 20____ A.D.

PATRICK DUHANEY, CINCINNATI CITY MANAGER DATE _____

PRIVATE DRAINAGE LIMITS

PRIVATE DRAINAGE LIMITS SHOWN ON THIS PLAT ARE NOT ACCEPTED BY THE CITY OF CINCINNATI AND THE CITY OF CINCINNATI IS NOT RESPONSIBLE TO MAINTAIN, REPLACE, OR REPAIR CHANNELS OR INSTALLATIONS IN SAID LIMITS. THE SAID LIMITS AND ALL IMPROVEMENTS IN IT SHALL BE MAINTAINED BY THE OWNER, THEIR ASSIGNS, SUCCESSORS OR HEIRS OF THE ESTATE WITHIN THESE LIMITS. NO STRUCTURES OR STRUCTURE ALTERATIONS, PLANTING OR OTHER MATERIALS AND MODIFICATIONS SHALL BE PLACED AND/OR MADE, OR PERMITTED TO REMAIN WHICH MAY OBSTRUCT, RETARD, ALTER, OR CHANGE THE DIRECTION OF FLOW OF WATER THROUGH THE DRAINAGE CHANNEL IN THE SAID LIMITS. PERMISSION SHALL BE OBTAINED IN WRITING FROM THE STORMWATER MANAGEMENT UTILITY SECTION OF GREATER CINCINNATI WATER WORKS, CINCINNATI, OHIO PRIOP TO ANY CHANGES TO BE MADE TO SAID LIMITS.

RIGHT OF WAY RESTRICTIONS:

NO PART OF ANY DRIVEWAY APRON WITH THE ROAD RIGHT OF WAY SHALL BE INSTALLED FIVE (5) FEET OF ANY INLET, FIRE HYDRANT, UTILITY POLE OR GUY WIRE ANCHOR.

UNDERGROUND SPRINKLER SYSTEMS SHALL NOT BE PERMITTED WITHIN THE RIGHT OF WAY.

THIS PLAT RECOMMENDED FOR APPROVAL BY THE CITY OF CINCINNATI DEPARTMENT OF TRANSPORTATION AND ENGINEERING THIS _____ DAY OF _____, 20____.

CITY OF CINCINNATI CITY ENGINEER

NOTE:

THE SANCTUARY AT RIVER GREEN SUBDIVISION PHASE 1 RECORD PLAT IS RECORDED IN THE HAMILTON COUNTY RECORSER'S OFFICE AS: PLAT BOOK 464, PAGES 73 & 74 H.C.R.O.

THIS DRAWING REPRESENTS THE SEPERATE INSTRUMENT FOR DEDICATING THE RIGHT OF WAY TRACTS IN THAT SUBDIVISION INDIVIDUALLY. (SEE SHEET 2 OF 2)

CITY OF CINCINNATI ZONING

RF-R -RIVERFRONT RESIDENTIAL/RECREATIONAL DISTRICT

MINIMUM LOT AREA - 4,000 SQ.FT.
MINIMUM LOT AREA ROWHOUSE - 2,000 SQ.FT.
FRONT YARD: 10 FEET
SIDE YARD LEAST WIDTH/SUM: 3 FEET/ 6 FEET
SIDE YARD ROW HOUSE LEAST WIDTH/SUM: 0 FEET / 3 FEET
REAR YARD: 30 FEET
MAXIMUM HEIGHT: 35 FEET
MAXIMUM BUILDING COVERAGE: 60%

OWNER & DEVELOPER
PANAMA R.E. INVESTMENTS, LLC
6638 WYNDWATCH DRIVE
CINCINNATI, OHIO 45230

SURVEY NOTES:

OCCUPATION IN GENERAL FITS SURVEY.
ALL MONUMENTS IN GOOD CONDITION, UNLESS OTHERWISE NOTED.

THE SANCTUARY AT RIVER GREEN
PHASE I
RIGHT OF WAY DEDICATION PLAT

BENNETT TOMPKINS MILITARY SURVEY No.395
ANDERSON TOWNSHIP
CITY OF CINCINNATI
HAMILTON COUNTY, OHIO

BENCHMARKS

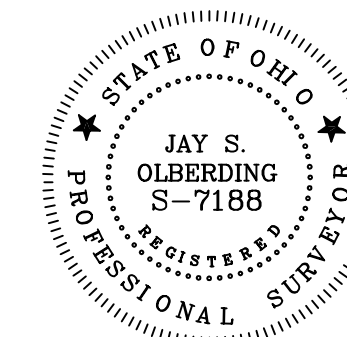
STATION 6965 IS LOCATED AT CALIFORNIA PARK BALLFIELDS ON RENSLAR AVENUE, ONE BLOCK SOUTH OF KELLOGG AVENUE, IN CINCINNATI, OHIO. TO REACH FROM THE FEDERAL BUILDING AT FIFTH AND MAIN STREETS IN DOWNTOWN CINCINNATI. GO EAST ON W. FIFTH STREET FOR 0.30 MI. (0.48KM) TO COLUMBIA PARKWAY. STAY ON COLUMBIA PARKWAY FOR 3.8D MI (6.20 KM) TO DELTA AVENUE, TURN RIGHT ON DELTA AVENUE FOR 0.10 MI (0.16 KM) TO KELLOGG AVENUE, TURN LEFT ONTO KELLOGG FOR 3.80 MI (6.12 KM) TO RENSLAR AVENUE, TURN RIGHT ONTO RENSLAR THE PARK WILL BE SITUATED ON THE LEFT SIDE ONE BLOCK SOUTH OF KELLOGG. STATION IS SET FLUSH WITH THE TOP OF THE GROUND, 25.80 FT (7.86 M) EAST OF THE EAST LINE OF RENSLAR AVENUE, 78.30 FT (23.87 M) SOUTHEAST OF AN ELECTRIC POLE NO T3-76E, AND 33.50 FT (10.21 M) SOUTHWEST OF THE SOUTHWEST END OF A CHAIN LINK BACKSTOP FENCE FOR BALLFIELD NO 2. ELEVATION: 469.79

STATION 6966 IS LOCATED AT CALIFORNIA PARK BALLFIELDS ON RENSLAR AVENUE, ONE BLOCK SOUTH OF KELLOGG AVENUE, IN CINCINNATI, OHIO. TO REACH FROM THE FEDERAL BUILDING AT FIFTH AND MAIN STREETS IN DOWNTOWN CINCINNATI. GO EAST ON W. FIFTH STREET FOR 0.30 MI. (0.48KM) TO COLUMBIA PARKWAY. STAY ON COLUMBIA PARKWAY FOR 3.85 MI (6.20 KM) TO DELTA AVENUE, TURN RIGHT ON DELTA AVENUE FOR 0.10 MI (0.16 KM) TO KELLOGG AVENUE, TURN LEFT ONTO KELLOGG FOR 3.80 MI (6.12 KM) TO RENSLAR AVENUE, TURN RIGHT ONTO RENSLAR THE PARK WILL BE SITUATED ON THE LEFT SIDE ONE BLOCK SOUTH OF KELLOGG. STATION IS SET FLUSH WITH THE TOP OF THE GROUND, 116.3 FT SOUTHWEST OF ELECTRICAL POLE NO T3-76E, 44.8 FT NORTHWEST OF ELECTRICAL POLE NO T3-77E AND 30.4 FT NORTHEAST OF MANHOLE SET IN A 4 FT CONCRETE BASE. ELEVATION: 465.92

AREA SUMMARY: FULL SITE

TO BE DEDICATED AS R/W
RENSLAR AVENUE: 0.0689 ACRES
SANCTUARY PLACE: 0.6609 ACRES
TOTAL OF 44 LOTS: 8.0996 ACRES
TOTAL AREA: 8.8294 ACRES

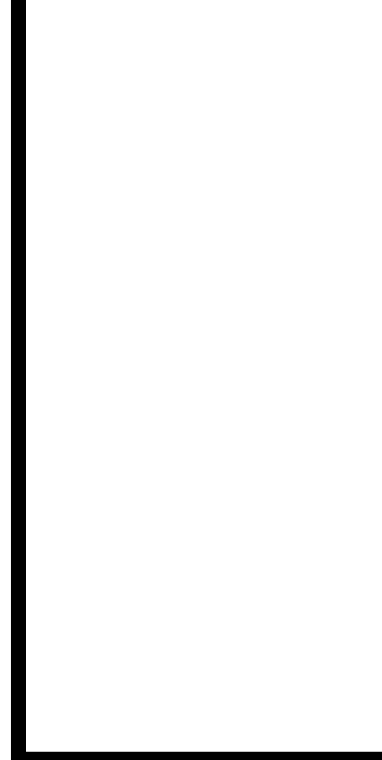
I HEREBY CERTIFY THAT I HAVE SURVEYED THE SUBDIVISION AND VERIFY ALL DIMENSIONS. I HAVE SET NINE (9) MONUMENTS AS SHOWN.



Jay S. Olberding P.S.

JAY S. OLBERDING P.S.
OHIO REGISTERED SURVEYOR #S-7188

DATE:	5/12/20	BY:	JSO	REASON:	PER CITY OF CINCINNATI.

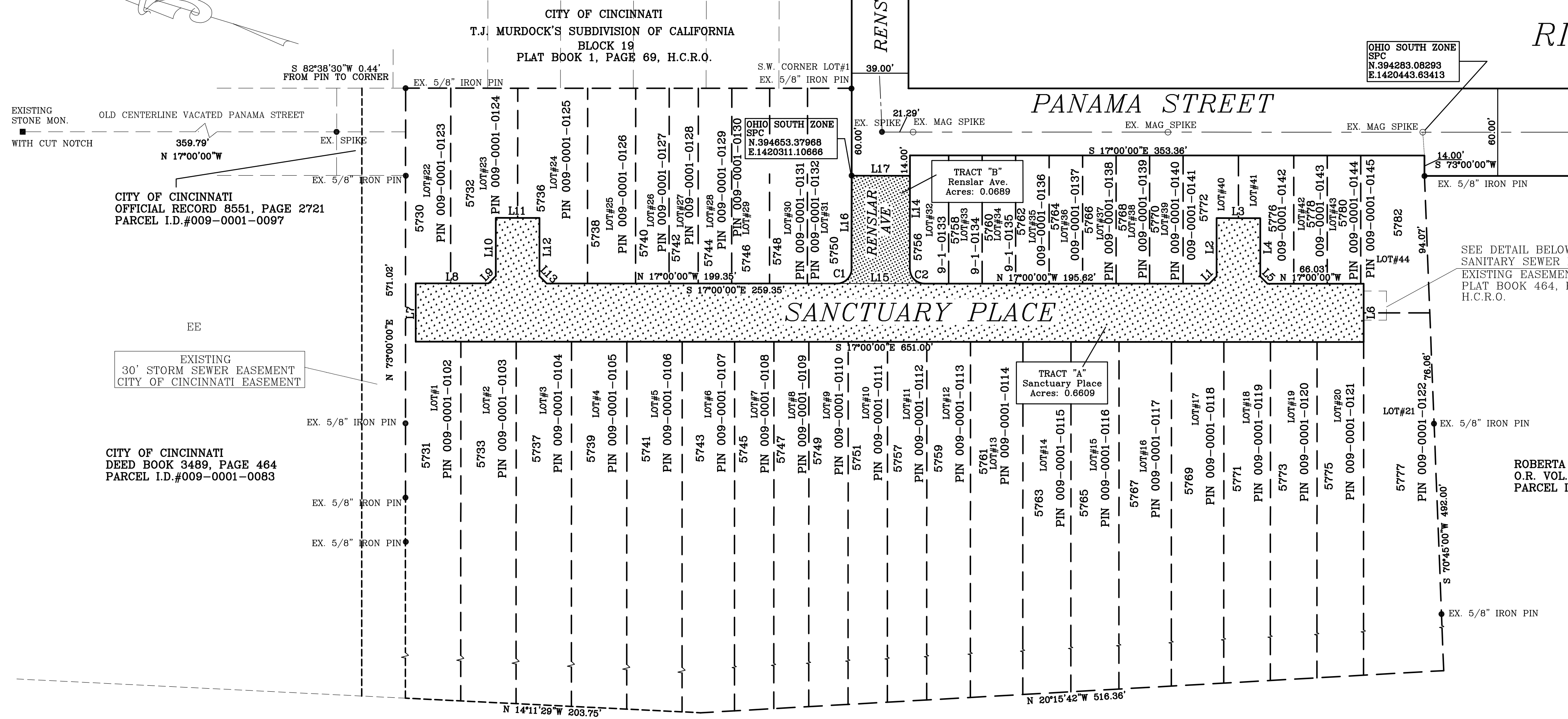
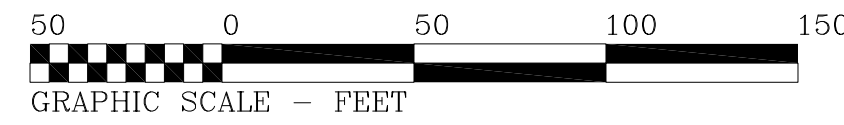


LANDALE SURVEYING, INC
1008 MAIN STREET - (ST.FT.28)
MILFORD OHIO. 45150 PHONE (513) 831-9970

DATE: 4/10/2019 DRAWN BY: MRH
SCALE: SHEET 1 OF 2

DRAWING NUMBER
09-028D

NOTE: BASIS OF BEARINGS IS THE DEED OF RECORD O.R. VOL. 10762, PAGE 1507 H.C.R.O. THE WESTERLY RIGHT OF WAY LINE OF PANAMA STREET BEARS S.17°00'00"E.



THE SANCTUARY AT RIVER GREEN PHASE I RIGHT OF WAY DEDICATION PLAT

BENNETT TOMPKINS MILITARY SURVEY No.395
ANDERSON TOWNSHIP
CITY OF CINCINNATI
HAMILTON COUNTY, OHIO

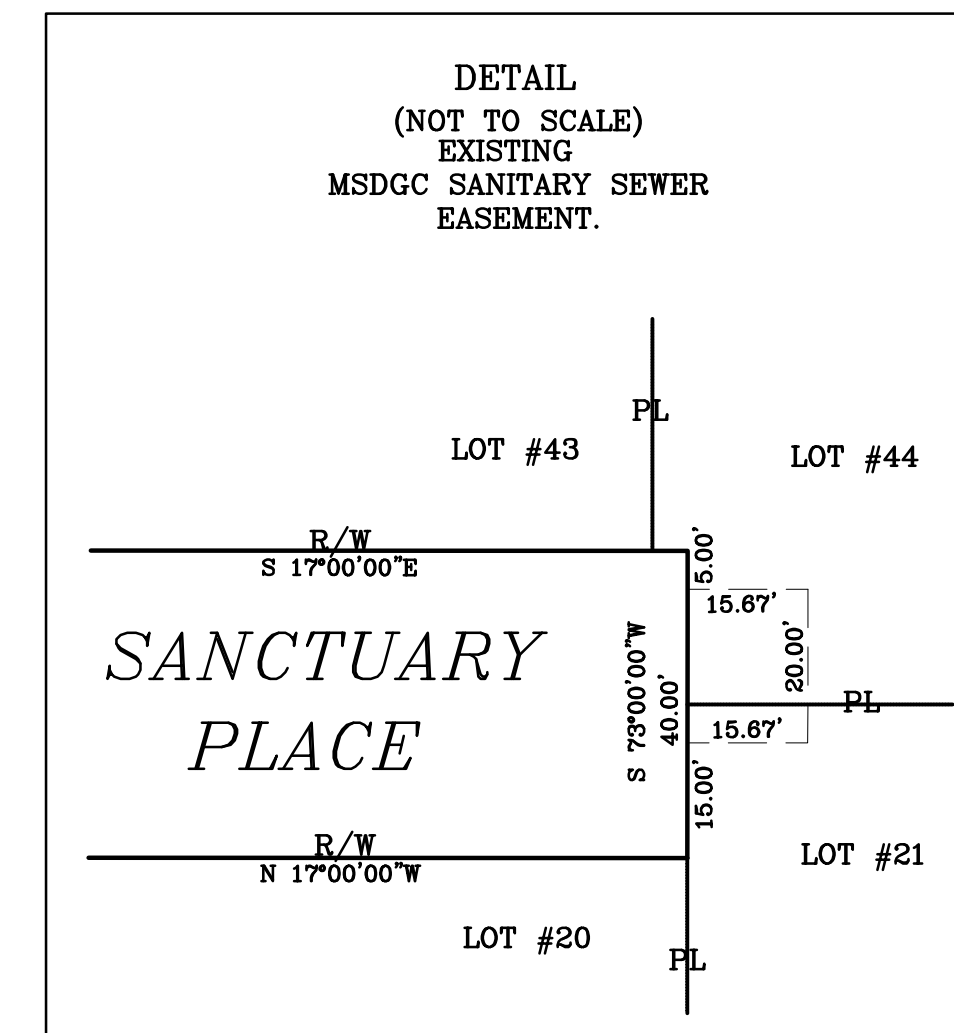
THE SANCTUARY AT RIVER GREEN PHASE I RECORD PLAT IS RECORDED IN THE HAMILTON COUNTY RECORDER'S OFFICE AS: PLAT BOOK 464, PAGE 73 & 74 H.C.R.O.

THIS DRAWING REPRESENTS THE SEPERATE INSTRUMENT FOR DEDICATING THE RIGHT OF WAY TRACTS IN THAT SUBDIVISION INDIVIDUALLY.

NOTE: OCCUPATION IN GENERAL FITS SURVEY.
NOTE: ALL MONUMENTS IN GOOD CONDITION, UNLESS OTHERWISE NOTED.

OWNER/DEVELOPER: PANAMA R.E. INVESTMENTS LLC

ROBERTA R. CHRIST
O.R. VOL. 8362, PAGE 261
PARCEL I.D.#009-0001-0084



Course	Bearing	Distance
L1	S 62°00'00" E	7.07'
L2	N 73°00'00" E	40.00'
L3	S 17°00'00" E	30.00'
L4	S 73°00'00" W	40.00'
L5	S 28°00'00" W	7.07'
L6	S 73°00'00" W	40.00'
L7	N 73°00'00" E	40.00'
L8	S 17°00'00" E	50.00'
L9	S 62°00'00" E	7.07'
L10	N 73°00'00" E	40.00'
L11	S 17°00'00" E	30.00'
L12	S 73°00'00" W	40.00'
L13	S 28°00'00" W	7.07'
L14	S 73°00'00" W	64.00'
L15	S 17°00'00" W	60.00'
L16	N 73°00'00" E	64.00'
L17	S 17°00'00" E	40.00'

Curve	Radius	Tangent	Length	Chord	Chord Bear.
C1	10.00'	10.00'	15.71'	14.14'	S 62°00'00" E
C2	10.00'	10.00'	15.71'	14.14'	S 28°00'00" W

TRACT "A" 0.6609 Acres

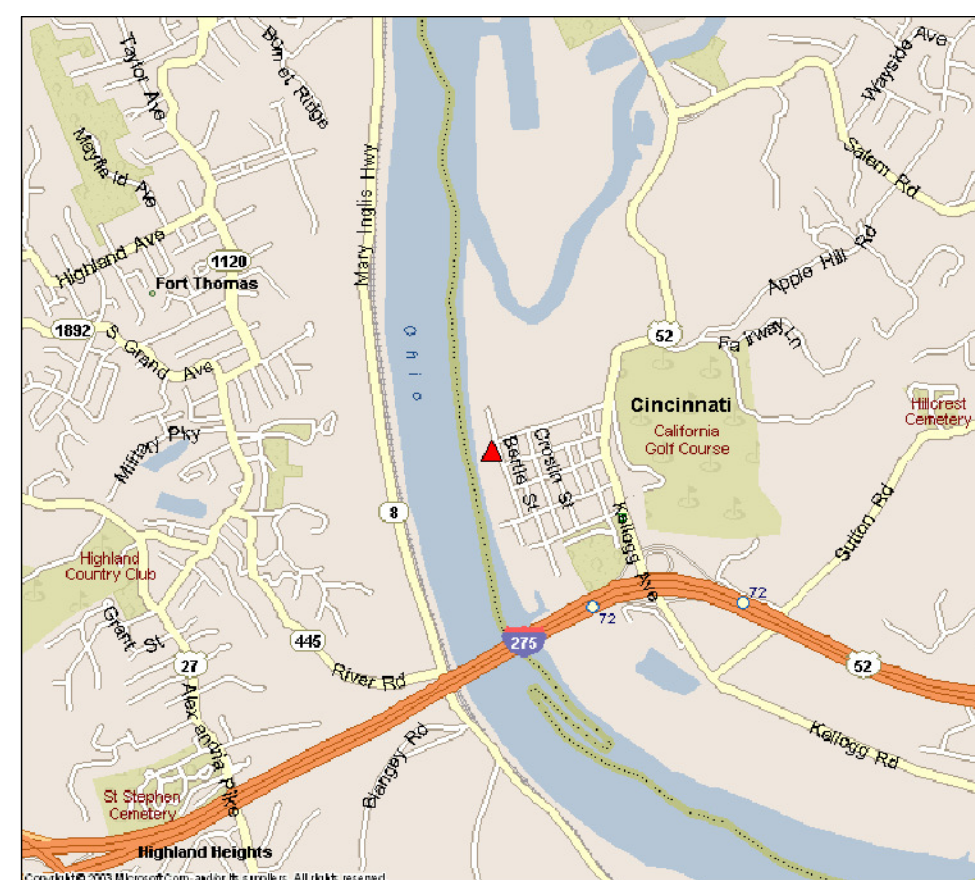
Sanctuary Place Point	Int-Angle	Bearing	Distance	Point	North	East
1037		S 17°00'00"E	195.62	1062	4424.2153	5062.2514
1062	225°00'00"	S 62°00'00"E	7.07	1061	4420.8967	5068.4939
1061	225°00'00"	N 73°00'00"E	40.00	1060	4432.5916	5106.7461
1060	90°00'00"	S 17°00'00"E	30.00	1058	4403.9024	5115.5172
1058	90°00'00"	S 73°00'00"W	40.00	1057	4392.2076	5077.2650
1057	225°00'00"	S 28°00'00"W	7.07	1056	4385.9651	5073.9459
1056	225°00'00"	S 17°00'00"E	66.03	1095	4322.8203	5093.2512
1095	90°00'00"	S 73°00'00"W	40.00	1079	4311.1254	5054.9990
1079	90°00'00"	N 17°00'00"W	651.00	1026	4933.6798	4964.8650
1026	90°00'00"	N 73°00'00"E	40.00	1025	4945.3747	4902.9172
1025	90°00'00"	S 17°00'00"E	50.00	1024	4897.5559	4917.5358
1024	225°00'00"	S 62°00'00"E	7.07	1023	4894.2403	4923.7782
1023	225°00'00"	N 73°00'00"E	40.00	1022	4895.9352	4969.0304
1022	90°00'00"	S 17°00'00"E	30.00	1027	4877.2460	4970.8016
1027	90°00'00"	S 73°00'00"W	40.00	1028	4865.5512	4932.5494
1028	225°00'00"	S 28°00'00"W	7.07	1029	4859.3087	4929.2302
1029	225°00'00"	S 17°00'00"E	259.35	1037	4611.2911	5005.0568
1037	180°00'00"					

Perimeter: 1550.28 Accum.Perimeter: 1550.28
Approx. Sq. Feet: 28789.9 Acres: 0.6609
Approx. Accum. - Sq. Feet: 28789.9 Acres: 0.6609

TRACT "B" 0.0689 Acres

RENSLAR AVE Point	Int-Angle	Bearing	Distance	Point	North	East
554		S 73°00'00"W	64.00	1035	4623.7745	5011.6956
1035	270°00'00"	S 17°00'00"E	10.00	1036	4614.2119	5014.6207
1036	90°00'00"	S 73°00'00"W	10.00	1037	4611.2896	5005.0572
1037	225°00'00"	S 28°00'00"W	14.14	1037	4611.2896	5005.0572
1037	45°00'00"	N 17°00'00"W	60.00	1032	4668.6879	4987.5149
1032	90°00'00"	N 73°00'00"E	10.00	1034	4671.5931	4997.0775
1034	90°00'00"	S 17°00'00"E	10.00	1033	4662.0296	4999.9998
1033	45°00'00"	S 62°00'00"E	14.14	1033	4662.0296	4999.9998
1033	225°00'00"	N 73°00'00"E	64.00	46	4880.7414	5081.2033
46	90°00'00"	S 17°00'00"E	40.00	554	4642.4892	5072.9982
554	90°00'00"					

Perimeter: 259.42 Accum.Perimeter: 259.42
Approx. Sq. Feet: 3003.1 Acres: 0.0689
Approx. Accum. - Sq. Feet: 3003.1 Acres: 0.0689



VICINITY - MAP
N.T.S.

DATE: 5/12/20
BY: [Signature]
REASON: PER CITY OF CINCINNATI.

LANSDALE SURVEYING, INC
1008 MAIN STREET - (ST. RT. 26)
MILFORD OHIO, 45150 PHONE (513) 831-8970

DRAWING NUMBER: 09-028D
DATE: 4/10/2019
SCALE: 1"=50'
DRAWN BY: MRH
SHEET 2 OF 2

Date: January 13, 2021

To: Mayor and Members of City Council **202100097**

From: Paula Boggs Muething, City Manager

Subject: ORDINANCE – GRANT OF ENCROACHMENT EASEMENTS – RGW DEVELOPMENT, LLC (3657 and 3658 COLUMBUS AVENUE)

Attached is an ordinance captioned as follows:

AUTHORIZING the City Manager to execute a *Grant of Easement* in favor of RGW Development, LLC pursuant to which the City of Cincinnati will grant driveway encroachment easement to construct and maintain paved driveways upon portions of the Columbus Avenue public right-of-way in the Hyde Park neighborhood of Cincinnati.

RGW Development, LLC (“Grantee”) owns the properties located at 3657 and 3658 Columbus Avenue in the Hyde Park neighborhood and has requested a driveway encroachment easement to construct and maintain paved driveways upon portions of the Columbus Avenue public right-of-way.

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

The fair market value of the easements is approximately \$5,800 which Grantee has deposited with the City Treasurer.

The City Planning Commission approved the easements at its meeting on December 18, 2020.

The Administration recommends passage of the attached ordinance.

Attachment I – Grant of Easement

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

City of Cincinnati

CHM *AWB*

An Ordinance No. _____ - 2021

AUTHORIZING the City Manager to execute a *Grant of Easement* in favor of RGW Development, LLC pursuant to which the City of Cincinnati will grant a driveway encroachment easement to construct and maintain paved driveways upon portions of the Columbus Avenue public right-of-way in the Hyde Park neighborhood of Cincinnati.

WHEREAS, RGW Development, LLC, an Ohio limited liability company (“Grantee”), owns the properties located at 3657 and 3658 Columbus Avenue in the Hyde Park neighborhood of Cincinnati; and

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

WHEREAS, Grantee has requested a driveway encroachment easement from the City, as more particularly depicted and described in the *Grant of Easement* attached to this ordinance as Attachment A and incorporated by reference, to construct and maintain paved driveways upon portions of the Columbus Avenue public right-of-way; and

WHEREAS, the City Manager, in consultation with DOTE, has determined that granting the easement to Grantee is not adverse to the City’s retained interest in the public right-of-way; and

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

WHEREAS, the City’s Real Estate Services Division has determined by appraisal that the fair market value of the easement is approximately \$5,800, which has been deposited with the City Treasurer; and

WHEREAS, the City Planning Commission, having the authority to approve the change in the use of City-owned property, approved the easement at its meeting on December 18, 2020; now, therefore,

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

Section 1. That the City Manager is hereby authorized to execute a *Grant of Easement* in favor of RGW Development, LLC, an Ohio limited liability company (“Grantee”), owner of the

properties located at 3657 and 3658 Columbus Avenue in Cincinnati, in substantially the form attached to this ordinance as Attachment A and incorporated by reference herein, pursuant to which the City of Cincinnati will grant to Grantee an encroachment easement to construct and maintain paved driveways upon portions of the Columbus Avenue public right-of-way.

Section 2. That granting the easement to Grantee is not adverse to the City's retained interest in the Columbus Avenue public right-of-way.

Section 3. That it is in the best interest of the City to grant the easement without competitive bidding because, as a practical matter, no one other than Grantee, the owner of real property abutting either side of the existing right of way, would have any use for the easement.

Section 4. That the fair market value of the easement, as determined by appraisal by the City's Real Estate Services Division, is approximately \$5,800, which has been deposited with the City Treasurer.

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

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

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

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

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

ATTACHMENT A

[SPACE ABOVE FOR RECORDER'S OFFICE]

Property: Columbus Avenue, Cincinnati

GRANT OF EASEMENT

This Grant of Easement is made as of the Effective Date, as defined by the signature page hereof, by the **CITY OF CINCINNATI**, an Ohio municipal corporation, with an address of 801 Plum Street, Cincinnati, OH 45202 (the "**City**"), in favor of **RGW DEVELOPMENT, LLC**, an Ohio limited liability company, whose address is 739 Kroger Valley Drive, Cincinnati, OH 45226 ("**Grantee**").

Recitals:

A. The City owns the public right-of-way known as Columbus Avenue in Cincinnati, which is under the management of the City's Department of Transportation and Engineering ("**DOT**").

B. By virtue of a *Quitclaim Deed* recorded on April 18, 2019, in Official Record 13899, Page 1771, Hamilton County, Ohio Records, Grantee owns certain real property that abuts either side of the unimproved Columbus Avenue right-of-way, namely, 3657 Columbus Avenue (west side) and 3658 Columbus Avenue (east side), as more particularly described on Exhibit A (*Legal Description - Benefitted Properties*) hereto (the "**Benefitted Properties**"). The Benefitted Properties consist of vacant land on which Grantee desires to build two single-family residences (the "**Structures**").

C. Grantee has requested a non-exclusive easement to construct pavement for driveways (the "**Pavement**") that will encroach upon portions of the Columbus Avenue right-of-way, as described on Exhibit B (*Legal Description – Easement Areas*) and depicted on Exhibit C (*Easement Plat*) hereto (the "**Driveway Encroachment Easements**", and the "**Easement Areas**", as applicable) to serve the Structures on the Benefitted Properties.

D. The surface of Columbus Avenue right-of-way requested by Grantee for the Driveway Encroachment Easements is not currently being used for transportation or other municipal purposes, and therefore the City is agreeable to grant to Grantee the Driveway Encroachment Easements.

E. The City Manager, in consultation with DOTE, has determined that granting the Driveway Encroachment Easements to Grantee will not have an adverse effect on the City's retained interest in the Columbus Avenue public right-of-way.

F. The fair market value of the Driveway Encroachment Easements, as determined by professional appraisal by the City's Real Estate Services Division, is \$5,800 which has been deposited with the City Treasurer.

G. City Planning Commission, having the authority to approve the change in use of City-owned property, approved the Driveway Encroachment Easements at its meeting on December 18, 2020.

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

NOW THEREFORE, for and in consideration of the amount hereinabove stated, the receipt and adequacy of which are hereby acknowledged, the parties hereby agree as follows:

1. **Grant of Easement.** The City does hereby grant to Grantee, on the terms and conditions set forth herein, as an appurtenance to and for the benefit of the Benefitted Properties, a non-exclusive encroachment easement over the Easement Areas for those portions of the Improvements that encroach upon the Columbus Avenue right-of-way, as described on Exhibit B, and depicted on Exhibit C, hereto for the construction, surfacing, use, maintenance, repair, reconstruction resurfacing, and removal of the Improvements. Grantee acknowledges that the Driveway Encroachment Easements are non-exclusive and agrees that it shall not do anything to interfere with the use of the Easement Areas by the City for municipal purposes. As a material inducement to the City to grant the Driveway Encroachment Easements, Grantee hereby agrees on behalf of itself, its successors-in-interest, and assigns to erect at no expense to the City, a fence along the Benefitted Properties' northern boundary lines and extending along the northern boundary line of the Easement Areas (the "**Fence**").

2. **Construction of the Improvements.** Grantee shall be solely responsible for all costs associated with the design and construction of the Pavement and the Fence (collectively, the "**Improvements**"). Prior to construction, Grantee shall submit all drawings and obtain all permits as required by DOTE. Grantee shall ensure full compliance with all City standards, policies and guidelines and shall promptly remove and correct non-conforming work as directed by DOTE. Upon Grantee's completion of construction of the Improvements, the Improvements shall not be altered, removed or relocated, nor shall any other improvements be constructed within the Easement Areas, without the City's prior written consent. Grantee shall be solely responsible for repairing any and all damage to above-ground or underground utilities in the vicinity caused by Grantee's construction, maintenance and repair of the Improvements.

3. **Maintenance and Repairs.** Grantee, its successors-in-interest, and assigns at no cost to the City, shall at all times keep and maintain the Improvements (and any and all other future improvements within the Easement Areas that may be constructed by Grantee, its successors-in-interest, and assigns, with the City's prior written consent) in a continuous state of good and safe condition and repair as determined by DOTE, including without limitation promptly repairing any and all damage thereto, no matter how caused. Grantee hereby acknowledges and covenants on behalf of itself, its successors-in-interest, and assigns that the Improvements shall be jointly and severally managed, maintained, repaired, replaced and paid for by Grantee, its successors-in-interest, and assigns. Grantee acknowledges that there may be existing easements, utility lines and related facilities in the vicinity of the Easement Areas ("**Third Party Utility Lines**"). In connection with Grantee's activities within the Easement Areas, Grantee shall not interfere with the access of any relevant utility company to maintain and repair the Third Party Utility Lines, and shall, at Grantee's expense, promptly repair any and all damage to the Third Party Utility Lines caused by Grantee, its agents, employees or contractors. Any relocation of Third Party Utility Lines necessitated by Grantee's activities shall be handled entirely at Grantee's expense. All work undertaken by Grantee hereunder shall be in compliance with all applicable codes, laws, and other governmental standards, policies, guidelines and requirements.

4. **Default.** If Grantee, its successors-in-interest, or assigns fail to perform any required work under sections 2 or 3 hereof, and fails to address the same to DOTE's satisfaction within thirty (30)

days after receiving written notice thereof from DOTE, the City shall have right to perform such work, at Grantee's expense, payable within ten (10) days after receiving an invoice from DOTE evidencing the amount due. Grantee, its successors-in-interest, or assigns shall be jointly and severally liable to DOTE for the payment of such work. Any outstanding amount due under this instrument shall create a lien on the Benefitted Properties until fully paid. At the City's option, the City may file an affidavit in the Hamilton County, Ohio Recorder's office to memorialize any outstanding amounts due under this instrument.

5. Waiver; Indemnification. As a material inducement to the City to grant the Driveway Encroachment Easements described herein, for the benefit of the Benefitted Properties, (i) Grantee on behalf of itself, its successors-in-interest, and assigns hereby waives all claims and rights of recovery against the City, and on behalf of Grantee's insurers, rights of subrogation, in connection with any damage to the Driveway Encroachment Easements or incidents occurring within the Easement Areas, no matter how caused, and (ii) Grantee, its successors-in-interest, and assigns agree to defend (with counsel reasonably acceptable to the City), indemnify, and hold the City harmless from and against any and all claims, losses, costs (including without limitation reasonable attorneys fees), liability and damages suffered or incurred by, or asserted against, the City in connection with the construction, use, maintenance, repair, alteration, relocation, removal, and any and all other activities undertaken by Grantee pursuant to this instrument or otherwise related to the Improvements. If deemed appropriate by the City now or in the future, Grantee, its successors-in-interest, and assigns shall maintain a policy of liability insurance pertaining to its use of the Improvements, in a form acceptable to the City, naming the City as an additional insured.

6. Covenants Running with the Land. The provisions hereof shall run with the land and shall inure to the benefit of and be binding upon the City and Grantee and their respective successors-in-interest, and assigns with respect to the Easement Areas and the Benefitted Properties.

7. Termination. Notwithstanding anything in this instrument to the contrary, if at any time the City decides to further improve (or permit the improvement of) Columbus Avenue for transportation or other municipal purposes, the City shall have the right to require Grantee to redesign, relocate and/or remove the Improvements, at no cost to the City; provided, however that no such redesign, relocation or removal shall result in the permanent blockage of pedestrian or vehicular access to the Benefitted Properties.

8. Coordinated Report Conditions. Notwithstanding anything in this instrument to the contrary, the following conditions shall apply:

(A) DOTE:

(i) Existing turn-around and road ends signage shall not be disturbed and that vehicles, including Police/Fire/Single Unit Delivery) shall be able to continue to maneuver safely.

(ii) The Improvements shall not cause drainage problems that will adversely impact surrounding properties. Grantee, its successors-in-interest, and assigns shall be responsible for any and all property damage caused by stormwater runoff and drainage issues caused by, or related to, the Improvements.

(iii) Driveway aprons within the public right-of-way must be 7" thick concrete in accordance with City Standard Drawing ACC. NO. 21436. Remainder of driveway in the right of way must be constructed with a hard surface such as concrete, asphalt or pavers.

(iv) A DOTE street opening permit, obtained by a DOTE licensed street contractor, is required for all private improvements in the public right-of-way. All improvements in the public right-of-way

must be built to City standards, policies and guidelines. Application for permits may be made at Room 425, City Hall, 801 Plum Street. Please note that plan drawings (2 sets), to be reviewed by DOTE, must be attached to the permit application.

(v) No private utilities shall be installed in the right-of-way unless the petitioner requesting the installation of such private utilities shall first become a member and maintain membership of OUPS (Ohio Utility Protection Service), by calling 1-800-362-2764, if not already a member. Membership is required before a permit will be issued. Failure to maintain membership will result in the property owner being responsible for repairs due to damage caused by excavations performed by utility companies, the city, or a permitted contractor.

9. **Exhibits.** The following exhibits are attached hereto and made a part hereof:
Exhibit A – *Benefitted Property*
Exhibit B – *Legal Description -Easement Areas*
Exhibit C – *Easement Plat (depicting Grantee's Property & Easement Area)*

[Remainder of this Page is Intentionally Blank; Signature Pages to Follow]

Executed by the City of Cincinnati on the date of acknowledgement indicated below (the "Effective Date").

CITY OF CINCINNATI

By: _____

Printed Name: _____

Title: _____

STATE OF OHIO)
) ss:
COUNTY OF HAMILTON)

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

Notary Public
My commission expires: _____

Recommended by:

John S. Brazina, Director
Department of Transportation and Engineering

Approved as to Form:

Assistant City Solicitor

ACKNOWLEDGED AND ACCEPTED BY:
RGW DEVELOPMENT, LLC,
an Ohio limited liability company

By: _____

Name: _____

Title: _____

STATE OF OHIO)
) ss:
COUNTY OF HAMILTON)

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

Notary Public
My commission expires: _____

This instrument prepared by:

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

EXHIBIT A
BENEFITTED PROPERTIES

Tract I:
Parcel Id(s): 040-0005(0228 (& 229 cons.))

Description for: RGW – 0.2074 Acres
Location: City of Cincinnati, Wasson Way & Columbus Avenue (West Side)

Situated in Section 27, Town 4, Fractional Range 2, City of Cincinnati, Hamilton County, Ohio and being more particularly described as follows:

COMMENCING at an existing MAG Nail at the intersection of the centerline of Paxton Avenue and the south right-of-way line of Wasson Road;

Thence with the said south line of Wasson Road, North 84°16'22" West, 598.88 feet a point in the west line of Columbus Avenue;

Thence with the said west line of Columbus Avenue, South 05°52'06" West, 27.31 feet to a set Iron Pin and the POINT OF BEGINNING.

Thence continuing with the said west line of Columbus Avenue, South 05°52'06" West, 51.52 feet to a set Cross Notch at the northeast corner of a tract conveyed to Andrew E. W. Jones, as recorded in Official Record 13250, Page 1671 of the Hamilton County Recorder's Office;

Thence along the north line of said Andrew E. W. Jones, North 84°10'22" West, 125.00 feet to a recovered Iron Pin and Cap stamped G J Berding Surveying Inc, at the southeast corner of a tract conveyed to Travis A. Cotterman, as recorded in Official Record 10890, Page 65 of the Hamilton County Recorder's Office and the northeast corner of a tract conveyed to Denise N. Crawley as recorded in Official Record 13379, Page 178 of the Hamilton County Recorder's Office;

Thence along the east and north lines of said Andrew E. W. Jones, North 05°52'06" East, 30.00 feet to a set Iron Pin AND North 84°10'22" West, 125.00 feet to a set Iron Pin in the east line of Monteith Avenue;

Thence along the east line of said Monteith Avenue, North 05°52'06" East, 20.77 feet to a set Iron Pin;

Thence South 84°20'39" East, 250.00 feet to the POINT OF BEGINNING.

CONTAINING 0.2074 ACRES.

The above described parcel being part of those lands conveyed to Norfolk & Western Railway, as recorded in Deed Book 2196, Page 452 of the Hamilton County Recorder's Office and identified as Hamilton County Auditor's Parcel No. 040-0005-0228 & 0229 (Cons);

The bearings are based on the State Plane Coordinate System, Ohio South Zone (NAD83).

All iron pins set are 5/8" X 30" rebar with cap stamped "G J BERDING SURVEYING, INC".

Prepared by G.J. BERDING SURVEYING, INC. on December 4, 2018. Based on an Plat of Survey prepared by G.J. BERDING SURVEYING, INC. on December 4, 2018.

Tract II:

Parcel Id: 039-0006-0009

Description for: RGW – 0.1588 Acres

Location: City of Cincinnati, Wasson Way & Columbus Avenue (East Side)

Situated in Section 27, Town 4, Fractional Range 2, City of Cincinnati, Hamilton County, Ohio and being more particularly described as follows:

COMMENCING at an existing MAG Nail at the intersection of the centerline of Paxton Avenue and the south right-of-way line of Wasson Road;

Thence with the said south line of Wasson Road, North 84°16'22" West, 577.55 feet to a recovered Iron Pin and Cap stamped G J Berding Surveying Inc at the northwest corner of a tract conveyed to the City of Cincinnati, as recorded in Official Record 13259, Page 1793 of the Hamilton County Recorder's Office and known as Hamilton County Auditor's Parcel No. 039-0005-0168;

Thence along the west and south lines of said City of Cincinnati, South 05°28'21" West, 30.00 feet to a recovered Iron Pin and Cap stamped G J Berding Surveying Inc AND South 84°16'22" East, 18.47 feet to a set Iron Pin in the east line of Columbus Avenue, and the POINT OF BEGINNING.

Thence continuing along said south line of the City of Cincinnati, South 84°16'22" East, 172.90 feet to a set Iron Pin at the northwest corner of a tract conveyed to Michael R. Boldt & Amy M. Boldt, as recorded in Official Record 13585, Page 853 of the Hamilton County Recorder's Office;

Thence along the west line of said Michael R. Boldt & Amy M. Boldt, South 05°52'08" West, 40.00 feet to a set Iron Pin at the northeast corner of a tract conveyed to Todd D. Kelly & Mary L. Pearce, as recorded in Official Record 13660, Page 1922 of the Hamilton County Recorder's Office;

Thence along the north line of said Todd D. Kelly & Mary L. Pearce, and the north lines of tracts conveyed to Michael Alan Jarjosa, as recorded in Official Record 13374, Page 1311 of the Hamilton County Recorder's Office, Todd N. Marinelli as recorded in Official Record 10606, Page 1791 of the Hamilton County Recorder's Office and Joshua D. Joseph & Erin E. Boyer as recorded in Official Record 13029, Page 1051 of the Hamilton County Recorder's Office, North 84°16'22" West, 172.90 feet to a set Iron Pin in the east line of aforesaid Columbus Avenue;

Thence along said east line of Columbus Avenue, North 05°52'06" East, 40.00 feet to the POINT OF BEGINNING.

CONTAINING 0.1588 ACRES.

The above described parcel being part of those lands conveyed to Norfolk & Western Railway, as recorded in Deed Book 2196, Page 452 of the Hamilton County Recorder's Office and identified as Hamilton County Auditor's Parcel No. 039-0006-0009;

The bearings are based on the State Plane Coordinate System, Ohio South Zone (NAD83).

All iron pins set are 5/8" X 30" rebar with cap stamped "G J BERDING SURVEYING, INC".

Prepared by G.J. BERDING SURVEYING, INC. on December 4, 2018. Based on an Plat of Survey prepared by G.J. BERDING SURVEYING, INC. on December 4, 2018.

EXHIBIT B
LEGAL DESCRIPTION EASEMENT AREAS

Situate in Section 27, Town 4, Fractional Range 2, Miami Purchase, Columbia Township, City of Cincinnati, Hamilton County, Ohio, being an Ingress/Egress and Access Easement over and across a portion of Columbus Avenue south of the intersection with Wasson Road, more particularly described as follows:

Beginning at the southeast corner of a 0.2074-acre parcel of land conveyed to RGW Development, LLC by deed recorded in Official Record 13899, Page 1771, Tract I, said point also being in the east line of Lot 30 of Sunset Park Subdivision recorded in Plat Book 12, Page 26A, Hamilton County, Ohio Recorder's Office;

Thence with the east line of said 0.2074 acres, North 05°52'06" East, 43.18 feet to a point;

Thence South 84°07'54" East, 40.00 feet to a point in the west line of a 0.1588-acre parcel of land conveyed to RGW Development, LLC by deed recorded in Official Record 13899, Page 1771, Tract II, Hamilton County, Ohio Recorder's Office;

Thence with the west line of said 0.1588 acres, South 05°52'06" West, 34.25 feet to the southwest corner of said 0.1588 acres;

Thence South 83°17'13" West, 40.98 feet to the point of beginning.

Containing 0.0355 acres of land.

Subject to all legal highways, easements and restrictions of record.

The above description was prepared from a Plat of Survey by McGill Smith Punshon, Inc. dated August 24, 2020. The bearings in the above description are based on, Ohio South Zone, State Plane Coordinate System.



Prepared by: McGill Smith Punshon, Inc.
Date: August 24, 2020
MSP No.: 20124.01

20124013-11641g.egr



McGill Smith Punshon, Inc.
3700 Park 42 Drive, Suite 1908 • Cincinnati, Ohio 45241
513.759.0004 • Fax 513.563.7099 • www.mspdesign.com



[SPACE ABOVE FOR RECORDER'S OFFICE]

Property: Columbus Avenue, Cincinnati

GRANT OF EASEMENT

This Grant of Easement is made as of the Effective Date, as defined by the signature page hereof, by the **CITY OF CINCINNATI**, an Ohio municipal corporation, with an address of 801 Plum Street, Cincinnati, OH 45202 (the "**City**"), in favor of **RGW DEVELOPMENT, LLC**, an Ohio limited liability company, whose address is 739 Kroger Valley Drive, Cincinnati, OH 45226 ("**Grantee**").

Recitals:

A. The City owns the public right-of-way known as Columbus Avenue in Cincinnati, which is under the management of the City's Department of Transportation and Engineering ("**DOT**").

B. By virtue of a *Quitclaim Deed* recorded on April 18, 2019, in Official Record 13899, Page 1771, Hamilton County, Ohio Records, Grantee owns certain real property that abuts either side of the unimproved Columbus Avenue right of way, namely, 3657 Columbus Avenue (west side) and 3658 Columbus Avenue (east side), as more particularly described on Exhibit A (*Legal Description - Benefitted Properties*) hereto (the "**Benefitted Properties**"). The Benefitted Properties consist of vacant land on which Grantee desires to build two single-family residences (the "**Structures**").

C. Grantee has requested a non-exclusive easement to construct pavement for driveways (the "**Pavement**") that will encroach upon portions of the Columbus Avenue right of way, as described on Exhibit B (*Legal Description – Easement Areas*) and depicted on Exhibit C (*Easement Plat*) hereto (the "**Driveway Encroachment Easements**", and the "**Easement Areas**", as applicable) to serve the Structures on the Benefitted Properties.

D. The surface of Columbus Avenue right of way requested by Grantee for the Driveway Encroachment Easements is not currently being used for transportation or other municipal purposes, and therefore the City is agreeable to grant to Grantee the Driveway Encroachment Easements.

E. The City Manager, in consultation with DOT, has determined that granting the Driveway Encroachment Easements to Grantee will not have an adverse effect on the City's retained interest in the Columbus Avenue public right of way.

F. The fair market value of the Driveway Encroachment Easements, as determined by professional appraisal by the City's Real Estate Services Division, is \$5,800 which has been deposited with the City Treasurer.

G. City Planning Commission, having the authority to approve the change in use of City-owned property, approved the Driveway Encroachment Easements at its meeting on December 18, 2020.

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

NOW THEREFORE, for and in consideration of the amount hereinabove stated, the receipt and adequacy of which are hereby acknowledged, the parties hereby agree as follows:

1. **Grant of Easement.** The City does hereby grant to Grantee, on the terms and conditions set forth herein, as an appurtenance to and for the benefit of the Benefitted Properties, a non-exclusive encroachment easement over the Easement Areas for those portions of the Improvements that encroach upon the Columbus Avenue right of way, as described on Exhibit B, and depicted on Exhibit C, hereto for the construction, surfacing, use, maintenance, repair, reconstruction resurfacing, and removal of the Improvements. Grantee acknowledges that the Driveway Encroachment Easements are non-exclusive and agrees that it shall not do anything to interfere with the use of the Easement Areas by the City for municipal purposes. As a material inducement to the City to grant the Driveway Encroachment Easements, Grantee hereby agrees on behalf of itself, its successors-in-interest, and assigns to erect at no expense to the City, a fence along the Benefitted Properties' northern boundary lines and extending along the northern boundary line of the Easement Areas (the "**Fence**").

2. **Construction of the Improvements.** Grantee shall be solely responsible for all costs associated with the design and construction of the Pavement and the Fence (collectively, the "**Improvements**"). Prior to construction, Grantee shall submit all drawings and obtain all permits as required by DOTE. Grantee shall ensure full compliance with all City standards, policies and guidelines and shall promptly remove and correct non-conforming work as directed by DOTE. Upon Grantee's completion of construction of the Improvements, the Improvements shall not be altered, removed or relocated, nor shall any other improvements be constructed within the Easement Areas, without the City's prior written consent. Grantee shall be solely responsible for repairing any and all damage to above-ground or underground utilities in the vicinity caused by Grantee's construction, maintenance and repair of the Improvements.

3. **Maintenance and Repairs.** Grantee, its successors-in-interest, and assigns at no cost to the City, shall at all times keep and maintain the Improvements (and any and all other future improvements within the Easement Areas that may be constructed by Grantee, its successors-in-interest, and assigns, with the City's prior written consent) in a continuous state of good and safe condition and repair as determined by DOTE, including without limitation promptly repairing any and all damage thereto, no matter how caused. Grantee hereby acknowledges and covenants on behalf of itself, its successors-in-interest, and assigns that the Improvements shall be jointly and severally managed, maintained, repaired, replaced and paid for by Grantee, its successors-in-interest, and assigns. Grantee acknowledges that there may be existing easements, utility lines and related facilities in the vicinity of the Easement Areas ("**Third Party Utility Lines**"). In connection with Grantee's activities within the Easement Areas, Grantee shall not interfere with the access of any relevant utility company to maintain and repair the Third Party Utility Lines, and shall, at Grantee's expense, promptly repair any and all damage to the Third Party Utility Lines caused by Grantee, its agents, employees or contractors. Any relocation of Third Party Utility Lines necessitated by Grantee's activities shall be handled entirely at Grantee's expense. All work undertaken by Grantee hereunder shall be in compliance with all applicable codes, laws, and other governmental standards, policies, guidelines and requirements.

4. **Default.** If Grantee, its successors-in-interest, or assigns fail to perform any required work under sections 2 or 3 hereof, and fails to address the same to DOTE's satisfaction within thirty (30)

days after receiving written notice thereof from DOTE, the City shall have right to perform such work, at Grantee's expense, payable within ten (10) days after receiving an invoice from DOTE evidencing the amount due. Grantee, its successors-in-interest, or assigns shall be jointly and severally liable to DOTE for the payment of such work. Any outstanding amount due under this instrument shall create a lien on the Benefitted Properties until fully paid. At the City's option, the City may file an affidavit in the Hamilton County, Ohio Recorder's office to memorialize any outstanding amounts due under this instrument.

5. Waiver; Indemnification. As a material inducement to the City to grant the Driveway Encroachment Easements described herein, for the benefit of the Benefitted Properties, (i) Grantee on behalf of itself, its successors-in-interest, and assigns hereby waives all claims and rights of recovery against the City, and on behalf of Grantee's insurers, rights of subrogation, in connection with any damage to the Driveway Encroachment Easements or incidents occurring within the Easement Areas, no matter how caused, and (ii) Grantee, its successors-in-interest, and assigns agree to defend (with counsel reasonably acceptable to the City), indemnify, and hold the City harmless from and against any and all claims, losses, costs (including without limitation reasonable attorneys fees), liability and damages suffered or incurred by, or asserted against, the City in connection with the construction, use, maintenance, repair, alteration, relocation, removal, and any and all other activities undertaken by Grantee pursuant to this instrument or otherwise related to the Improvements. If deemed appropriate by the City now or in the future, Grantee, its successors-in-interest, and assigns shall maintain a policy of liability insurance pertaining to its use of the Improvements, in a form acceptable to the City, naming the City as an additional insured.

6. Covenants Running with the Land. The provisions hereof shall run with the land and shall inure to the benefit of and be binding upon the City and Grantee and their respective successors-in-interest, and assigns with respect to the Easement Areas and the Benefitted Properties.

7. Termination. Notwithstanding anything in this instrument to the contrary, if at any time the City decides to further improve (or permit the improvement of) Columbus Avenue for transportation or other municipal purposes, the City shall have the right to require Grantee to redesign, relocate and/or remove the Improvements, at no cost to the City; provided, however that no such redesign, relocation or removal shall result in the permanent blockage of pedestrian or vehicular access to the Benefitted Properties.

8. Coordinated Report Conditions. Notwithstanding anything in this instrument to the contrary, the following conditions shall apply:

(A) DOTE:

(i) Existing turn-around and road ends signage shall not be disturbed and that vehicles, including Police/Fire/Single Unit Delivery shall be able to continue to maneuver safely.

(ii) The Improvements shall not cause drainage problems that will adversely impact surrounding properties. Grantee, its successors-in-interest, and assigns shall be responsible for any and all property damage caused by stormwater runoff and drainage issues caused by, or related to, the Improvements.

(iii) Driveway aprons within the public right of way must be 7" thick concrete in accordance with City Standard Drawing ACC. NO. 21436. Remainder of driveway in the right of way must be constructed with a hard surface such as concrete, asphalt or pavers.

(iv) A DOTE street opening permit, obtained by a DOTE licensed street contractor, is required for all private improvements in the public right-of-way. All improvements in the public right-of-way

must be built to City standards, policies and guidelines. Application for permits may be made at Room 425, City Hall, 801 Plum Street. Please note that plan drawings (2 sets), to be reviewed by DOTE, must be attached to the permit application.

(v) No private utilities shall be installed in the right of way unless the petitioner requesting the installation of such private utilities shall first become a member and maintain membership of OUPS (Ohio Utility Protection Service), by calling 1-800-362-2764, if not already a member. Membership is required before a permit will be issued. Failure to maintain membership will result in the property owner being responsible for repairs due to damage caused by excavations performed by utility companies, the city, or a permitted contractor.

9. **Exhibits.** The following exhibits are attached hereto and made a part hereof:
Exhibit A – *Benefitted Property*
Exhibit B – *Legal Description -Easement Areas*
Exhibit C – *Easement Plat (depicting Grantee’s Property & Easement Area)*

[Remainder of this Page is Intentionally Blank; Signature Pages to Follow]

Executed by the City of Cincinnati on the date of acknowledgement indicated below (the “**Effective Date**”).

CITY OF CINCINNATI

By: _____

Printed Name: _____

Title: _____

STATE OF OHIO)
) ss:
COUNTY OF HAMILTON)

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

Notary Public
My commission expires: _____

Recommended by:

John S. Brazina, Director
Department of Transportation and Engineering

Approved as to Form:

Assistant City Solicitor

ACKNOWLEDGED AND ACCEPTED BY:
RGW DEVELOPMENT, LLC,
an Ohio limited liability company

By: _____

Name: _____

Title: _____

STATE OF OHIO)
) ss:
COUNTY OF HAMILTON)

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This instrument prepared by:

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

EXHIBIT A
BENEFITTED PROPERTIES

Tract I:
Parcel Id(s): 040-0005(0228 (& 229 cons.))

CONS

Description for: RGW – 0.2074 Acres
Location: City of Cincinnati, Wasson Way & Columbus Avenue (West Side)

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Prepared by G.J. BERDING SURVEYING, INC. on December 4, 2018. Based on an Plat of Survey prepared by G.J. BERDING SURVEYING, INC. on December 4, 2018.

Tract II:

Parcel Id: 039-0006-0009

Description for: RGW – 0.1588 Acres

Location: City of Cincinnati, Wasson Way & Columbus Avenue (East Side)

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Thence continuing along said south line of the City of Cincinnati, South 84°16'22" East, 172.90 feet to a set Iron Pin at the northwest corner of a tract conveyed to Michael R. Boldt & Amy M. Boldt, as recorded in Official Record 13585, Page 853 of the Hamilton County Recorder's Office;

Thence along the west line of said Michael R. Boldt & Amy M. Boldt, South 05°52'06" West, 40.00 feet to a set Iron Pin at the northeast corner of a tract conveyed to Todd D. Kelly & Mary L. Pearce, as recorded in Official Record 13660, Page 1922 of the Hamilton County Recorder's Office;

Thence along the north line of said Todd D. Kelly & Mary L. Pearce, and the north lines of tracts conveyed to Michael Alan Jarjosa, as recorded in Official Record 13374, Page 1311 of the Hamilton County Recorder's Office, Todd N. Marinelli as recorded in Official Record 10606, Page 1791 of the Hamilton County Recorder's Office and Joshua D. Joseph & Erin E. Boyer as recorded in Official Record 13029, Page 1051 of the Hamilton County Recorder's Office, North 84°16'22" West, 172.90 feet to a set Iron Pin in the east line of aforesaid Columbus Avenue;

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Prepared by G.J. BERDING SURVEYING, INC. on December 4, 2018. Based on an Plat of Survey prepared by G.J. BERDING SURVEYING, INC. on December 4, 2018.

EXHIBIT B
LEGAL DESCRIPTION EASEMENT AREAS

Situate in Section 27, Town 4, Fractional Range 2, Miami Purchase, Columbia Township, City of Cincinnati, Hamilton County, Ohio, being an Ingress/Egress and Access Easement over and across a portion of Columbus Avenue south of the intersection with Wasson Road, more particularly described as follows:

Beginning at the southeast corner of a 0.2074-acre parcel of land conveyed to RGW Development, LLC by deed recorded in Official Record 13899, Page 1771, Tract I, said point also being in the east line of Lot 30 of Sunset Park Subdivision recorded in Plat Book 12, Page 26A, , Hamilton County, Ohio Recorder's Office;

Thence with the east line of said 0.2074 acres, North 05°52'06" East, 43.18 feet to a point;

Thence South 84°07'54" East, 40.00 feet to a point in the west line of a 0.1588-acre parcel of land conveyed to RGW Development, LLC by deed recorded in Official Record 13899, Page 1771, Tract II, Hamilton County, Ohio Recorder's Office;

Thence with the west line of said 0.1588 acres, South 05°52'06" West, 34.25 feet to the southwest corner of said 0.1588 acres;

Thence South 83°17'13" West, 40.98 feet to the point of beginning.

Containing 0.0355 acres of land.

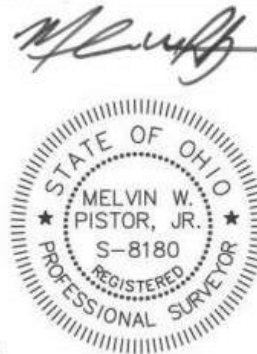
Subject to all legal highways, easements and restrictions of record.

The above description was prepared from a Plat of Survey by McGill Smith Punshon, Inc. dated August 24, 2020. The bearings in the above description are based on, Ohio South Zone, State Plane Coordinate System.

Prepared by: McGill Smith Punshon, Inc.
Date: August 24, 2020
MSP No.: 20124.01

20124013-1EG-1ng egr

McGill Smith Punshon, Inc.
3700 Park 42 Drive, Suite 1908 = Cincinnati, Ohio 45241
513.759.0004 = Fax 513.583.7099 = www.mspdesign.com



Date: January 13, 2021

To: Mayor and Members of City Council **202100098**
From: Paula Boggs Muething, City Manager
Subject: ORDINANCE – GRANT OF AERIAL ENCROACHMENT EASEMENT – 721 MAIN STREET

Attached is an ordinance captioned as follows:

AUTHORIZING the City Manager to execute a *Grant of Encroachment Easement* in favor of the Port of Greater Cincinnati Development Authority and NAP 8 & Main LLC pursuant to which the City of Cincinnati will grant an aerial encroachment for a projecting canopy located in 721 Main Street that encroaches upon a portion of the Main Street public right-of-way in the Central Business District of Cincinnati

The Port of Greater Cincinnati Development Authority owns the real property located at 721 Main Street and leases it to NAP 8 & Main LLC (“Developer”) (collectively “Grantees”). Grantees have requested an aerial encroachment easement for a projecting canopy that encroaches upon a portion of the Main Street public right-of-way.

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

The fair market value of the easements is approximately \$570 which Grantee has deposited with the City Treasurer.

The City Planning Commission approved the easements at its meeting on December 20, 2019.

The Administration recommends passage of the attached ordinance.

Attachment I – Grant of Aerial Encroachment Easement

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

City of Cincinnati

CHM *AWB*

An Ordinance No. _____ - 2021

AUTHORIZING the City Manager to execute a *Grant of Encroachment Easement* in favor of the Port of Greater Cincinnati Development Authority and NAP 8 & Main LLC pursuant to which the City of Cincinnati will grant an aerial encroachment easement for a projecting canopy located at 721 Main Street that encroaches upon a portion of the Main Street public right-of-way in the Central Business District of Cincinnati.

WHEREAS, the Port of Greater Cincinnati Development Authority, an Ohio port authority (“Port Authority”), owns certain real property located at 721 Main Street in the Central Business District of Cincinnati, which property the Port Authority leases to NAP 8 & Main LLC, an Ohio limited liability company (“Developer,”) via a long-term lease, and that Developer together with the Port Authority shall be collectively designated as “Grantees;” and

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

WHEREAS, the Grantees have requested an aerial encroachment easement from the City, as more particularly depicted and described in the *Grant of Encroachment Easement* attached to this ordinance as Attachment A and incorporated by reference, for a projecting canopy that encroaches upon a portion of the Main Street public right-of-way; and

WHEREAS, the City Manager, in consultation with DOTE, has determined that granting the easement to the Grantees is not adverse to the City’s retained interest in the public right-of-way; and

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

WHEREAS, the City’s Real Estate Services Division has determined by appraisal that the fair market value of the easement is approximately \$570, which has been deposited with the City Treasurer; and

WHEREAS, the City Planning Commission, having the authority to approve the change in the use of City-owned property, approved the easement at its meeting on December 20, 2019; now, therefore,

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

Section 1. That the City Manager is hereby authorized to execute a *Grant of Encroachment Easement* in favor of the Port of Greater Cincinnati Development Authority, an Ohio port authority (“Port Authority”) and NAP 8 & Main LLC, an Ohio limited liability company (“Developer”), collectively designated as “Grantees,” as the respective owner and long-term lessee of the real property located at 721 Main Street in Cincinnati, in substantially the form attached to this ordinance as Attachment A and incorporated by reference herein, pursuant to which the City of Cincinnati will grant to the Grantees an aerial encroachment easement over a portion of the Main Street public right-of-way for a projecting canopy that encroaches upon the public right-of-way.

Section 2. That granting the easement to the Grantees is not adverse to the City’s retained interest in the Main Street public right-of-way.

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

Section 4. That the fair market value of the easement, as determined by appraisal by the City’s Real Estate Services Division is approximately \$570, which has been deposited with the City Treasurer.

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

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

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

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

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

ATTACHMENT A

[SPACE ABOVE FOR RECORDER'S USE]

GRANT OF ENCROACHMENT EASEMENT

(aerial encroachment upon Main Street)

This Grant of Encroachment Easement is made as of the Effective Date (as defined on the signature page hereof) by the **CITY OF CINCINNATI**, an Ohio municipal corporation, 801 Plum Street, Cincinnati, OH 45202 (the "**City**"), in favor of **PORT OF GREATER CINCINNATI DEVELOPMENT AUTHORITY**, an Ohio port authority and body corporate and politic organized and existing under Ohio law, the address of which is 3 East Fourth Street, Suite 300, Cincinnati, Ohio 45202 (the "**Port Authority**"), and **NAP 8 & MAIN LLC**, an Ohio limited liability company, the address of which is 212 East 3rd Street, Suite 300, Cincinnati, Ohio 45202 ("**Developer**", and together with the Port Authority, "**Grantees**").

Recitals:

A. By virtue of a Deed recorded in Official Record 13821, Page 2929 Hamilton County, Ohio Recorder's Office, the Port Authority owns the real property located at 721 Main Street, Cincinnati, Ohio, generally located at the southwest corner of the intersection of E. 8th and Main Streets in the Central Business District of Cincinnati, as more particularly described on Exhibit A - (*Legal Description - Benefitted Property*) hereto (the "**Benefitted Property**").

B. As evidenced by a *Memorandum of Project Lease* dated December 21, 2018, and recorded on December 26, 2018, in OR 13821, Page 2933, Hamilton County, Ohio Records, Developer leases the Benefitted Property from Port Authority.

C. The City owns the adjoining Main Street public right-of-way, which is under the management and control of the City's Department of Transportation and Engineering ("**DOT**").

D. Developer has requested an aerial encroachment easement from the City for an improvement that encroaches upon a portion of the Main Street right-of-way (namely, an aerial encroachment for a projecting canopy (the "**Improvement**").

E. The City Manager, in consultation with DOT, has determined that the easement will not have an adverse effect on the City's retained interest in the public right-of-way.

F. The City's Real Estate Services Division has determined that the fair market value of the easements, as determined by appraisal, is \$570, which has been deposited with the Real Estate Services Division.

G. City Planning Commission, having the authority to approve the change in the use of City-owned property, approved the easement at its meeting on December 20, 2019.

H. Cincinnati City Council approved the easement by Ordinance No. ____-2021, passed on _____, 2021.

NOW THEREFORE, the parties do hereby agree as follows:

1. Grant of Encroachment Easement. The City does hereby grant to Grantees, on the terms and conditions set forth herein, as an appurtenance to and for the benefit of the Benefitted Property, a non-exclusive aerial encroachment easement to erect and maintain the Improvement over the Main Street public right-of-way, as more particularly depicted on Exhibit B (Survey Plat) and described on Exhibit C (Legal Description – Canopy Easement) hereto (the “**Canopy Easement**” or “**Canopy Easement Area**”, as applicable). Grantees shall not make any modifications to the Improvement without the City’s prior written consent. Notwithstanding anything herein to the contrary, the Canopy Easement shall automatically terminate upon (i) the complete demolition of the building; (ii) any permanent alteration of the building that entails the elimination of the Improvement within the Canopy Easement Area such that the Canopy Easement would be rendered unnecessary; or (iii) upon written notice from the City, if the City determines that it needs the Canopy Easement Area or any portion thereof for a municipal purpose or upon DOTE’s determination that the Improvement is creating a public safety issue.

2. Maintenance and Repairs. Grantees, at no cost to the City, shall at all times maintain the Improvement in a continuous state of good and safe condition and repair. Grantees acknowledge that there may be existing easements, utility lines and related facilities in the vicinity of the Canopy Easement (“**Third Party Utility Lines**”). In connection with Grantees’ activities within the Canopy Easement Area, Grantees shall not interfere with the access of any relevant utility company to maintain and repair the Third Party Utilities Lines, and shall, at Grantees’ expense, promptly repair any and all damage to the Third Party Utility Lines caused by Grantees, their agents, employees or contractors. Any relocation of Third Party Utility Lines necessitated by Grantees’ activities shall be handled entirely at Grantees’ expense. All work undertaken by Grantees hereunder shall be in compliance with all applicable codes, laws, and other governmental standards, policies, guidelines and requirements.

3. Insurance: Indemnification. At all times during which Grantees are undertaking construction activities within the Canopy Easement Area, and in addition to whatever other insurance and bond requirements as the City may from time to time require, Grantees shall maintain or cause to be maintained a policy of Commercial General Liability insurance, with an insurance company reasonably acceptable to the City and naming the City as an additional insured, in an amount not less than \$1,000,000 per occurrence, combined single limit/\$1,000,000 aggregate, or in such greater amount as the City may from time to time require. Grantees shall furnish to the City a certificate of insurance evidencing such insurance upon the City’s request and, in any event, prior to undertaking any construction activities within the Canopy Easement Area. Grantees hereby waive all claims and rights of recovery against the City, and on behalf of Grantees’ insurers, rights of subrogation, in connection with any damage to the Improvement, no matter how caused. Grantees shall defend (with counsel reasonably acceptable to the City), indemnify, and hold the City harmless from and against any and all claims, actions, losses, costs (including without limitation reasonable attorneys fees), liability and damages suffered or incurred by, or asserted against, the City in connection with the construction, maintenance, repair or other matters associated with the Improvement. The foregoing notwithstanding, for so long as the Port Authority owns the Benefitted Property, the City agrees that (i) the Port Authority shall have no indemnity or insurance obligations to the City under this section 3 (*provided*, however, that the Port Authority must nevertheless comply with all requirements of DOTE as pertains to working within public right-of-way), (ii) such indemnity and insurance obligations shall apply to Developer, its successors, and assigns, and (iii) if Grantees authorize a third party to work within the Canopy Easement Area, then, as a

condition of such authorization, such third party shall be deemed to have assumed the indemnity and insurance obligations (for the protection of the City) under this section 3.

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

5. Coordinated Report Conditions (CR #67-2019). The following additional conditions shall apply:

(a) DOTE:

- (i) The Improvement must comply with each of the following parameters of Cincinnati Municipal Code Section 723-17:
 - 1. Vertically at least eight feet above the sidewalk (ten feet if energized).
 - 2. Horizontally no closer than two feet from the street curb line.
 - 3. Fully supported from the building with no vertical supports extending below the bottom of the canopy, awning, or building mounted sign compliant with clearance requirements for overhead utility lines.
 - 4. Horizontally no closer than five feet from a utility pole.
- (ii) All metal for the proposed structure should be non-rusting so not to stain the sidewalk surface and building surface.
- (iii) The Improvement's construction drawings must be prepared and sealed by a professional engineer or architect registered in the State of Ohio. The design loads must be in accordance with applicable building code standards and be stated on the drawings. Drawings must include mounting and framing details.
- (iv) The sidewalk must remain open during installation. If installation is to take longer than two hours, a street use permit, obtained from DOTE, is required. Apply for permits in Room 425 at City Hall, 801 Plum Street.
- (v) The Improvement must have all necessary building code and zoning code approvals issued by the Department of Buildings and Inspections, including, without limitation, a Certificate of Appropriateness issued by the Historic Conservation Board or Urban Conservator, as applicable.

6. Counterparts and Electronic Signatures. This Grant of Encroachment Easement may be executed by the parties hereto in two or more counterparts and each executed counterpart shall be considered an original. This Grant of Encroachment Easement may be executed and delivered by electronic signature; any original signatures that are initially delivered electronically shall be physically delivered as soon as reasonably possible.

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

- Exhibit A – *Legal Description - Benefitted Property*
- Exhibit B – *Survey Plat*
- Exhibit C – *Legal Description – Canopy Easement*

Executed by the City of Cincinnati on the date of acknowledgement indicated below (the "Effective Date").

CITY OF CINCINNATI

By: _____

Printed Name: _____

Title: _____

STATE OF OHIO)
) ss:
COUNTY OF HAMILTON)

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

Notary Public
My commission expires: _____

Approved by:

John S. Brazina, Director
Department of Transportation and Engineering

Approved as to Form by:

Assistant City Solicitor

ACCEPTED AND AGREED TO BY:

PORT OF GREATER CINCINNATI DEVELOPMENT AUTHORITY,
an Ohio port authority

By: _____

Printed Name: _____

Title: _____

Date: _____, 2021

STATE OF OHIO)
) ss:
COUNTY OF HAMILTON)

The foregoing instrument was acknowledged before me this ____ day of _____, 2021 by _____, the _____ of the **Port of Greater Cincinnati Development Authority**, an Ohio port authority, on behalf of the port authority. The notarial act certified hereby is an acknowledgement. No oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

Notary Public
My commission expires: _____

ACCEPTED AND AGREED TO BY:
NAP 8 & Main LLC,
an Ohio limited liability company

By: _____

Printed Name: _____

Title: _____

Date: _____, 2021

STATE OF OHIO)
) ss:
COUNTY OF HAMILTON)

The foregoing instrument was acknowledged before me this ____ day of _____, 2021 by _____, the _____ of **NAP 8 & Main LLC**, an Ohio limited liability company, on behalf of the limited liability company. The notarial act certified hereby is an acknowledgement. No oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

Notary Public
My commission expires: _____

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

EXHIBIT A

to Grant of Encroachment Easement

LEGAL DESCRIPTION - BENEFITTED PROPERTY

Property Address: 721 Main Street, Cincinnati, Ohio 45202
Auditor's Parcel No.: 079-0008-0180-00

Situated in Section 18, Town 4, Fractional Range 1, City of Cincinnati, Hamilton County, Ohio and being a 0.2794 acre consolidation of parcels as conveyed to NAP 8 & Main, LLC by deed recorded in Official Record 13462, Page 1489 and located at the southwesterly corner of 8th Street (66' R/W) and Main Street (66' R/W). All references being to the Recorder's Office, Hamilton County, Ohio, and being more particularly described as follows:

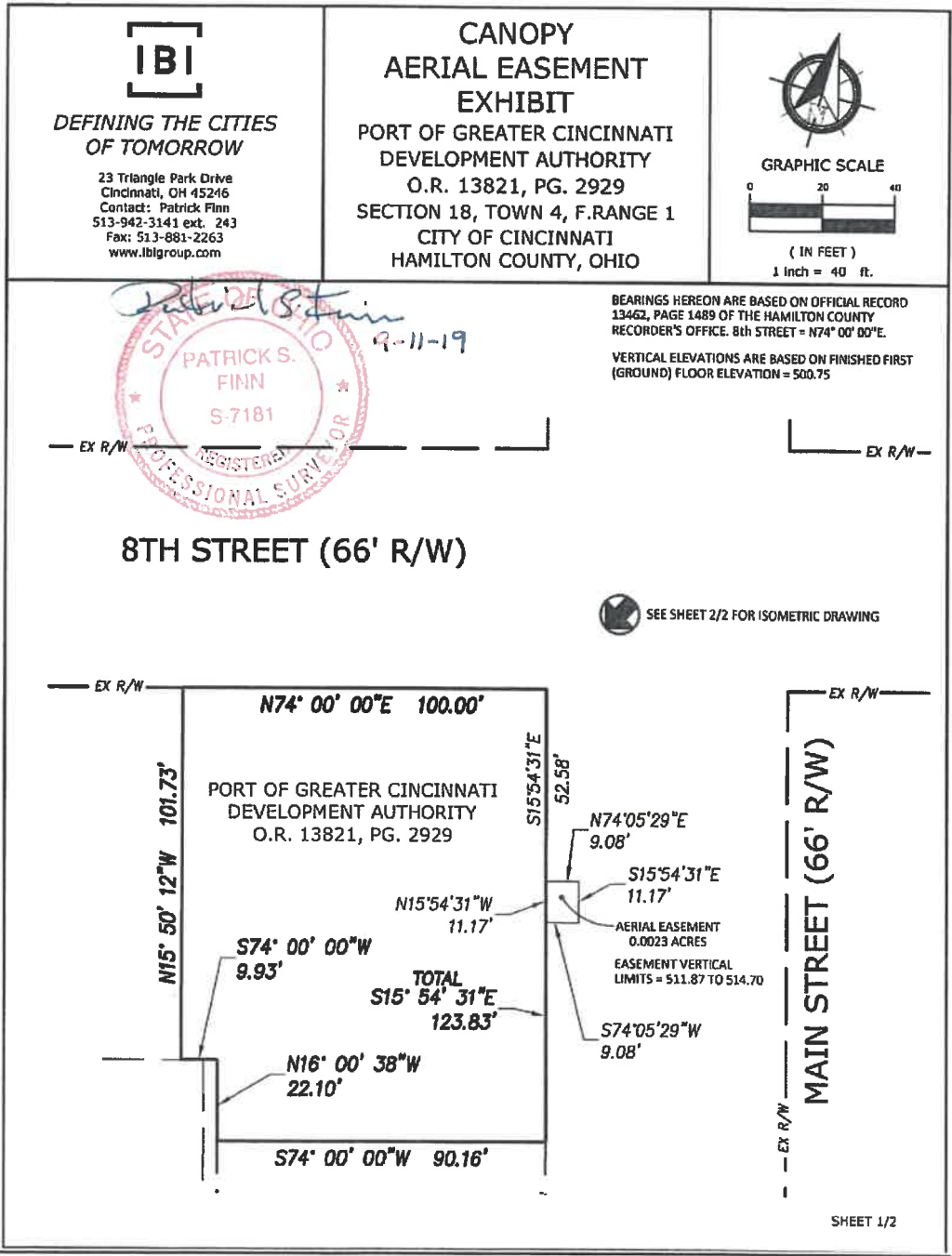
Beginning, for reference, in a Magnail found in the intersection of the southerly right of way line of said 8th Street and the easterly right of way line of Bowen Alley (16' R/W); thence In said southerly right of way line of 8th Street, North 74° 00' 00" East, 94.08 feet to a Magnail Set in the northeasterly corner of a parcel conveyed to System Parking Inc. by deed recorded in Official Record 12439, page 994, said Magnail being the **TRUE PLACE OF BEGINNING** of the consolidation of parcels herein described; thence the following 6 courses:

1. Continuing in said southerly right of way line of 8th Street, North 74° 00' 00" East, 100.00 feet to an "X" Cut in Concrete Set in the westerly right of way line of said Main Street; thence
2. In said westerly right of way line of Main Street, South 15° 54' 31" East, 123.83 feet to a point witnessed by a building corner 0.4'N/0.4'E, said point being a corner common to a parcel conveyed to Jiang Capital Group, LLC by deed recorded in Official Record 12742, Page 1026; thence
3. Leaving said westerly right of way line of Main Street and in the line common to said Jiang Capital Group, LLC, South 74° 00' 00" West, 90.16 feet to a Magnail Set in a corner common to said Jiang Capital Group, LLC and also in the easterly line of a 4' alley; thence
4. In said easterly line of a 4' alley, North 16° 00' 38" West, 22.10 feet to a Magnail Set in the terminus of said 4' alley; thence
5. In said terminus of the 4' alley, South 74° 00' 00" West, 9.93 feet to a 5/8" Iron Pin Found in a line common to a parcel conveyed to Keen Investment Inc. by deed recorded in Registered Land Certificate No. 151024, said Iron Pin also being in a corner common to said System Parking, Inc.; thence
6. In the line common to said System Parking, Inc., North 15° 50' 12" West, 101.73 feet to the **TRUE PLACE OF BEGINNING** of consolidation of parcels herein described.

EXHIBIT B

to Grant of Encroachment Easement

Survey Plat





DEFINING THE CITIES
OF TOMORROW

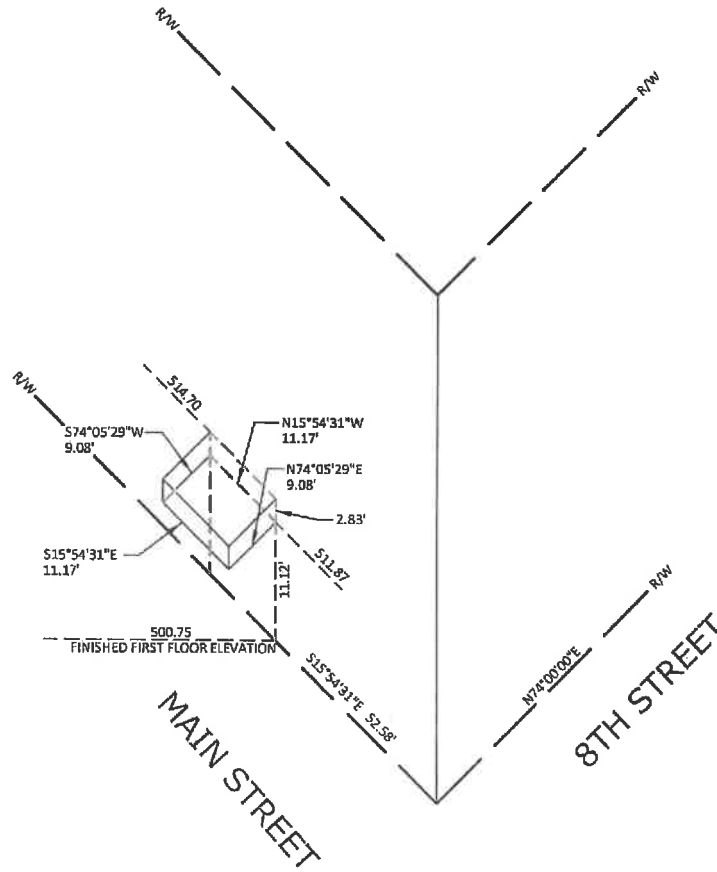
23 Triangle Park Drive
Cincinnati, OH 45246
Contact: Patrick Finn
513-942-3141 ext. 243
Fax: 513-881-2263
www.ibigroup.com

CANOPY
AERIAL EASEMENT
EXHIBIT

PORT OF GREATER CINCINNATI
DEVELOPMENT AUTHORITY
O.R. 13821, PG. 2929
SECTION 18, TOWN 4, F.RANGE 1
CITY OF CINCINNATI
HAMILTON COUNTY, OHIO



NOT TO SCALE



SEE SHEET 1/2 FOR ORIENTATION

SHEET 2/2

EXHIBIT C

to Grant of Encroachment Easement

Legal Description – Canopy Easement

Situated in Section 18, Town 4, Fractional Range 1, City of Cincinnati, Hamilton County, Ohio and being a Canopy Aerial Easement located within the existing Right of Way of Main Street (66' R/W) and being in the westerly right of way line of said Main Street, south of the southerly right of way line of 8th Street (66' R/W). All references being to the Recorder's Office, Hamilton County, Ohio, and being more particularly described as follows:

Beginning, for reference, in the intersection of said southerly right of way line of 8th Street and said westerly right of way line of Main Street and being in the northeasterly corner of a parcel conveyed to Port of Greater Cincinnati Development Authority by deed recorded in Official Record 13821, Page 2929; thence

In said westerly right of way line of Main Street, South 15° 54' 31" East, 52.58 feet to a point at elevation 500.75 (Finished First Floor-Ground); thence

In a positive vertical direction, 11.12 feet to elevation 511.87 and being the **TRUE PLACE OF BEGINNING** of the Aerial Easement herein described; thence the following 4 courses:

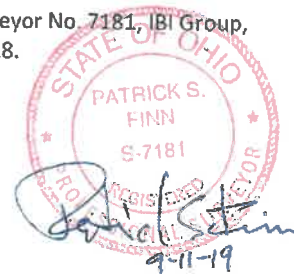
1. Leaving said westerly right of way line of Main Street, North 74° 05' 29" East, 9.08 feet to a point; thence
2. South 15° 54' 31" East, 11.17 feet to a point; thence
3. South 74° 05' 29" West, 9.08 feet to a point in said westerly right of way line of Main Street; thence
4. In said westerly right of way line of Main Street, North 15° 54' 31" West, 11.17 feet to the **TRUE PLACE OF BEGINNING** of the Canopy Aerial Easement herein described.

This Easement is restricted to vertical limits within elevations 511.87 to 514.70, a depth of 2.83 feet.

Containing **101 square feet** or **0.0023 acres**.

Bearings are based on O.R. 13462, Pg. 1489, 8th Street = North 74° 00' 00" East, Hamilton County, Ohio.

This description was prepared by Patrick S. Finn, Ohio Registered Surveyor No. 7181, JBI Group, Cincinnati, Ohio, and is based on a field survey performed in May, 2018.



[SPACE ABOVE FOR RECORDER'S USE]

GRANT OF ENCROACHMENT EASEMENT

(aerial encroachment upon Main Street)

This Grant of Encroachment Easement is made as of the Effective Date (as defined on the signature page hereof) by the **CITY OF CINCINNATI**, an Ohio municipal corporation, 801 Plum Street, Cincinnati, OH 45202 (the "**City**"), in favor of **PORT OF GREATER CINCINNATI DEVELOPMENT AUTHORITY**, an Ohio port authority and body corporate and politic organized and existing under Ohio law, the address of which is 3 East Fourth Street, Suite 300, Cincinnati, Ohio 45202 (the "**Port Authority**"), and **NAP 8 & MAIN LLC**, an Ohio limited liability company, the address of which is 212 East 3rd Street, Suite 300, Cincinnati, Ohio 45202 ("**Developer**", and together with the Port Authority, "**Grantees**").

Recitals:

A. By virtue of a Deed recorded in Official Record 13821, Page 2929 Hamilton County, Ohio Recorder's Office, the Port Authority owns the real property located at 721 Main Street, Cincinnati, Ohio, generally located at the southwest corner of the intersection of E. 8th and Main Streets in the Central Business District of Cincinnati, as more particularly described on Exhibit A – (*Legal Description – Benefitted Property*) hereto (the "**Benefitted Property**").

B. As evidenced by a *Memorandum of Project Lease* dated December 21, 2018, and recorded on December 26, 2018, in OR 13821, Page 2933, Hamilton County, Ohio Records, Developer leases the Benefitted Property from Port Authority.

C. The City owns the adjoining Main Street public right-of-way, which is under the management and control of the City's Department of Transportation and Engineering ("**DOT**").

D. Developer has requested an aerial encroachment easement from the City for an improvement that encroaches upon a portion of the Main Street right-of-way (namely, an aerial encroachment for a projecting canopy (the "**Improvement**").

E. The City Manager, in consultation with DOT, has determined that the easement will not have an adverse effect on the City's retained interest in the public right-of-way.

F. The City's Real Estate Services Division has determined that the fair market value of the easements, as determined by appraisal, is \$570, which has been deposited with the Real Estate Services Division.

G. City Planning Commission, having the authority to approve the change in the use of City-owned property, approved the easement at its meeting on December 20, 2019.

H. Cincinnati City Council approved the easement by Ordinance No. ____-2021, passed on _____, 2021.

NOW THEREFORE, the parties do hereby agree as follows:

1. Grant of Encroachment Easement. The City does hereby grant to Grantees, on the terms and conditions set forth herein, as an appurtenance to and for the benefit of the Benefitted Property, a non-exclusive aerial encroachment easement to erect and maintain the Improvement over the Main Street public right-of-way, as more particularly depicted on Exhibit B (Survey Plat) and described on Exhibit C (Legal Description – Canopy Easement) hereto (the “**Canopy Easement**” or “**Canopy Easement Area**”, as applicable). Grantees shall not make any modifications to the Improvement without the City’s prior written consent. Notwithstanding anything herein to the contrary, the Canopy Easement shall automatically terminate upon (i) the complete demolition of the building; (ii) any permanent alteration of the building that entails the elimination of the Improvement within the Canopy Easement Area such that the Canopy Easement would be rendered unnecessary; or (iii) upon written notice from the City, if the City determines that it needs the Canopy Easement Area or any portion thereof for a municipal purpose or upon DOTE’s determination that the Improvement is creating a public safety issue.

2. Maintenance and Repairs. Grantees, at no cost to the City, shall at all times maintain the Improvement in a continuous state of good and safe condition and repair. Grantees acknowledge that there may be existing easements, utility lines and related facilities in the vicinity of the Canopy Easement (“**Third Party Utility Lines**”). In connection with Grantees’ activities within the Canopy Easement Area, Grantees shall not interfere with the access of any relevant utility company to maintain and repair the Third Party Utilities Lines, and shall, at Grantees’ expense, promptly repair any and all damage to the Third Party Utility Lines caused by Grantees, their agents, employees or contractors. Any relocation of Third Party Utility Lines necessitated by Grantees’ activities shall be handled entirely at Grantees’ expense. All work undertaken by Grantees hereunder shall be in compliance with all applicable codes, laws, and other governmental standards, policies, guidelines and requirements.

3. Insurance; Indemnification. At all times during which Grantees are undertaking construction activities within the Canopy Easement Area, and in addition to whatever other insurance and bond requirements as the City may from time to time require, Grantees shall maintain or cause to be maintained a policy of Commercial General Liability insurance, with an insurance company reasonably acceptable to the City and naming the City as an additional insured, in an amount not less than \$1,000,000 per occurrence, combined single limit/\$1,000,000 aggregate, or in such greater amount as the City may from time to time require. Grantees shall furnish to the City a certificate of insurance evidencing such insurance upon the City’s request and, in any event, prior to undertaking any construction activities within the Canopy Easement Area. Grantees hereby waive all claims and rights of recovery against the City, and on behalf of Grantees’ insurers, rights of subrogation, in connection with any damage to the Improvement, no matter how caused. Grantees shall defend (with counsel reasonably acceptable to the City), indemnify, and hold the City harmless from and against any and all claims, actions, losses, costs (including without limitation reasonable attorneys fees), liability and damages suffered or incurred by, or asserted against, the City in connection with the construction, maintenance, repair or other matters associated with the Improvement. The foregoing notwithstanding, for so long as the Port Authority owns the Benefitted Property, the City agrees that (i) the Port Authority shall have no indemnity or insurance obligations to the City under this section 3 (*provided*, however, that the Port Authority must nevertheless comply with all requirements of DOTE as pertains to working within public right-of-way), (ii) such indemnity and insurance obligations shall apply to Developer, its successors, and assigns, and (iii) if Grantees authorize a third party to work within the Canopy Easement Area, then, as a

condition of such authorization, such third party shall be deemed to have assumed the indemnity and insurance obligations (for the protection of the City) under this section 3.

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

5. Coordinated Report Conditions (CR #67-2019). The following additional conditions shall apply:

(a) DOTE:

(i) The Improvement must comply with each of the following parameters of Cincinnati Municipal Code Section 723-17:

1. Vertically at least eight feet above the sidewalk (ten feet if energized).
2. Horizontally no closer than two feet from the street curb line.
3. Fully supported from the building with no vertical supports extending below the bottom of the canopy, awning, or building mounted sign compliant with clearance requirements for overhead utility lines.
4. Horizontally no closer than five feet from a utility pole.

(ii) All metal for the proposed structure should be non-rusting so not to stain the sidewalk surface and building surface.

(iii) The Improvement's construction drawings must be prepared and sealed by a professional engineer or architect registered in the State of Ohio. The design loads must be in accordance with applicable building code standards and be stated on the drawings. Drawings must include mounting and framing details.

(iv) The sidewalk must remain open during installation. If installation is to take longer than two hours, a street use permit, obtained from DOTE, is required. Apply for permits in Room 425 at City Hall, 801 Plum Street.

(v) The Improvement must have all necessary building code and zoning code approvals issued by the Department of Buildings and Inspections, including, without limitation, a Certificate of Appropriateness issued by the Historic Conservation Board or Urban Conservator, as applicable.

6. Counterparts and Electronic Signatures. This Grant of Encroachment Easement may be executed by the parties hereto in two or more counterparts and each executed counterpart shall be considered an original. This Grant of Encroachment Easement may be executed and delivered by electronic signature; any original signatures that are initially delivered electronically shall be physically delivered as soon as reasonably possible.

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

Exhibit A – *Legal Description - Benefitted Property*

Exhibit B – *Survey Plat*

Exhibit C – *Legal Description – Canopy Easement*

Executed by the City of Cincinnati on the date of acknowledgement indicated below (the "Effective Date").

CITY OF CINCINNATI

By: _____

Printed Name: _____

Title: _____

STATE OF OHIO)
) ss:
COUNTY OF HAMILTON)

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

Notary Public
My commission expires: _____

Approved by:

John S. Brazina, Director
Department of Transportation and Engineering

Approved as to Form by:

Assistant City Solicitor

ACCEPTED AND AGREED TO BY:

PORT OF GREATER CINCINNATI DEVELOPMENT AUTHORITY,
an Ohio port authority

By: _____

Printed Name: _____

Title: _____

Date: _____, 2021

STATE OF OHIO)
) ss:
COUNTY OF HAMILTON)

The foregoing instrument was acknowledged before me this ____ day of _____, 2021 by _____, the _____ of the **Port of Greater Cincinnati Development Authority**, an Ohio port authority, on behalf of the port authority. The notarial act certified hereby is an acknowledgement. No oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

Notary Public
My commission expires: _____

ACCEPTED AND AGREED TO BY:
NAP 8 & Main LLC,
an Ohio limited liability company

By: _____

Printed Name: _____

Title: _____

Date: _____, 2021

STATE OF OHIO)
) ss:
COUNTY OF HAMILTON)

The foregoing instrument was acknowledged before me this ____ day of _____, 2021 by _____, the _____ of **NAP 8 & Main LLC**, an Ohio limited liability company, on behalf of the limited liability company. The notarial act certified hereby is an acknowledgement. No oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

Notary Public
My commission expires: _____

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

EXHIBIT A

to Grant of Encroachment Easement

LEGAL DESCRIPTION - BENEFITTED PROPERTY

Property Address: 721 Main Street, Cincinnati, Ohio 45202
Auditor's Parcel No.: 079-0008-0180-00

Situated in Section 18, Town 4, Fractional Range 1, City of Cincinnati, Hamilton County, Ohio and being a 0.2794 acre consolidation of parcels as conveyed to NAP 8 & Main, LLC by deed recorded in Official Record 13462, Page 1489 and located at the southwesterly corner of 8th Street (66' R/W) and Main Street (66' R/W). All references being to the Recorder's Office, Hamilton County, Ohio, and being more particularly described as follows:

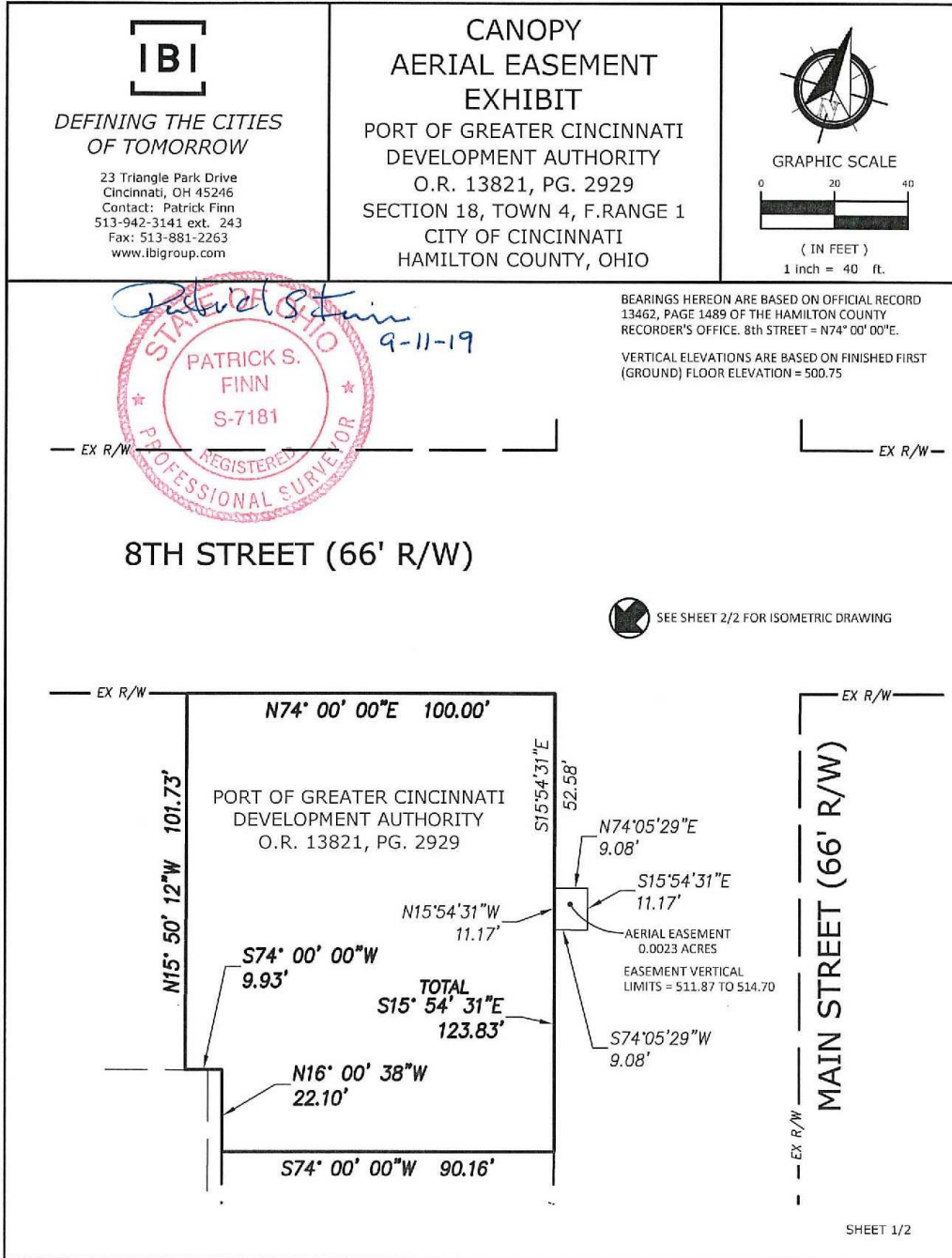
Beginning, for reference, in a Magnail found in the intersection of the southerly right of way line of said 8th Street and the easterly right of way line of Bowen Alley (16' R/W); thence In said southerly right of way line of 8th Street, North 74° 00' 00" East, 94.08 feet to a Magnail Set in the northeasterly corner of a parcel conveyed to System Parking Inc. by deed recorded in Official Record 12439, page 994, said Magnail being the **TRUE PLACE OF BEGINNING** of the consolidation of parcels herein described; thence the following 6 courses:

1. Continuing in said southerly right of way line of 8th Street, North 74° 00' 00" East, 100.00 feet to an "X" Cut in Concrete Set in the westerly right of way line of said Main Street; thence
2. In said westerly right of way line of Main Street, South 15° 54' 31" East, 123.83 feet to a point witnessed by a building corner 0.4'N/0.4'E, said point being a corner common to a parcel conveyed to Jiang Capital Group, LLC by deed recorded in Official Record 12742, Page 1026; thence
3. Leaving said westerly right of way line of Main Street and in the line common to said Jiang Capital Group, LLC, South 74° 00' 00" West, 90.16 feet to a Magnail Set in a corner common to said Jiang Capital Group, LLC and also in the easterly line of a 4' alley; thence
4. In said easterly line of a 4' alley, North 16° 00' 38" West, 22.10 feet to a Magnail Set in the terminus of said 4' alley; thence
5. In said terminus of the 4' alley, South 74° 00' 00" West, 9.93 feet to a 5/8" Iron Pin Found in a line common to a parcel conveyed to Keen Investment Inc. by deed recorded in Registered Land Certificate No. 151024, said Iron Pin also being in a corner common to said System Parking, Inc.; thence
6. In the line common to said System Parking, Inc., North 15° 50' 12" West, 101.73 feet to the **TRUE PLACE OF BEGINNING** of consolidation of parcels herein described.

EXHIBIT B

to Grant of Encroachment Easement

Survey Plat





DEFINING THE CITIES
OF TOMORROW

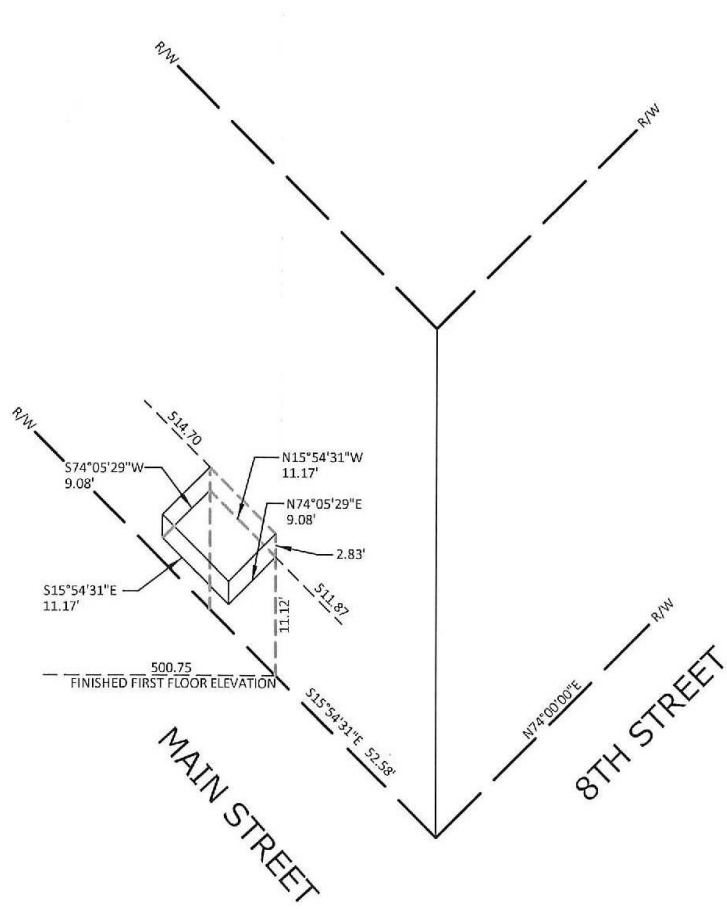
23 Triangle Park Drive
Cincinnati, OH 45246
Contact: Patrick Finn
513-942-3141 ext. 243
Fax: 513-881-2263
www.ibigroup.com

CANOPY
AERIAL EASEMENT
EXHIBIT

PORT OF GREATER CINCINNATI
DEVELOPMENT AUTHORITY
O.R. 13821, PG. 2929
SECTION 18, TOWN 4, F. RANGE 1
CITY OF CINCINNATI
HAMILTON COUNTY, OHIO



NOT TO SCALE



SEE SHEET 1/2 FOR ORIENTATION

SHEET 2/2

EXHIBIT C

to Grant of Encroachment Easement

Legal Description – Canopy Easement

Situated in Section 18, Town 4, Fractional Range 1, City of Cincinnati, Hamilton County, Ohio and being a Canopy Aerial Easement located within the existing Right of Way of Main Street (66' R/W) and being in the westerly right of way line of said Main Street, south of the southerly right of way line of 8th Street (66' R/W). All references being to the Recorder's Office, Hamilton County, Ohio, and being more particularly described as follows:

Beginning, for reference, in the intersection of said southerly right of way line of 8th Street and said westerly right of way line of Main Street and being in the northeasterly corner of a parcel conveyed to Port of Greater Cincinnati Development Authority by deed recorded in Official Record 13821, Page 2929; thence
In said westerly right of way line of Main Street, South 15° 54' 31" East, 52.58 feet to a point at elevation 500.75 (Finished First Floor-Ground); thence
In a positive vertical direction, 11.12 feet to elevation 511.87 and being the **TRUE PLACE OF BEGINNING** of the Aerial Easement herein described; thence the following 4 courses:

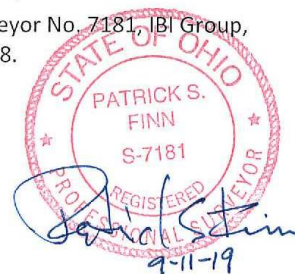
1. Leaving said westerly right of way line of Main Street, North 74° 05' 29" East, 9.08 feet to a point; thence
2. South 15° 54' 31" East, 11.17 feet to a point; thence
3. South 74° 05' 29" West, 9.08 feet to a point in said westerly right of way line of Main Street; thence
4. In said westerly right of way line of Main Street, North 15° 54' 31" West, 11.17 feet to the **TRUE PLACE OF BEGINNING** of the Canopy Aerial Easement herein described.

This Easement is restricted to vertical limits within elevations 511.87 to 514.70, a depth of 2.83 feet.

Containing **101 square feet** or **0.0023 acres**.

Bearings are based on O.R. 13462, Pg. 1489, 8th Street = North 74° 00' 00" East, Hamilton County, Ohio.

This description was prepared by Patrick S. Finn, Ohio Registered Surveyor No. 7181, JBI Group, Cincinnati, Ohio, and is based on a field survey performed in May, 2018.



January 19, 2021

To: Members of the Budget and Finance Committee **202100179**

From: Paula Boggs Muething, City Manager

Subject: Emergency Ordinance – U.S. Chamber of Commerce Foundation Donation

Attached is an Emergency Ordinance captioned:

AUTHORIZING the City Manager to accept and appropriate a donation in the amount of up to \$2,000 from the U.S. Chamber of Commerce Foundation to the Office of Environment and Sustainability’s General Fund non-personnel operating budget account no. 050x104x7200 for the purpose of providing support for the U.S. Chamber of Commerce Foundation’s Beyond 34 Initiative; and **AUTHORIZING** the Director of Finance to deposit the donated resources into the General Fund revenue account no. 050x8571.

This Emergency Ordinance authorizes the City Manager to accept and appropriate a donation in the amount of up to \$2,000 from the U.S. Chamber of Commerce Foundation to the Office of Environment and Sustainability’s General Fund non-personnel operating budget account no. 050x104x7200 to support the U.S. Chamber of Commerce Foundation’s Beyond 34 Initiative. This Emergency Ordinance also authorizes the Finance Director to deposit the donated resources into General Fund revenue account no. 050x8571.

Donated resources will be used to provide continued commitment to local communications and oversight across three Beyond 34 prioritized interventions: organic solutions, commercial division, and residential and consumer education strategies. The donation requires no local match or FTEs.

Participation in Beyond 34 supports the goal to “Reduce food waste by 20% by 2025,” as described on page 128 of the Green Cincinnati Plan (2018).

This Emergency Ordinance is also in accordance with the "Sustain" goal to “Become a healthier Cincinnati" and strategy to "Create a healthy environment and reduce energy consumption," as well as the “Collaborate” goal to “Speak in a unified voice with other entities to reach regional goals,” and strategy to “Actively coordinate our regional efforts,” as described on pages 182 – 186 and 214 – 216 of Plan Cincinnati (2012).

The reason for the emergency is the immediate need to accept donated resources in a timely manner.

The Administration recommends passage of this Emergency Ordinance.

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

Attachment



EMERGENCY

KKF

- 2021

AUTHORIZING the City Manager to accept and appropriate a donation in the amount of up to \$2,000 from the U.S. Chamber of Commerce Foundation to the Office of Environment and Sustainability's General Fund non-personnel operating budget account no. 050x104x7200 for the purpose of providing support for the U.S. Chamber of Commerce Foundation's Beyond 34 Initiative; and **AUTHORIZING** the Director of Finance to deposit the donated resources into the General Fund revenue account no. 050x8571.

WHEREAS, the U.S. Chamber of Commerce Foundation has offered to donate up to \$2,000 to the Office of Environment and Sustainability for the purpose of continuing to support the U.S. Chamber of Commerce Foundation's Beyond 34 Initiative; and

WHEREAS, these donated resources will be used to provide continued commitment to local communications and oversight across three Beyond 34 prioritized interventions: organic solutions, commercial division, and residential and consumer education strategies; and

WHEREAS, this donation requires no local match and there are no new FTEs associated with this donation; and

WHEREAS, participation in Beyond 34 supports the goal to "Reduce food waste by 20% by 2025," as described on page 128 of the Green Cincinnati Plan (2018); and

WHEREAS, this ordinance is in accordance with the "Sustain" goal to "Become a healthier Cincinnati" and the strategy to "Create healthy environment and reduce energy consumption," as well as the "Collaborate" goal to "Speak in a unified voice with other entities to reach regional goals," and strategy to "Actively coordinate our regional efforts," as described on pages 182 – 186 and 214 - 216 of Plan Cincinnati (2012); now, therefore,

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

Section 1. That the City Manager is hereby authorized to accept and appropriate a donation in the amount of up to \$2,000 from the U.S. Chamber of Commerce Foundation to the Office of Environment and Sustainability's General Fund non-personnel operating budget account no. 050x104x7200 for the purpose of providing support for the U.S. Chamber of Commerce Foundation's Beyond 34 Initiative.

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

Section 3. That the proper City officials are authorized to use and expend the sum of \$2,000 in accordance with the terms of the donation and Sections 1 and 2 hereof.

Section 4. That this ordinance shall be an emergency measure necessary for the preservation of public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to accept donated resources in a timely manner.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

January 19, 2021

To: Members of the Budget and Finance Committee **202100181**

From: Paula Boggs Muething, City Manager

Subject: **Emergency Ordinance – OEPA Diesel Mitigation Trust Fund Grant**

Attached is an Emergency Ordinance captioned:

AUTHORIZING the City Manager to accept and appropriate grant resources in an amount of up to \$391,950 from the Ohio Environmental Protection Agency’s Diesel Mitigation Trust Fund to existing capital improvement program project account no. 980x981x212505, “Fleet Replacements,” for the purpose of replacing a select number of diesel vehicles within the City fleet.

This Emergency Ordinance authorizes the City Manager to accept and appropriate grant resources in an amount of up to \$391,950 from the Ohio Environmental Protection Agency’s Diesel Mitigation Trust Fund (“DMTF”) to existing capital improvement program project account no. 980x981x212505, “Fleet Replacements,” for the purpose of replacing a select number of diesel vehicles within the City fleet.

In Ordinance No. 0311-2020, the City Council authorized the City Manager to apply for the Ohio Environmental Protection Agency’s DMTF Grant in an amount of up to \$391,950. On December 1, 2020, the City was awarded the grant.

The DMTF Grant does not require new FTEs. The grant requires local match resources in the amount of \$479,950, which are available within existing capital improvement program project account no. 980x981x212505, “Fleet Replacements.”

Replacing inefficient diesel vehicles from the City’s fleet supports the goal of the Green Cincinnati Plan (2018) to “Decrease the consumption of fossil fuels, including gas, diesel, and natural gas by 20%” and the strategy to “Green the Fleet: Improve the fuel efficiency of the City’s Fleet,” as described on pages 205 and 215 of the plan.

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

The reason for the emergency is the immediate need to accept grant resources in a timely manner.

The Administration recommends passage of this Emergency Ordinance.

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



Attachment

EMERGENCY

LES

- 2021

AUTHORIZING the City Manager to accept and appropriate grant resources in an amount of up to \$391,950 from the Ohio Environmental Protection Agency's Diesel Mitigation Trust Fund to existing capital improvement program project account no. 980x981x212505, "Fleet Replacements," for the purpose of replacing a select number of diesel vehicles within the City fleet.

WHEREAS, on May 16, 2018, Council adopted the Green Cincinnati Plan in Motion No. 201800830; and

WHEREAS, on September 16, 2020, City Council passed Ordinance No. 0311-2020, which authorized the City Manager to apply for a grant in an amount of up to \$391,950 from the Ohio Environmental Protection Agency's Diesel Mitigation Trust Fund; and

WHEREAS, on December 1, 2020, the City was awarded \$391,950 from the Ohio Environmental Protection Agency's Diesel Mitigation Trust Fund for the replacement of a select number of diesel vehicles in the City fleet; and

WHEREAS, the grant does not require any new FTEs; and

WHEREAS, the grant requires local match resources in the amount of \$479,950, which are available within existing capital improvement project account no. 980x981x212505, "Fleet Replacements"; and

WHEREAS, replacing inefficient diesel vehicles from the City's fleet supports the goal of the Green Cincinnati Plan (2018) to "Decrease the consumption of fossil fuels, including gas, diesel, and natural gas by 20%" and the strategy to "Green the Fleet: Improve the fuel efficiency of the City's Fleet," as described on pages 205 and 215 of the plan; and

WHEREAS, replacing inefficient diesel vehicles from the City's fleet is in accordance with the "Sustain" goal to "Become a healthier Cincinnati" and strategy to "Create a healthy environment and reduce energy consumption," as described on pages 181-186 of Plan Cincinnati (2012); now, therefore,

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

Section 1. That the City Manager is hereby authorized to accept and appropriate grant resources in an amount of up to \$391,950 from the Ohio Environmental Protection Agency's

Diesel Mitigation Trust Fund to existing capital improvement program project account no. 980x981x212505, "Fleet Replacements," for the purpose of replacing a select number of diesel vehicles within the City fleet.

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

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

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

January 19, 2021

To: Mayor and Members of City Council 202100182

From: Paula Boggs Muething, City Manager

Subject: **LEVYING SPECIAL ASSESSMENTS FOR THE PACE
ASSESSMENT PROJECT FOR 2347 READING ROAD, LLC (2ND
AMENDMENT)**

Attached is an Emergency Ordinance captioned as follows:

LEVYING special assessments for the purpose of the special assessment project at 2347 Reading Road in the City of Cincinnati involving the City of Cincinnati, Ohio Energy Special Improvement District; and further **REPEALING** Ordinance No. 443-2019, in order to correspondingly amend and restate the levying of special assessments associated with the project.

BACKGROUND/CURRENT CONDITIONS

The Ohio PACE (Property Assessed Clean Energy) program allows commercial property owners to opt into a special assessment which is added to the property tax bill to access long-term, fixed-rate financing for energy efficiency upgrades. The owner and developer of 2347 Reading Road previously requested to have their property added to the Energy Special Improvement District (ESID) and special assessments levied on the property, for the purpose of accessing PACE financing for energy efficiency upgrades to their commercial construction project.

The addition of the property to the ESID was approved by Council in October 2018. In November 2019 the owner and developer requested that the schedule for those special assessments be amended to commence in 2021 instead of 2020 and the request was approved by Council. The owner and developer are now requesting an additional amendment to have assessments commence in 2022 and the term of the assessment will be reduced from 30 years to 28 years.

DEVELOPER INFORMATION

2347 Reading Road, LLC is affiliated with Kingsley + Co., a minority-owned holding company and developer. The company partnered on the redevelopment of the

Mabley Place Garage in the Central Business District, as well as the Fairfield Inn & Suites at U-Square in CUF.

PROJECT DESCRIPTION

This project will result in the construction of a 73,450 square foot hotel in the Mt. Auburn neighborhood. The cost of the new construction is estimated to be \$8.4MM and the total project cost is estimated be \$14MM. Construction commenced in 2019 and is expected to be completed by December 2021.

PROPOSED INCENTIVE

DCED is recommending that the City adjust the schedule for the special assessments for this previously authorized project to commence in 2022 instead of 2021 and for the term to be reduced from 30 years to 28 years.

RECOMMENDATION

The Administration recommends approval of this Emergency Ordinance.

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

EMERGENCY

AWB

City of Cincinnati

An Ordinance No. _____ - 2021

LEVYING special assessments for the purpose of the special assessment project at 2347 Reading Road in the City of Cincinnati involving the City of Cincinnati, Ohio Energy Special Improvement District; and further **REPEALING** Ordinance No. 443-2019, in order to correspondingly amend and restate the levying of special assessments associated with the project.

WHEREAS, this Council duly adopted a legislative resolution declaring the necessity of an assessment project at 2347 Reading Road in the City of Cincinnati (the “Resolution of Necessity”), which Resolution of Necessity also accepted and approved the Amended Petition (as defined therein) requesting the improvements described in Section 3 of the Resolution of Necessity and an assessment for the cost thereof, all as set forth in the Amended Petition; and

WHEREAS, this Council duly passed an ordinance determining to proceed with the Assessment Project (as defined in the Resolution of Necessity) and adopted the estimated Special Assessments filed with the Clerk of Council and the City’s Director of Finance pursuant to the Resolution of Necessity; now, therefore,

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

Section 1. That the recitals hereof are hereby incorporated by reference, and each capitalized term not otherwise defined herein or by reference to another document shall have the meaning assigned to it in the Resolution of Necessity, an unsigned copy of which is attached to this Ordinance as Attachment B.

Section 2. That the Special Assessments for the costs and expenses of the Assessment Project, which are set forth in the Amended Petition and the Amended Supplemental Plan (copies of which are attached to the Resolution of Necessity) and are on file with the Clerk of Council and the City’s Finance Director, are adopted and confirmed and are assessed against the Assessed Property in the manner and in the number of installments provided in the Resolution of Necessity, the Amended Petition, and the Amended Supplemental Plan. The Special

Assessments are assessed against the Assessed Property commencing in tax year 2021 for collection in 2022 and shall continue through tax year 2048 for collection in 2049. The list of Special Assessments to be levied and assessed against the Assessed Property and the schedule of the Special Assessments are attached to this Ordinance as Attachment A.

Section 3. That this Council hereby finds and determines that the Special Assessments are in proportion to the special benefits received by the Assessed Property as set forth in the Amended Petition and are not in excess of any applicable statutory limitation. The Special Assessments against the Assessed Property shall be payable as set forth in the Resolution of Necessity and the Amended Petition. All Special Assessments shall be certified by the City's Finance Director to the Hamilton County Auditor pursuant to the Amended Petition and Ohio Revised Code Section 727.33 to be placed on the tax list and duplicate and collected with and in the same manner as real property taxes are collected and as set forth in the Amended Petition. This Council hereby appropriates the Special Assessments collected to be used by the City to meet its obligations with respect to the Assessment Project in accordance with the Standing Assignment Agreement and the Amended Addendum.

Section 4. That the Owner of the Assessed Property has waived its right to pay the Special Assessments in cash, and all Special Assessments and installments thereof are to be certified by the City's Finance Director to the Hamilton County Auditor as provided by law to be placed by him or her on the tax list and duplicate and collected with and in the same manner as real property taxes are collected and as set forth in the Petition.

Section 5. That the City's Finance Director is authorized to keep the Special Assessments on file in the office of the Finance Director.

Section 6. That Ordinance No. 443-2019, passed by Council on November 14, 2019, is hereby repealed.

Section 7. That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Ohio Revised Code Section 121.22.

Section 8. That in compliance with Ohio Revised Code Section 319.61, the Clerk of the Council is hereby directed to deliver a certified copy of this Ordinance to the Hamilton County Auditor within twenty (20) days after its passage.

Section 9. That this Ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is to ensure that the Board of the City of Cincinnati, Ohio Energy Special Improvement District, Inc. may proceed with the Assessment Project as soon as possible so that work thereon may commence or continue without delay.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

ATTACHMENT A

**LIST OF SPECIAL ASSESSMENTS AND
SCHEDULE OF SPECIAL ASSESSMENTS**

2347 READING ROAD LIST OF SPECIAL ASSESSMENTS

<u>Name</u>	<u>Assessed Properties Description</u>	<u>Portion of Benefit and Special Assessment</u>	<u>Amount of Special Assessments</u>
2347 Reading Road, LLC	Hamilton County Parcel Number: 090-0001-0091-00	100%	\$6,023,361.12

**Schedule of Special Assessments
For 2347 Reading Road**

090-0001-0091-00*

The following schedule of Special Assessment charges shall be certified for collection in 56 semi-annual installments to be collected with property taxes in calendar years 2022 through 2049:

Special Assessment Payment Date**	Special Assessment Payment Amount***
January 31, 2022	\$107,560.02
July 17, 2022	107,560.02
January 31, 2023	107,560.02
July 17, 2023	107,560.02
January 31, 2024	107,560.02
July 17, 2024	107,560.02
January 31, 2025	107,560.02
July 17, 2025	107,560.02
January 31, 2026	107,560.02
July 17, 2026	107,560.02
January 31, 2027	107,560.02
July 17, 2027	107,560.02
January 31, 2028	107,560.02
July 17, 2028	107,560.02
January 31, 2029	107,560.02
July 17, 2029	107,560.02
January 31, 2030	107,560.02
July 17, 2030	107,560.02
January 31, 2031	107,560.02
July 17, 2031	107,560.02
January 31, 2032	107,560.02
July 17, 2032	107,560.02
January 31, 2033	107,560.02
July 17, 2033	107,560.02
January 31, 2034	107,560.02
July 17, 2034	107,560.02
January 31, 2035	107,560.02
July 17, 2035	107,560.02
January 31, 2036	107,560.02
July 17, 2036	107,560.02
January 31, 2037	107,560.02
July 17, 2037	107,560.02

Special Assessment Payment Date**	Special Assessment Payment Amount***
January 31, 2038	\$107,560.02
July 17, 2038	107,560.02
January 31, 2039	107,560.02
July 17, 2039	107,560.02
January 31, 2040	107,560.02
July 17, 2040	107,560.02
January 31, 2041	107,560.02
July 17, 2041	107,560.02
January 31, 2042	107,560.02
July 17, 2042	107,560.02
January 31, 2043	107,560.02
July 17, 2043	107,560.02
January 31, 2044	107,560.02
July 17, 2044	107,560.02
January 31, 2045	107,560.02
July 17, 2045	107,560.02
January 31, 2046	107,560.02
July 17, 2046	107,560.02
January 31, 2047	107,560.02
July 17, 2047	107,560.02
January 31, 2048	107,560.02
July 17, 2048	107,560.02
January 31, 2049	107,560.02
July 17, 2049	107,560.02

* As identified in the records of the Auditor of Hamilton County, Ohio as of November 25, 2020.

** Pursuant to Ohio Revised Code Chapter 323, the Special Assessment Payment Dates identified in this Schedule of Special Assessments are subject to adjustment by the Auditor of Hamilton County, Ohio under certain conditions.

*** The Auditor of Hamilton County, Ohio may impose a special assessment collection fee with respect to each Special Assessment payment. If imposed, this special assessment collection fee will be added by the Auditor of Hamilton County, Ohio to each Special Assessment payment.

ATTACHMENT B

RESOLUTION OF NECESSITY

[SEE ATTACHED]

EMERGENCY

Legislative Resolution

RESOLUTION _____ - 2021

DECLARING by legislative resolution the necessity of the special assessment project at 2347 Reading Road in the City of Cincinnati, Ohio involving the City of Cincinnati, Ohio Energy Special Improvement District.

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

WHEREAS, pursuant to Resolution 28-2014 passed on April 9, 2014, Council approved the Petition for the Creation of the City of Cincinnati, Ohio Energy Special Improvement District, together with the Articles of Incorporation of the City of Cincinnati, Ohio Energy Special Improvement District, Inc. and, following said approvals by Council, on July 23, 2014, the City of Cincinnati, Ohio Energy Special Improvement District, Inc. (hereinafter, the “ESID”) was formed as an ESID and is now duly authorized and operating pursuant to Ohio Revised Code Chapter 1710; and

WHEREAS, 2347 Reading Road, LLC (the “Owner”), as the owner of one hundred percent (100%) of the lots and lands, including air parcels, to be assessed for the improvement described in this Resolution, previously executed and filed with this Council a *Petition for Special Assessments for Special Energy Improvement Projects* dated as of October 8, 2018 (the “Original Petition”), including a *Supplement to Plan for the 2347 Reading Road Project* (the “Original Supplemental Plan”), proposing the necessity of special assessments to pay the costs of special energy improvement projects (as more fully identified in the Original Petition and Original Supplemental Plan, the “Authorized Improvements”) to be located at 2347 Reading Road in Cincinnati (the “Assessed Property”); and

WHEREAS, the Original Petition and the Original Supplemental Plan are currently on file with the Clerk of Council; and

WHEREAS, in the Original Petition, the Owner requested that the Authorized Improvements be paid for by special assessments assessed upon the Assessed Property (the “Special Assessments”) in an amount sufficient to pay the costs of the Authorized Improvements and other related costs of financing the Authorized Improvements, which include, without limitation, the payment of principal of, interest on, and financing, credit enhancement, and issuance expenses related to, any bonds, notes, loans, or other financing provided to pay the costs of the Authorized Improvements, and requests that the Authorized Improvements be undertaken cooperatively by the City, the ESID, and the Owner in accordance with the Standing Assignment

Agreement dated as of February 28, 2017 by and among the City, the Greater Cincinnati Redevelopment Authority, and the ESID (the “Standing Assignment Agreement”); and

WHEREAS, pursuant to and as authorized by (i) Resolution No. 58-2018, declaring the necessity of the special assessment project at 2347 Reading Road in Cincinnati; (ii) Ordinance No. 345-2018, determining to proceed with such special assessment project; and (iii) Ordinance No. 344-2018, levying the Special Assessments, each passed by Council on October 31, 2018, in order to provide for the assignment and transfer of the Special Assessments, the City executed and delivered an Addendum to the Standing Assignment Agreement on November 27, 2018 (the “Addendum”); and

WHEREAS, the Owner previously executed and filed with this Council an *Amendment to the Petition for Special Assessments for Special Energy Improvement Projects* (the “First Petition Amendment”), and an *Amendment to the City of Cincinnati, Ohio Energy Special Improvement District Program Plan Supplement to Plan for the 2347 Reading Road Project* (the “First Supplemental Plan Amendment”) each dated on or before November 12, 2019, proposing that the amount of the annual installments of the Special Assessments set forth in the Original Petition and the Original Supplemental Plan be amended as reflected in the First Petition Amendment and the First Supplemental Plan Amendment; and

WHEREAS, the City previously approved the First Petition Amendment and the First Supplemental Plan Amendment, modified the amounts and times for collection of the Special Assessments as requested in the First Petition Amendment and the First Supplemental Plan Amendment, and authorized an amendment to the Addendum by passing (i) Resolution No. 67-2019 declaring the necessity of the amended special assessment project at 2347 Reading Road in Cincinnati; (ii) Ordinance No. 442-2019, determining to proceed with the amended special assessment project; and (iii) Ordinance No. 443-2019, levying the amended Special Assessments, each passed by Council on November 14, 2019; and

WHEREAS, the Owner has executed and filed with this Council a *Second Amendment to the Petition for Special Assessments for Special Energy Improvement Projects* (the “Second Petition Amendment”; and the Original Petition, as amended by the First Petition Amendment and by the Second Petition Amendment, is the “Amended Petition”), and a *Second Amendment to the City of Cincinnati, Ohio Energy Special Improvement District Program Plan Supplement to Plan for the 2347 Reading Road Project* (the “Second Supplemental Plan Amendment”; and the Original Supplemental Plan, as amended by the First Supplemental Plan Amendment and by the Second Supplemental Plan Amendment, is the “Amended Supplemental Plan”) each dated on or before January [___], 2021, proposing that the amount of the semi-annual installments of the Special Assessments set forth in the Petition and the Supplemental Plan be amended as reflected in the Amended Petition and the Amended Supplemental Plan; and

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

WHEREAS, in connection with the adjustment to the amount of semi-annual installments of the Special Assessments stated in the Amended Petition and the Amended Supplemental Plan,

the ESID has requested that the City execute and deliver a second amendment to the Addendum, substantially in the form now on file with the Clerk of Council; and

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

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

Section 1. That the recitals hereof are hereby incorporated by reference, and each capitalized term not otherwise defined in this Resolution or by reference to another document shall have the meaning assigned to it in the Amended Petition, which Amended Petition, together with the Amended Supplemental Plan, are hereby approved and accepted.

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

Section 3. That it is hereby declared necessary, and a vital and essential public purpose of the City, to improve the real property located at 2347 Reading Road, Cincinnati, Ohio 45202 (the "Assessed Property"), by providing for special energy improvement projects as more fully identified in the Amended Petition and the Amended Supplemental Plan (the "Authorized Improvements") on the Assessed Property, including any and all costs and expenses in connection with or otherwise related thereto as described in the Amended Petition (collectively, the "Assessment Project"), which Assessment Project is described in the plans, specifications, profiles, and estimates of costs included in the Amended Petition and on file in the office of the Clerk of Council.

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

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

Section 6. That pursuant to Ohio Revised Code Section 1710.02(G)(4), Council hereby determines that the energy special improvement project to be constructed and implemented at the Assessed Property is not required to be owned exclusively by the City. Council accordingly hereby authorizes the board of directors of the ESID to act as its agent to sell, transfer, lease, or convey the special energy improvement project to be constructed and implemented at the

Assessed Property. The board of directors of the ESID must obtain from any sale, transfer, lease, or conveyance of the special energy improvement project at the Assessed Property any consideration greater than or equal to \$1.00.

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

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

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

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

Section 11. That pursuant to and subject to the provisions of a valid Amended Petition signed by the Owner as one hundred percent (100%) of the owners of the Assessed Property,

which Amended Petition is hereby accepted, the entire cost of the Assessment Project shall be paid by the Special Assessments levied against the Assessed Property, which is the benefited property.

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

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

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

Section 15. That this Resolution shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is to ensure that the Board of the City of Cincinnati, Ohio Energy Special

Improvement District may proceed with the Assessment Project as soon as possible so that work thereon may commence or continue.

Passed _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

**SECOND AMENDMENT TO THE PETITION FOR SPECIAL ASSESSMENTS FOR
SPECIAL ENERGY IMPROVEMENT PROJECTS AND AFFIDAVIT**

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

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

2347 Reading Road, LLC, an Ohio limited liability company (the “Petitioner”), as the owner of 100% of the property described on Exhibit A attached to the Petition (as defined below) (the “Property”), submitted a petition to the City Manager, City Council, and the City of Cincinnati, Ohio (the “City”) on October 8, 2018 (the “Original Petition”) pursuant to Ohio Revised Code Chapter 1710. All capitalized terms used in this Amendment when the rules of grammar would not so require and not defined in this Amendment shall have the meanings assigned to them in the Petition, as amended by the Amendment to the Petition for Special Assessments for Special Energy Improvement Projects dated November 1, 2019 by the Petitioner (the “Petition Amendment No. 1,” and together with the Original Petition, this petition, and any additional amendments or supplements, the “Petition”).

The Original Petition included, as Exhibit B thereto, the City of Cincinnati, Ohio Energy Special Improvement District Program Plan Supplement to Plan for 2347 Reading Road Project (the “Original Plan”). Under the Original Petition and the Original Plan, the Petitioner requested that the City levy Special Assessments on the Property in the amounts listed on Attachment B to the Original Plan. On October 31, 2018, the City levied the Special Assessments by its Ordinance No. 344-2018 as requested by the Petitioner under the Original Petition and the Original Plan.

After the date of the Original Petition and the date on which the Special Assessments were levied, the financing terms of the Petitioner’s transaction to finance the special energy improvement projects contained within the Original Petition and the Original Plan changed, and the amount of the annual installments of the Special Assessments required adjustment. The Petitioner therefore submitted the Petition Amendment No. 1 to the City, and on November 14, 2019 the City Council of the City approved and filed the Petition Amendment No. 1 and modified the Special Assessments as requested in the Petition Amendment No. 1.

Since the date of Petition Amendment No. 1 and the date on which the Special Assessments were levied, the financing terms of the Petitioner’s transaction to finance the special energy improvement projects contained within the Original Petition, as amended by the Petition Amendment No. 1, have further changed, and the amount of the annual installments of the Special Assessments require further adjustment.

The Petitioner therefore hereby respectfully requests that the City: (1) approve this Second Amendment to the Petition for Special Assessment for Special Energy Improvement Projects (the

“Petition Amendment No. 2”) to cause Exhibit B to the Original Petition to be further amended as shown on the Second Amendment to City of Cincinnati, Ohio Energy Special Improvement District Program Plan Supplement to Plan for 2347 Reading Road Project attached to, and incorporated into, this Amendment as **Exhibit B** (the “Plan Amendment No. 2”), and (2) to amend the Special Assessments so that they are levied on the Property in the amounts stated on Attachment B to the Plan Amendment No. 2.

Except as expressly modified by this Amendment, all of the provisions of the Original Petition and Petition Amendment No. 1 shall remain in full force and effect and be binding in accordance with their terms.

The Petitioner hereby re-states, as if set forth fully in this Amendment, each of the waivers contained in the Original Petition, including, without limitation, the waivers set forth in Sections 7, 9, 10, and 11 of the Original Petition.

The Petitioner acknowledges and understands that the City and the Board of Directors of the City of Cincinnati, Ohio Energy Special Improvement District, Inc. relied on the Original Petition, Petition Amendment No. 1, and will rely on this Petition Amendment No. 2 in taking actions and expending resources. Therefore, this Petition Amendment No. 2 shall be irrevocable and shall be binding upon the Petitioner, any successors or assigns of the Petitioner, the Property, and any grantees, mortgagees, lessees, or transferees of the Property. The Petitioner acknowledges that it has had an opportunity to be represented by legal counsel in this undertaking and has knowingly waived the rights identified in the Original Petition, as amended hereby.

The Petitioner further deposes and states that this Petition Amendment No. 2 and actions provided for herein impose burdens and obligations upon the Property and provide for Special Assessments to be levied upon the Property in accordance with the Petition, and that this Petition Amendment No. 2 is available for inspection at the office of the Clerk of Council of the City.

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IN WITNESS WHEREOF, the Petitioner has caused this petition to be executed by its authorized representative, as set forth below.

PETITIONER:

2347 READING ROAD, LLC,
an Ohio limited liability company

By: *Chiedum Ndukwe*

Name: Chiedum Ndukwe

Title: Manager

STATE OF Ohio)

COUNTY OF Hamilton)

SS:

On the 23 day of November, ~~2019~~ ²⁰²⁰, Chiedum Ndukwe, the Manager of 2347 READING ROAD, LLC, personally appeared before me and acknowledged that he or she did execute the foregoing Petition on behalf of that limited liability company and that the same was the free act and deed of such officer. The notarial act certified hereby is a jurat. An oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

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

Jill R. McGrail
Notary Public

[SEAL]



JILL R. MCGRAIL
Attorney At Law
NOTARY PUBLIC
STATE OF OHIO
My Commission Has
No Expiration Date
Section 147.03 O.R.C.

EXHIBIT B

SECOND AMENDMENT TO PLAN

**SECOND AMENDMENT TO THE CITY OF CINCINNATI, OHIO ENERGY SPECIAL
IMPROVEMENT DISTRICT PROGRAM PLAN SUPPLEMENT TO PLAN FOR 2347
READING ROAD PROJECT**

This Second Amendment to the City of Cincinnati, Ohio Energy Special Improvement District Program Plan Supplement to Plan for 2347 Reading Road Project (this “Plan Amendment No. 2”) is dated as of the date set forth below, and is executed by 2347 Reading Road, LLC, as the owner of real property within the District (the “Owner”) described on Attachment A to the Plan (as defined below) (the “Property”). All capitalized terms used in this Plan Amendment No. 2 when the rules of grammar would not so require and not defined in this Plan Amendment No. 2 shall have the meanings assigned to them in the City of Cincinnati, Ohio Energy Special Improvement District Program Plan Supplement to Plan for 2347 Reading Road Project (the “Original Plan”), as amended by the Amendment to the City of Cincinnati, Ohio Energy Special Improvement District Program Plan Supplement to Plan for 2347 Reading Road Project dated November 1, 2019 (the “Plan Amendment No 1,” and together with the Original Plan, this Plan Amendment No. 2, and any additional amendments or supplements, the “Plan”).

The City of Cincinnati, Ohio Energy Special Improvement District (the “District”) is administering a property assessed clean energy (“PACE”) program (the “Program”). The Program has provided financing secured by special assessments on real property for special energy improvement projects. Pursuant to Ohio Revised Code Chapter 1710, the Owner authorized, consented to, and on or before October 8, 2018, submitted to the City of Cincinnati, Ohio (the “City”) for approval the Original Plan to provide for the Program’s administration and set forth the terms and conditions of participation in the Program.

As part of the Original Plan, the Owner requested and consented to certain special assessments, as set forth on Attachment B to the Original Plan, to be levied by the City with respect to (the “Property”). The Original Plan also included a detailed description of the Authorized Improvements and a schedule of special assessments to be levied on the Property to pay the costs of certain improvements. On October 31, 2018, the City levied the Special Assessments by its Ordinance No. 344-2018 as requested by the Petitioner under the Original Plan.

After the date of the Original Plan and the date on which the Special Assessments were levied, the financing terms of the Owner’s transaction to finance the Authorized Improvements changed, and the amount of the annual installments of the Special Assessments required adjustment. The Owner therefore submitted the Plan Amendment No. 1 to the City, and on November 14, 2019, the City approved the Plan Amendment No. 1 and modified the Special Assessments as requested in it.

Since the date of the Plan Amendment No. 1 and the date on which the Special Assessments were levied, the financing terms of the Owner's transaction to finance the Authorized Improvements have further changed, and the amount of the annual installments of the Special Assessments require further adjustment.

The Owner therefore hereby respectfully requests that the City approve this Plan Amendment No. 2 and cause the attached **Attachment B** to be attached to and incorporated into the Plan, and to fully replace existing Attachment A and Attachment B to the Plan. Except as expressly modified by this Plan Amendment No. 2, all of the provisions of the Plan shall remain in full force and effect and be binding in accordance with their terms.

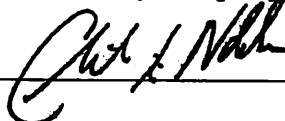
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BY EXECUTING THIS AMENDMENT TO THE PLAN, THE OWNER IDENTIFIED BELOW HEREBY AUTHORIZES AND CONSENTS TO THIS AMENDMENT TO THE PLAN, AND ALL DISTRICT DOCUMENTS (AS DEFINED IN THE PLAN), AND AGREES TO PERFORM THE OBLIGATIONS OF THE OWNER CONTAINED IN THIS AMENDMENT TO THE PLAN.

Date: November 23, 2020

Owner:

2347 READING ROAD, LLC
an Ohio limited liability company

By: 

Name: Chinedum Ndukwue

Title: Manager

PLAN—ATTACHMENT B

**DESCRIPTION OF AUTHORIZED IMPROVEMENTS AND SCHEDULE OF
AMENDED SPECIAL ASSESSMENTS**

The real property owned by 2347 Reading Road, LLC at 2347 Reading Road, Cincinnati, Ohio 45202 is the location at which the special energy improvements described below shall be constructed and installed, and shall exist (the Project). The legal description of the property is set forth on Exhibit A to the Petition, as amended. The property will be subject to special assessments for energy improvements in accordance with Ohio Revised Code Chapter 1710.

The Project is expected to consist of the following energy efficiency elements:

- High-efficiency building envelope and mechanical systems
- High-efficiency elevators
- High-efficiency roofing materials
- High-efficiency windows and doors
- High-efficiency lighting

Total assessment costs—\$6,023,361.12

Estimated average semi-annual special assessments for 28 years: \$107,560.02

Number of semi-annual assessments: 56

First annual installment due: approximately January 31, 2022

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The schedule of Special Assessments for the Project is as follows:

Special Assessment Payment Date*	Special Assessment Payment Amount**
January 31, 2022	\$107,560.02
July 17, 2022	107,560.02
January 31, 2023	107,560.02
July 17, 2023	107,560.02
January 31, 2024	107,560.02
July 17, 2024	107,560.02
January 31, 2025	107,560.02
July 17, 2025	107,560.02
January 31, 2026	107,560.02
July 17, 2026	107,560.02
January 31, 2027	107,560.02
July 17, 2027	107,560.02
January 31, 2028	107,560.02
July 17, 2028	107,560.02
January 31, 2029	107,560.02
July 17, 2029	107,560.02
January 31, 2030	107,560.02
July 17, 2030	107,560.02
January 31, 2031	107,560.02
July 17, 2031	107,560.02
January 31, 2032	107,560.02
July 17, 2032	107,560.02
January 31, 2033	107,560.02
July 17, 2033	107,560.02
January 31, 2034	107,560.02
July 17, 2034	107,560.02
January 31, 2035	107,560.02
July 17, 2035	107,560.02
January 31, 2036	107,560.02
July 17, 2036	107,560.02
January 31, 2037	107,560.02
July 17, 2037	107,560.02
January 31, 2038	107,560.02
July 17, 2038	107,560.02
January 31, 2039	107,560.02
July 17, 2039	107,560.02
January 31, 2040	107,560.02
July 17, 2040	107,560.02
January 31, 2041	107,560.02
July 17, 2041	107,560.02

Special Assessment Payment Date*	Special Assessment Payment Amount**
January 31, 2042	\$107,560.02
July 17, 2042	107,560.02
January 31, 2043	107,560.02
July 17, 2043	107,560.02
January 31, 2044	107,560.02
July 17, 2044	107,560.02
January 31, 2045	107,560.02
July 17, 2045	107,560.02
January 31, 2046	107,560.02
July 17, 2046	107,560.02
January 31, 2047	107,560.02
July 17, 2047	107,560.02
January 31, 2048	107,560.02
July 17, 2048	107,560.02
January 31, 2049	107,560.02
July 17, 2049	107,560.02

* Pursuant to Ohio Revised Code Chapter 323, the Special Assessment Payment Dates identified in this Exhibit B are subject to adjustment under certain conditions.

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

ATTACHMENT A

**LIST OF SPECIAL ASSESSMENTS AND
SCHEDULE OF SPECIAL ASSESSMENTS**

2347 READING ROAD LIST OF SPECIAL ASSESSMENTS

<u>Name</u>	<u>Assessed Properties Description</u>	<u>Portion of Benefit and Special Assessment</u>	<u>Amount of Special Assessments</u>
2347 Reading Road, LLC	Hamilton County Parcel Number: 090-0001-0091-00	100%	\$6,023,361.12

**Schedule of Special Assessments
For 2347 Reading Road**

090-0001-0091-00*

The following schedule of Special Assessment charges shall be certified for collection in 56 semi-annual installments to be collected with property taxes in calendar years 2022 through 2049:

Special Assessment Payment Date**	Special Assessment Payment Amount***
January 31, 2022	\$107,560.02
July 17, 2022	107,560.02
January 31, 2023	107,560.02
July 17, 2023	107,560.02
January 31, 2024	107,560.02
July 17, 2024	107,560.02
January 31, 2025	107,560.02
July 17, 2025	107,560.02
January 31, 2026	107,560.02
July 17, 2026	107,560.02
January 31, 2027	107,560.02
July 17, 2027	107,560.02
January 31, 2028	107,560.02
July 17, 2028	107,560.02
January 31, 2029	107,560.02
July 17, 2029	107,560.02
January 31, 2030	107,560.02
July 17, 2030	107,560.02
January 31, 2031	107,560.02
July 17, 2031	107,560.02
January 31, 2032	107,560.02
July 17, 2032	107,560.02
January 31, 2033	107,560.02
July 17, 2033	107,560.02
January 31, 2034	107,560.02
July 17, 2034	107,560.02
January 31, 2035	107,560.02
July 17, 2035	107,560.02
January 31, 2036	107,560.02
July 17, 2036	107,560.02
January 31, 2037	107,560.02
July 17, 2037	107,560.02

Special Assessment Payment Date**	Special Assessment Payment Amount***
January 31, 2038	\$107,560.02
July 17, 2038	107,560.02
January 31, 2039	107,560.02
July 17, 2039	107,560.02
January 31, 2040	107,560.02
July 17, 2040	107,560.02
January 31, 2041	107,560.02
July 17, 2041	107,560.02
January 31, 2042	107,560.02
July 17, 2042	107,560.02
January 31, 2043	107,560.02
July 17, 2043	107,560.02
January 31, 2044	107,560.02
July 17, 2044	107,560.02
January 31, 2045	107,560.02
July 17, 2045	107,560.02
January 31, 2046	107,560.02
July 17, 2046	107,560.02
January 31, 2047	107,560.02
July 17, 2047	107,560.02
January 31, 2048	107,560.02
July 17, 2048	107,560.02
January 31, 2049	107,560.02
July 17, 2049	107,560.02

* As identified in the records of the Auditor of Hamilton County, Ohio as of November 25, 2020.

** Pursuant to Ohio Revised Code Chapter 323, the Special Assessment Payment Dates identified in this Schedule of Special Assessments are subject to adjustment by the Auditor of Hamilton County, Ohio under certain conditions.

*** The Auditor of Hamilton County, Ohio may impose a special assessment collection fee with respect to each Special Assessment payment. If imposed, this special assessment collection fee will be added by the Auditor of Hamilton County, Ohio to each Special Assessment payment.

ATTACHMENT B

RESOLUTION OF NECESSITY

[SEE ATTACHED]

EMERGENCY

Legislative Resolution

RESOLUTION _____ - 2021

DECLARING by legislative resolution the necessity of the special assessment project at 2347 Reading Road in the City of Cincinnati, Ohio involving the City of Cincinnati, Ohio Energy Special Improvement District.

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

WHEREAS, pursuant to Resolution 28-2014 passed on April 9, 2014, Council approved the Petition for the Creation of the City of Cincinnati, Ohio Energy Special Improvement District, together with the Articles of Incorporation of the City of Cincinnati, Ohio Energy Special Improvement District, Inc. and, following said approvals by Council, on July 23, 2014, the City of Cincinnati, Ohio Energy Special Improvement District, Inc. (hereinafter, the "ESID") was formed as an ESID and is now duly authorized and operating pursuant to Ohio Revised Code Chapter 1710; and

WHEREAS, 2347 Reading Road, LLC (the "Owner"), as the owner of one hundred percent (100%) of the lots and lands, including air parcels, to be assessed for the improvement described in this Resolution, previously executed and filed with this Council a *Petition for Special Assessments for Special Energy Improvement Projects* dated as of October 8, 2018 (the "Original Petition"), including a *Supplement to Plan for the 2347 Reading Road Project* (the "Original Supplemental Plan"), proposing the necessity of special assessments to pay the costs of special energy improvement projects (as more fully identified in the Original Petition and Original Supplemental Plan, the "Authorized Improvements") to be located at 2347 Reading Road in Cincinnati (the "Assessed Property"); and

WHEREAS, the Original Petition and the Original Supplemental Plan are currently on file with the Clerk of Council; and

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

Agreement dated as of February 28, 2017 by and among the City, the Greater Cincinnati Redevelopment Authority, and the ESID (the “Standing Assignment Agreement”); and

WHEREAS, pursuant to and as authorized by (i) Resolution No. 58-2018, declaring the necessity of the special assessment project at 2347 Reading Road in Cincinnati; (ii) Ordinance No. 345-2018, determining to proceed with such special assessment project; and (iii) Ordinance No. 344-2018, levying the Special Assessments, each passed by Council on October 31, 2018, in order to provide for the assignment and transfer of the Special Assessments, the City executed and delivered an Addendum to the Standing Assignment Agreement on November 27, 2018 (the “Addendum”); and

WHEREAS, the Owner previously executed and filed with this Council an *Amendment to the Petition for Special Assessments for Special Energy Improvement Projects* (the “First Petition Amendment”), and an *Amendment to the City of Cincinnati, Ohio Energy Special Improvement District Program Plan Supplement to Plan for the 2347 Reading Road Project* (the “First Supplemental Plan Amendment”) each dated on or before November 12, 2019, proposing that the amount of the annual installments of the Special Assessments set forth in the Original Petition and the Original Supplemental Plan be amended as reflected in the First Petition Amendment and the First Supplemental Plan Amendment; and

WHEREAS, the City previously approved the First Petition Amendment and the First Supplemental Plan Amendment, modified the amounts and times for collection of the Special Assessments as requested in the First Petition Amendment and the First Supplemental Plan Amendment, and authorized an amendment to the Addendum by passing (i) Resolution No. 67-2019 declaring the necessity of the amended special assessment project at 2347 Reading Road in Cincinnati; (ii) Ordinance No. 442-2019, determining to proceed with the amended special assessment project; and (iii) Ordinance No. 443-2019, levying the amended Special Assessments, each passed by Council on November 14, 2019; and

WHEREAS, the Owner has executed and filed with this Council a *Second Amendment to the Petition for Special Assessments for Special Energy Improvement Projects* (the “Second Petition Amendment”; and the Original Petition, as amended by the First Petition Amendment and by the Second Petition Amendment, is the “Amended Petition”), and a *Second Amendment to the City of Cincinnati, Ohio Energy Special Improvement District Program Plan Supplement to Plan for the 2347 Reading Road Project* (the “Second Supplemental Plan Amendment”; and the Original Supplemental Plan, as amended by the First Supplemental Plan Amendment and by the Second Supplemental Plan Amendment, is the “Amended Supplemental Plan”) each dated on or before January [___], 2021, proposing that the amount of the semi-annual installments of the Special Assessments set forth in the Petition and the Supplemental Plan be amended as reflected in the Amended Petition and the Amended Supplemental Plan; and

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

WHEREAS, in connection with the adjustment to the amount of semi-annual installments of the Special Assessments stated in the Amended Petition and the Amended Supplemental Plan,

the ESID has requested that the City execute and deliver a second amendment to the Addendum, substantially in the form now on file with the Clerk of Council; and

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

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

Section 1. That the recitals hereof are hereby incorporated by reference, and each capitalized term not otherwise defined in this Resolution or by reference to another document shall have the meaning assigned to it in the Amended Petition, which Amended Petition, together with the Amended Supplemental Plan, are hereby approved and accepted.

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

Section 3. That it is hereby declared necessary, and a vital and essential public purpose of the City, to improve the real property located at 2347 Reading Road, Cincinnati, Ohio 45202 (the "Assessed Property"), by providing for special energy improvement projects as more fully identified in the Amended Petition and the Amended Supplemental Plan (the "Authorized Improvements") on the Assessed Property, including any and all costs and expenses in connection with or otherwise related thereto as described in the Amended Petition (collectively, the "Assessment Project"), which Assessment Project is described in the plans, specifications, profiles, and estimates of costs included in the Amended Petition and on file in the office of the Clerk of Council.

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

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

Section 6. That pursuant to Ohio Revised Code Section 1710.02(G)(4), Council hereby determines that the energy special improvement project to be constructed and implemented at the Assessed Property is not required to be owned exclusively by the City. Council accordingly hereby authorizes the board of directors of the ESID to act as its agent to sell, transfer, lease, or convey the special energy improvement project to be constructed and implemented at the

Assessed Property. The board of directors of the ESID must obtain from any sale, transfer, lease, or conveyance of the special energy improvement project at the Assessed Property any consideration greater than or equal to \$1.00.

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

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

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

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

Section 11. That pursuant to and subject to the provisions of a valid Amended Petition signed by the Owner as one hundred percent (100%) of the owners of the Assessed Property,

which Amended Petition is hereby accepted, the entire cost of the Assessment Project shall be paid by the Special Assessments levied against the Assessed Property, which is the benefited property.

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

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

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

Section 15. That this Resolution shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is to ensure that the Board of the City of Cincinnati, Ohio Energy Special

Improvement District may proceed with the Assessment Project as soon as possible so that work thereon may commence or continue.

Passed _____, 2021

John Cranley, Mayor

Attest: _____

Clerk

**SECOND AMENDMENT TO THE PETITION FOR SPECIAL ASSESSMENTS FOR
SPECIAL ENERGY IMPROVEMENT PROJECTS AND AFFIDAVIT**

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

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

2347 Reading Road, LLC, an Ohio limited liability company (the “Petitioner”), as the owner of 100% of the property described on Exhibit A attached to the Petition (as defined below) (the “Property”), submitted a petition to the City Manager, City Council, and the City of Cincinnati, Ohio (the “City”) on October 8, 2018 (the “Original Petition”) pursuant to Ohio Revised Code Chapter 1710. All capitalized terms used in this Amendment when the rules of grammar would not so require and not defined in this Amendment shall have the meanings assigned to them in the Petition, as amended by the Amendment to the Petition for Special Assessments for Special Energy Improvement Projects dated November 1, 2019 by the Petitioner (the “Petition Amendment No. 1,” and together with the Original Petition, this petition, and any additional amendments or supplements, the “Petition”).

The Original Petition included, as Exhibit B thereto, the City of Cincinnati, Ohio Energy Special Improvement District Program Plan Supplement to Plan for 2347 Reading Road Project (the “Original Plan”). Under the Original Petition and the Original Plan, the Petitioner requested that the City levy Special Assessments on the Property in the amounts listed on Attachment B to the Original Plan. On October 31, 2018, the City levied the Special Assessments by its Ordinance No. 344-2018 as requested by the Petitioner under the Original Petition and the Original Plan.

After the date of the Original Petition and the date on which the Special Assessments were levied, the financing terms of the Petitioner’s transaction to finance the special energy improvement projects contained within the Original Petition and the Original Plan changed, and the amount of the annual installments of the Special Assessments required adjustment. The Petitioner therefore submitted the Petition Amendment No. 1 to the City, and on November 14, 2019 the City Council of the City approved and filed the Petition Amendment No. 1 and modified the Special Assessments as requested in the Petition Amendment No. 1.

Since the date of Petition Amendment No. 1 and the date on which the Special Assessments were levied, the financing terms of the Petitioner’s transaction to finance the special energy improvement projects contained within the Original Petition, as amended by the Petition Amendment No. 1, have further changed, and the amount of the annual installments of the Special Assessments require further adjustment.

The Petitioner therefore hereby respectfully requests that the City: (1) approve this Second Amendment to the Petition for Special Assessment for Special Energy Improvement Projects (the

“Petition Amendment No. 2”) to cause Exhibit B to the Original Petition to be further amended as shown on the Second Amendment to City of Cincinnati, Ohio Energy Special Improvement District Program Plan Supplement to Plan for 2347 Reading Road Project attached to, and incorporated into, this Amendment as **Exhibit B** (the “Plan Amendment No. 2”), and (2) to amend the Special Assessments so that they are levied on the Property in the amounts stated on Attachment B to the Plan Amendment No. 2.

Except as expressly modified by this Amendment, all of the provisions of the Original Petition and Petition Amendment No. 1 shall remain in full force and effect and be binding in accordance with their terms.

The Petitioner hereby re-states, as if set forth fully in this Amendment, each of the waivers contained in the Original Petition, including, without limitation, the waivers set forth in Sections 7, 9, 10, and 11 of the Original Petition.

The Petitioner acknowledges and understands that the City and the Board of Directors of the City of Cincinnati, Ohio Energy Special Improvement District, Inc. relied on the Original Petition, Petition Amendment No. 1, and will rely on this Petition Amendment No. 2 in taking actions and expending resources. Therefore, this Petition Amendment No. 2 shall be irrevocable and shall be binding upon the Petitioner, any successors or assigns of the Petitioner, the Property, and any grantees, mortgagees, lessees, or transferees of the Property. The Petitioner acknowledges that it has had an opportunity to be represented by legal counsel in this undertaking and has knowingly waived the rights identified in the Original Petition, as amended hereby.

The Petitioner further deposes and states that this Petition Amendment No. 2 and actions provided for herein impose burdens and obligations upon the Property and provide for Special Assessments to be levied upon the Property in accordance with the Petition, and that this Petition Amendment No. 2 is available for inspection at the office of the Clerk of Council of the City.

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IN WITNESS WHEREOF, the Petitioner has caused this petition to be executed by its authorized representative, as set forth below.

PETITIONER:

2347 READING ROAD, LLC,
an Ohio limited liability company

By: *Chinedum Ndukwe*

Name: Chinedum Ndukwe

Title: Manager

STATE OF Ohio)

COUNTY OF Hamilton)

SS:

On the 23 day of November, ~~2019~~ ²⁰²⁰, Chinedum Ndukwe, the Manager of 2347 READING ROAD, LLC, personally appeared before me and acknowledged that he or she did execute the foregoing Petition on behalf of that limited liability company and that the same was the free act and deed of such officer. The notarial act certified hereby is a jurat. An oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

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

Jill R. McGrail
Notary Public

[SEAL]



JILL R. MCGRAIL
Attorney At Law
NOTARY PUBLIC
STATE OF OHIO
My Commission Has
No Expiration Date
Section 147.03 O.R.C.

EXHIBIT B

SECOND AMENDMENT TO PLAN

**SECOND AMENDMENT TO THE CITY OF CINCINNATI, OHIO ENERGY SPECIAL
IMPROVEMENT DISTRICT PROGRAM PLAN SUPPLEMENT TO PLAN FOR 2347
READING ROAD PROJECT**

This Second Amendment to the City of Cincinnati, Ohio Energy Special Improvement District Program Plan Supplement to Plan for 2347 Reading Road Project (this “Plan Amendment No. 2”) is dated as of the date set forth below, and is executed by 2347 Reading Road, LLC, as the owner of real property within the District (the “Owner”) described on Attachment A to the Plan (as defined below) (the “Property”). All capitalized terms used in this Plan Amendment No. 2 when the rules of grammar would not so require and not defined in this Plan Amendment No. 2 shall have the meanings assigned to them in the City of Cincinnati, Ohio Energy Special Improvement District Program Plan Supplement to Plan for 2347 Reading Road Project (the “Original Plan”), as amended by the Amendment to the City of Cincinnati, Ohio Energy Special Improvement District Program Plan Supplement to Plan for 2347 Reading Road Project dated November 1, 2019 (the “Plan Amendment No. 1,” and together with the Original Plan, this Plan Amendment No. 2, and any additional amendments or supplements, the “Plan”).

The City of Cincinnati, Ohio Energy Special Improvement District (the “District”) is administering a property assessed clean energy (“PACE”) program (the “Program”). The Program has provided financing secured by special assessments on real property for special energy improvement projects. Pursuant to Ohio Revised Code Chapter 1710, the Owner authorized, consented to, and on or before October 8, 2018, submitted to the City of Cincinnati, Ohio (the “City”) for approval the Original Plan to provide for the Program’s administration and set forth the terms and conditions of participation in the Program.

As part of the Original Plan, the Owner requested and consented to certain special assessments, as set forth on Attachment B to the Original Plan, to be levied by the City with respect to (the “Property”). The Original Plan also included a detailed description of the Authorized Improvements and a schedule of special assessments to be levied on the Property to pay the costs of certain improvements. On October 31, 2018, the City levied the Special Assessments by its Ordinance No. 344-2018 as requested by the Petitioner under the Original Plan.

After the date of the Original Plan and the date on which the Special Assessments were levied, the financing terms of the Owner’s transaction to finance the Authorized Improvements changed, and the amount of the annual installments of the Special Assessments required adjustment. The Owner therefore submitted the Plan Amendment No. 1 to the City, and on November 14, 2019, the City approved the Plan Amendment No. 1 and modified the Special Assessments as requested in it.

Since the date of the Plan Amendment No. 1 and the date on which the Special Assessments were levied, the financing terms of the Owner's transaction to finance the Authorized Improvements have further changed, and the amount of the annual installments of the Special Assessments require further adjustment.

The Owner therefore hereby respectfully requests that the City approve this Plan Amendment No. 2 and cause the attached **Attachment B** to be attached to and incorporated into the Plan, and to fully replace existing Attachment A and Attachment B to the Plan. Except as expressly modified by this Plan Amendment No. 2, all of the provisions of the Plan shall remain in full force and effect and be binding in accordance with their terms.


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BY EXECUTING THIS AMENDMENT TO THE PLAN, THE OWNER IDENTIFIED BELOW HEREBY AUTHORIZES AND CONSENTS TO THIS AMENDMENT TO THE PLAN, AND ALL DISTRICT DOCUMENTS (AS DEFINED IN THE PLAN), AND AGREES TO PERFORM THE OBLIGATIONS OF THE OWNER CONTAINED IN THIS AMENDMENT TO THE PLAN.

Date: November 23, 2020

Owner:

2347 READING ROAD, LLC
an Ohio limited liability company

By: 

Name: Chinedum Ndukwe

Title: Manager

PLAN—ATTACHMENT B

**DESCRIPTION OF AUTHORIZED IMPROVEMENTS AND SCHEDULE OF
AMENDED SPECIAL ASSESSMENTS**

The real property owned by 2347 Reading Road, LLC at 2347 Reading Road, Cincinnati, Ohio 45202 is the location at which the special energy improvements described below shall be constructed and installed, and shall exist (the Project). The legal description of the property is set forth on Exhibit A to the Petition, as amended. The property will be subject to special assessments for energy improvements in accordance with Ohio Revised Code Chapter 1710.

The Project is expected to consist of the following energy efficiency elements:

- High-efficiency building envelope and mechanical systems
- High-efficiency elevators
- High-efficiency roofing materials
- High-efficiency windows and doors
- High-efficiency lighting

Total assessment costs—\$6,023,361.12

Estimated average semi-annual special assessments for 28 years: \$107,560.02

Number of semi-annual assessments: 56

First annual installment due: approximately January 31, 2022

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The schedule of Special Assessments for the Project is as follows:

Special Assessment Payment Date*	Special Assessment Payment Amount**
January 31, 2022	\$107,560.02
July 17, 2022	107,560.02
January 31, 2023	107,560.02
July 17, 2023	107,560.02
January 31, 2024	107,560.02
July 17, 2024	107,560.02
January 31, 2025	107,560.02
July 17, 2025	107,560.02
January 31, 2026	107,560.02
July 17, 2026	107,560.02
January 31, 2027	107,560.02
July 17, 2027	107,560.02
January 31, 2028	107,560.02
July 17, 2028	107,560.02
January 31, 2029	107,560.02
July 17, 2029	107,560.02
January 31, 2030	107,560.02
July 17, 2030	107,560.02
January 31, 2031	107,560.02
July 17, 2031	107,560.02
January 31, 2032	107,560.02
July 17, 2032	107,560.02
January 31, 2033	107,560.02
July 17, 2033	107,560.02
January 31, 2034	107,560.02
July 17, 2034	107,560.02
January 31, 2035	107,560.02
July 17, 2035	107,560.02
January 31, 2036	107,560.02
July 17, 2036	107,560.02
January 31, 2037	107,560.02
July 17, 2037	107,560.02
January 31, 2038	107,560.02
July 17, 2038	107,560.02
January 31, 2039	107,560.02
July 17, 2039	107,560.02
January 31, 2040	107,560.02
July 17, 2040	107,560.02
January 31, 2041	107,560.02
July 17, 2041	107,560.02

Special Assessment Payment Date*	Special Assessment Payment Amount**
January 31, 2042	\$107,560.02
July 17, 2042	107,560.02
January 31, 2043	107,560.02
July 17, 2043	107,560.02
January 31, 2044	107,560.02
July 17, 2044	107,560.02
January 31, 2045	107,560.02
July 17, 2045	107,560.02
January 31, 2046	107,560.02
July 17, 2046	107,560.02
January 31, 2047	107,560.02
July 17, 2047	107,560.02
January 31, 2048	107,560.02
July 17, 2048	107,560.02
January 31, 2049	107,560.02
July 17, 2049	107,560.02

* Pursuant to Ohio Revised Code Chapter 323, the Special Assessment Payment Dates identified in this Exhibit B are subject to adjustment under certain conditions.

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

January 19, 2021

To: Mayor and Members of City Council 202100183
From: Paula Boggs Muething, City Manager
Subject: **DETERMINING TO PROCEED WITH THE PACE ASSESSMENT PROJECT FOR 2347 READING ROAD, LLC (2ND AMENDMENT)**

Attached is an Emergency Ordinance captioned as follows:

DETERMINING to proceed with the special assessment project at 2347 Reading Road in the City of Cincinnati involving the City of Cincinnati, Ohio Energy Special Improvement District; and further **REPEALING** Ordinance No. 442-2019, in order to correspondingly amend and restate the determination to proceed with the assessment project.

BACKGROUND/CURRENT CONDITIONS

The Ohio PACE (Property Assessed Clean Energy) program allows commercial property owners to opt into a special assessment which is added to the property tax bill to access long-term, fixed-rate financing for energy efficiency upgrades. The owner and developer of 2347 Reading Road previously requested to have their property added to the Energy Special Improvement District (ESID) and special assessments levied on the property, for the purpose of accessing PACE financing for energy efficiency upgrades to their commercial construction project.

The addition of the property to the ESID was approved by Council in October 2018. In November 2019 the owner and developer requested that the schedule for those special assessments be amended to commence in 2021 instead of 2020 and the request was approved by Council. The owner and developer are now requesting an additional amendment to have assessments commence in 2022 and the term of the assessment will be reduced from 30 years to 28 years.

DEVELOPER INFORMATION

2347 Reading Road, LLC is affiliated with Kingsley + Co., a minority-owned holding company and developer. The company partnered on the redevelopment of the

Determining to Proceed with the PACE Assessment Project

2347 Reading Road, LLC

Page 2 of 2

Mabley Place Garage in the Central Business District, as well as the Fairfield Inn & Suites at U-Square in CUF.

PROJECT DESCRIPTION

This project will result in the construction of a 73,450 square foot hotel in the Mt. Auburn neighborhood. The cost of the new construction is estimated to be \$8.4MM and the total project cost is estimated to be \$14MM. Construction commenced in 2019 and is expected to be completed by December 2021.

PROPOSED INCENTIVE

DCED is recommending that the City adjust the schedule for the special assessments for this previously authorized project to commence in 2022 instead of 2021 and for the term to be reduced from 30 years to 28 years.

RECOMMENDATION

The Administration recommends approval of this Emergency Ordinance.

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

EMERGENCY

AWB

City of Cincinnati

An Ordinance No. _____

- 2021

DETERMINING to proceed with the special assessment project at 2347 Reading Road in the City of Cincinnati involving the City of Cincinnati, Ohio Energy Special Improvement District; and further **REPEALING** Ordinance No. 442-2019, in order to correspondingly amend and restate the determination to proceed with the assessment project.

WHEREAS, prior to the passage of this Ordinance, this Council duly adopted a resolution declaring the necessity of the assessment project at 2347 Reading Road in the City of Cincinnati (the "Resolution of Necessity"), which provides for the levying and collection of special assessments to be assessed on such property sufficient to pay the costs of the Authorized Improvements (as defined in the Resolution of Necessity); and

WHEREAS, all statutory procedural requirements for the imposition of special assessments on the assessed property, including, without limitation, the right to make claims for damages alleged to result from and objections to the Assessment Project (as defined in the Resolution of Necessity), have been waived by the owners of one hundred percent (100%) of the affected property; now, therefore,

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

Section 1. That the recitals hereof are hereby incorporated by reference, and each capitalized term not otherwise defined herein or by reference to another document shall have the meaning assigned to it in the Resolution of Necessity, an unsigned copy of which is attached to this Ordinance as Attachment A.

Section 2. That it is hereby determined to proceed with the Assessment Project described in the Resolution of Necessity. The Assessment Project shall be made in accordance with the provisions of the Resolution of Necessity, the Amended Petition, the Amended Supplemental Plan (copies of which are attached to the Resolution of Necessity), and the plans, specifications, profiles, and estimates of cost previously approved and now on file with the Clerk of Council.

Section 3. That the assessment of the Special Assessments to pay costs of the Assessment Project shall be assessed against the Assessed Property in the manner and in the

number of installments provided in the Amended Petition and the Amended Supplemental Plan. The Special Assessments shall be assessed against the Assessed Property commencing in tax year 2021 for collection in 2022 and shall continue through tax year 2048 for collection in 2049.

Section 4. That the estimated Special Assessments for costs of the Assessment Project prepared and filed in the office of the Clerk of Council and in the office of the City's Director of Finance, in accordance with the Resolution of Necessity, are hereby adopted.

Section 5. That all contracts for the construction of the Project will be let in the manner provided by law, subject to the provisions of the Ohio Revised Code and the Standing Assignment Agreement among the City, the Greater Cincinnati Redevelopment Authority, and the City of Cincinnati, Ohio Energy Special Improvement District, Inc., and the costs of the Assessment Project shall be financed as provided in the Resolution of Necessity.

Section 6. That Ordinance No. 442-2019, passed by Council on November 14, 2019, is hereby repealed.

Section 7. That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Ohio Revised Code Section 121.22.

Section 8. That in compliance with Ohio Revised Code Section 319.61, the Clerk of Council is hereby directed to deliver a certified copy of this Ordinance to the Hamilton County Auditor within fifteen (15) days after the date of passage.

Section 9. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the

terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is to ensure that the Board of the City of Cincinnati, Ohio Energy Special Improvement District, Inc. may proceed with the Assessment Project as soon as possible so that work thereon may commence or continue.

Passed _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

ATTACHMENT A

EMERGENCY

Legislative Resolution

RESOLUTION _____ - 2021

DECLARING by legislative resolution the necessity of the special assessment project at 2347 Reading Road in the City of Cincinnati, Ohio involving the City of Cincinnati, Ohio Energy Special Improvement District.

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

WHEREAS, pursuant to Resolution 28-2014 passed on April 9, 2014, Council approved the Petition for the Creation of the City of Cincinnati, Ohio Energy Special Improvement District, together with the Articles of Incorporation of the City of Cincinnati, Ohio Energy Special Improvement District, Inc. and, following said approvals by Council, on July 23, 2014, the City of Cincinnati, Ohio Energy Special Improvement District, Inc. (hereinafter, the “ESID”) was formed as an ESID and is now duly authorized and operating pursuant to Ohio Revised Code Chapter 1710; and

WHEREAS, 2347 Reading Road, LLC (the “Owner”), as the owner of one hundred percent (100%) of the lots and lands, including air parcels, to be assessed for the improvement described in this Resolution, previously executed and filed with this Council a *Petition for Special Assessments for Special Energy Improvement Projects* dated as of October 8, 2018 (the “Original Petition”), including a *Supplement to Plan for the 2347 Reading Road Project* (the “Original Supplemental Plan”), proposing the necessity of special assessments to pay the costs of special energy improvement projects (as more fully identified in the Original Petition and Original Supplemental Plan, the “Authorized Improvements”) to be located at 2347 Reading Road in Cincinnati (the “Assessed Property”); and

WHEREAS, the Original Petition and the Original Supplemental Plan are currently on file with the Clerk of Council; and

WHEREAS, in the Original Petition, the Owner requested that the Authorized Improvements be paid for by special assessments assessed upon the Assessed Property (the “Special Assessments”) in an amount sufficient to pay the costs of the Authorized Improvements and other related costs of financing the Authorized Improvements, which include, without limitation, the payment of principal of, interest on, and financing, credit enhancement, and issuance expenses related to, any bonds, notes, loans, or other financing provided to pay the costs of the Authorized Improvements, and requests that the Authorized Improvements be undertaken cooperatively by the City, the ESID, and the Owner in accordance with the Standing Assignment

Agreement dated as of February 28, 2017 by and among the City, the Greater Cincinnati Redevelopment Authority, and the ESID (the “Standing Assignment Agreement”); and

WHEREAS, pursuant to and as authorized by (i) Resolution No. 58-2018, declaring the necessity of the special assessment project at 2347 Reading Road in Cincinnati; (ii) Ordinance No. 345-2018, determining to proceed with such special assessment project; and (iii) Ordinance No. 344-2018, levying the Special Assessments, each passed by Council on October 31, 2018, in order to provide for the assignment and transfer of the Special Assessments, the City executed and delivered an Addendum to the Standing Assignment Agreement on November 27, 2018 (the “Addendum”); and

WHEREAS, the Owner previously executed and filed with this Council an *Amendment to the Petition for Special Assessments for Special Energy Improvement Projects* (the “First Petition Amendment”), and an *Amendment to the City of Cincinnati, Ohio Energy Special Improvement District Program Plan Supplement to Plan for the 2347 Reading Road Project* (the “First Supplemental Plan Amendment”) each dated on or before November 12, 2019, proposing that the amount of the annual installments of the Special Assessments set forth in the Original Petition and the Original Supplemental Plan be amended as reflected in the First Petition Amendment and the First Supplemental Plan Amendment; and

WHEREAS, the City previously approved the First Petition Amendment and the First Supplemental Plan Amendment, modified the amounts and times for collection of the Special Assessments as requested in the First Petition Amendment and the First Supplemental Plan Amendment, and authorized an amendment to the Addendum by passing (i) Resolution No. 67-2019 declaring the necessity of the amended special assessment project at 2347 Reading Road in Cincinnati; (ii) Ordinance No. 442-2019, determining to proceed with the amended special assessment project; and (iii) Ordinance No. 443-2019, levying the amended Special Assessments, each passed by Council on November 14, 2019; and

WHEREAS, the Owner has executed and filed with this Council a *Second Amendment to the Petition for Special Assessments for Special Energy Improvement Projects* (the “Second Petition Amendment”; and the Original Petition, as amended by the First Petition Amendment and by the Second Petition Amendment, is the “Amended Petition”), and a *Second Amendment to the City of Cincinnati, Ohio Energy Special Improvement District Program Plan Supplement to Plan for the 2347 Reading Road Project* (the “Second Supplemental Plan Amendment”; and the Original Supplemental Plan, as amended by the First Supplemental Plan Amendment and by the Second Supplemental Plan Amendment, is the “Amended Supplemental Plan”) each dated on or before January [], 2021, proposing that the amount of the semi-annual installments of the Special Assessments set forth in the Petition and the Supplemental Plan be amended as reflected in the Amended Petition and the Amended Supplemental Plan; and

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

WHEREAS, in connection with the adjustment to the amount of semi-annual installments of the Special Assessments stated in the Amended Petition and the Amended Supplemental Plan,

the ESID has requested that the City execute and deliver a second amendment to the Addendum, substantially in the form now on file with the Clerk of Council; and

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

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

Section 1. That the recitals hereof are hereby incorporated by reference, and each capitalized term not otherwise defined in this Resolution or by reference to another document shall have the meaning assigned to it in the Amended Petition, which Amended Petition, together with the Amended Supplemental Plan, are hereby approved and accepted.

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

Section 3. That it is hereby declared necessary, and a vital and essential public purpose of the City, to improve the real property located at 2347 Reading Road, Cincinnati, Ohio 45202 (the "Assessed Property"), by providing for special energy improvement projects as more fully identified in the Amended Petition and the Amended Supplemental Plan (the "Authorized Improvements") on the Assessed Property, including any and all costs and expenses in connection with or otherwise related thereto as described in the Amended Petition (collectively, the "Assessment Project"), which Assessment Project is described in the plans, specifications, profiles, and estimates of costs included in the Amended Petition and on file in the office of the Clerk of Council.

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

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

Section 6. That pursuant to Ohio Revised Code Section 1710.02(G)(4), Council hereby determines that the energy special improvement project to be constructed and implemented at the Assessed Property is not required to be owned exclusively by the City. Council accordingly hereby authorizes the board of directors of the ESID to act as its agent to sell, transfer, lease, or convey the special energy improvement project to be constructed and implemented at the

Assessed Property. The board of directors of the ESID must obtain from any sale, transfer, lease, or conveyance of the special energy improvement project at the Assessed Property any consideration greater than or equal to \$1.00.

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

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

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

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

Section 11. That pursuant to and subject to the provisions of a valid Amended Petition signed by the Owner as one hundred percent (100%) of the owners of the Assessed Property,

which Amended Petition is hereby accepted, the entire cost of the Assessment Project shall be paid by the Special Assessments levied against the Assessed Property, which is the benefited property.

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

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

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

Section 15. That this Resolution shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is to ensure that the Board of the City of Cincinnati, Ohio Energy Special

Improvement District may proceed with the Assessment Project as soon as possible so that work thereon may commence or continue.

Passed _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

**SECOND AMENDMENT TO THE PETITION FOR SPECIAL ASSESSMENTS FOR
SPECIAL ENERGY IMPROVEMENT PROJECTS AND AFFIDAVIT**

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

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

2347 Reading Road, LLC, an Ohio limited liability company (the “Petitioner”), as the owner of 100% of the property described on Exhibit A attached to the Petition (as defined below) (the “Property”), submitted a petition to the City Manager, City Council, and the City of Cincinnati, Ohio (the “City”) on October 8, 2018 (the “Original Petition”) pursuant to Ohio Revised Code Chapter 1710. All capitalized terms used in this Amendment when the rules of grammar would not so require and not defined in this Amendment shall have the meanings assigned to them in the Petition, as amended by the Amendment to the Petition for Special Assessments for Special Energy Improvement Projects dated November 1, 2019 by the Petitioner (the “Petition Amendment No. 1,” and together with the Original Petition, this petition, and any additional amendments or supplements, the “Petition”).

The Original Petition included, as Exhibit B thereto, the City of Cincinnati, Ohio Energy Special Improvement District Program Plan Supplement to Plan for 2347 Reading Road Project (the “Original Plan”). Under the Original Petition and the Original Plan, the Petitioner requested that the City levy Special Assessments on the Property in the amounts listed on Attachment B to the Original Plan. On October 31, 2018, the City levied the Special Assessments by its Ordinance No. 344-2018 as requested by the Petitioner under the Original Petition and the Original Plan.

After the date of the Original Petition and the date on which the Special Assessments were levied, the financing terms of the Petitioner’s transaction to finance the special energy improvement projects contained within the Original Petition and the Original Plan changed, and the amount of the annual installments of the Special Assessments required adjustment. The Petitioner therefore submitted the Petition Amendment No. 1 to the City, and on November 14, 2019 the City Council of the City approved and filed the Petition Amendment No. 1 and modified the Special Assessments as requested in the Petition Amendment No. 1.

Since the date of Petition Amendment No. 1 and the date on which the Special Assessments were levied, the financing terms of the Petitioner’s transaction to finance the special energy improvement projects contained within the Original Petition, as amended by the Petition Amendment No. 1, have further changed, and the amount of the annual installments of the Special Assessments require further adjustment.

The Petitioner therefore hereby respectfully requests that the City: (1) approve this Second Amendment to the Petition for Special Assessment for Special Energy Improvement Projects (the

“Petition Amendment No. 2”) to cause Exhibit B to the Original Petition to be further amended as shown on the Second Amendment to City of Cincinnati, Ohio Energy Special Improvement District Program Plan Supplement to Plan for 2347 Reading Road Project attached to, and incorporated into, this Amendment as **Exhibit B** (the “Plan Amendment No. 2”), and (2) to amend the Special Assessments so that they are levied on the Property in the amounts stated on Attachment B to the Plan Amendment No. 2.

Except as expressly modified by this Amendment, all of the provisions of the Original Petition and Petition Amendment No. 1 shall remain in full force and effect and be binding in accordance with their terms.

The Petitioner hereby re-states, as if set forth fully in this Amendment, each of the waivers contained in the Original Petition, including, without limitation, the waivers set forth in Sections 7, 9, 10, and 11 of the Original Petition.

The Petitioner acknowledges and understands that the City and the Board of Directors of the City of Cincinnati, Ohio Energy Special Improvement District, Inc. relied on the Original Petition, Petition Amendment No. 1, and will rely on this Petition Amendment No. 2 in taking actions and expending resources. Therefore, this Petition Amendment No. 2 shall be irrevocable and shall be binding upon the Petitioner, any successors or assigns of the Petitioner, the Property, and any grantees, mortgagees, lessees, or transferees of the Property. The Petitioner acknowledges that it has had an opportunity to be represented by legal counsel in this undertaking and has knowingly waived the rights identified in the Original Petition, as amended hereby.

The Petitioner further deposes and states that this Petition Amendment No. 2 and actions provided for herein impose burdens and obligations upon the Property and provide for Special Assessments to be levied upon the Property in accordance with the Petition, and that this Petition Amendment No. 2 is available for inspection at the office of the Clerk of Council of the City.

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IN WITNESS WHEREOF, the Petitioner has caused this petition to be executed by its authorized representative, as set forth below.

PETITIONER:

2347 READING ROAD, LLC,
an Ohio limited liability company

By: *Chinedum Ndukwe*

Name: Chinedum Ndukwe

Title: Manager

STATE OF Ohio)
COUNTY OF Hamilton) SS:

On the 23 day of November, ~~2019~~²⁰²⁰, Chinedum Ndukwe, the Manager of 2347 READING ROAD, LLC, personally appeared before me and acknowledged that he or she did execute the foregoing Petition on behalf of that limited liability company and that the same was the free act and deed of such officer. The notarial act certified hereby is a jurat. An oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

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

Jill R. McGrail
Notary Public

[SEAL]



JILL R. MCGRAIL
Attorney At Law
NOTARY PUBLIC
STATE OF OHIO
My Commission Has
No Expiration Date
Section 147.03 O.R.C.

EXHIBIT B

SECOND AMENDMENT TO PLAN

SECOND AMENDMENT TO THE CITY OF CINCINNATI, OHIO ENERGY SPECIAL IMPROVEMENT DISTRICT PROGRAM PLAN SUPPLEMENT TO PLAN FOR 2347 READING ROAD PROJECT

This Second Amendment to the City of Cincinnati, Ohio Energy Special Improvement District Program Plan Supplement to Plan for 2347 Reading Road Project (this “Plan Amendment No. 2”) is dated as of the date set forth below, and is executed by 2347 Reading Road, LLC, as the owner of real property within the District (the “Owner”) described on Attachment A to the Plan (as defined below) (the “Property”). All capitalized terms used in this Plan Amendment No. 2 when the rules of grammar would not so require and not defined in this Plan Amendment No. 2 shall have the meanings assigned to them in the City of Cincinnati, Ohio Energy Special Improvement District Program Plan Supplement to Plan for 2347 Reading Road Project (the “Original Plan”), as amended by the Amendment to the City of Cincinnati, Ohio Energy Special Improvement District Program Plan Supplement to Plan for 2347 Reading Road Project dated November 1, 2019 (the “Plan Amendment No. 1,” and together with the Original Plan, this Plan Amendment No. 2, and any additional amendments or supplements, the “Plan”).

The City of Cincinnati, Ohio Energy Special Improvement District (the “District”) is administering a property assessed clean energy (“PACE”) program (the “Program”). The Program has provided financing secured by special assessments on real property for special energy improvement projects. Pursuant to Ohio Revised Code Chapter 1710, the Owner authorized, consented to, and on or before October 8, 2018, submitted to the City of Cincinnati, Ohio (the “City”) for approval the Original Plan to provide for the Program’s administration and set forth the terms and conditions of participation in the Program.

As part of the Original Plan, the Owner requested and consented to certain special assessments, as set forth on Attachment B to the Original Plan, to be levied by the City with respect to (the “Property”). The Original Plan also included a detailed description of the Authorized Improvements and a schedule of special assessments to be levied on the Property to pay the costs of certain improvements. On October 31, 2018, the City levied the Special Assessments by its Ordinance No. 344-2018 as requested by the Petitioner under the Original Plan.

After the date of the Original Plan and the date on which the Special Assessments were levied, the financing terms of the Owner’s transaction to finance the Authorized Improvements changed, and the amount of the annual installments of the Special Assessments required adjustment. The Owner therefore submitted the Plan Amendment No. 1 to the City, and on November 14, 2019, the City approved the Plan Amendment No. 1 and modified the Special Assessments as requested in it.

Since the date of the Plan Amendment No. 1 and the date on which the Special Assessments were levied, the financing terms of the Owner's transaction to finance the Authorized Improvements have further changed, and the amount of the annual installments of the Special Assessments require further adjustment.

The Owner therefore hereby respectfully requests that the City approve this Plan Amendment No. 2 and cause the attached **Attachment B** to be attached to and incorporated into the Plan, and to fully replace existing Attachment A and Attachment B to the Plan. Except as expressly modified by this Plan Amendment No. 2, all of the provisions of the Plan shall remain in full force and effect and be binding in accordance with their terms.

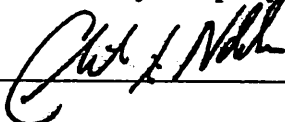
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BY EXECUTING THIS AMENDMENT TO THE PLAN, THE OWNER IDENTIFIED BELOW HEREBY AUTHORIZES AND CONSENTS TO THIS AMENDMENT TO THE PLAN, AND ALL DISTRICT DOCUMENTS (AS DEFINED IN THE PLAN), AND AGREES TO PERFORM THE OBLIGATIONS OF THE OWNER CONTAINED IN THIS AMENDMENT TO THE PLAN.

Date: November 23, 2020

Owner:

2347 READING ROAD, LLC
an Ohio limited liability company

By: 

Name: Chinedum Ndukwe

Title: Manager

PLAN—ATTACHMENT B

**DESCRIPTION OF AUTHORIZED IMPROVEMENTS AND SCHEDULE OF
AMENDED SPECIAL ASSESSMENTS**

The real property owned by 2347 Reading Road, LLC at 2347 Reading Road, Cincinnati, Ohio 45202 is the location at which the special energy improvements described below shall be constructed and installed, and shall exist (the Project). The legal description of the property is set forth on Exhibit A to the Petition, as amended. The property will be subject to special assessments for energy improvements in accordance with Ohio Revised Code Chapter 1710.

The Project is expected to consist of the following energy efficiency elements:

- High-efficiency building envelope and mechanical systems
- High-efficiency elevators
- High-efficiency roofing materials
- High-efficiency windows and doors
- High-efficiency lighting

Total assessment costs—\$6,023,361.12

Estimated average semi-annual special assessments for 28 years: \$107,560.02

Number of semi-annual assessments: 56

First annual installment due: approximately January 31, 2022

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The schedule of Special Assessments for the Project is as follows:

Special Assessment Payment Date*	Special Assessment Payment Amount**
January 31, 2022	\$107,560.02
July 17, 2022	107,560.02
January 31, 2023	107,560.02
July 17, 2023	107,560.02
January 31, 2024	107,560.02
July 17, 2024	107,560.02
January 31, 2025	107,560.02
July 17, 2025	107,560.02
January 31, 2026	107,560.02
July 17, 2026	107,560.02
January 31, 2027	107,560.02
July 17, 2027	107,560.02
January 31, 2028	107,560.02
July 17, 2028	107,560.02
January 31, 2029	107,560.02
July 17, 2029	107,560.02
January 31, 2030	107,560.02
July 17, 2030	107,560.02
January 31, 2031	107,560.02
July 17, 2031	107,560.02
January 31, 2032	107,560.02
July 17, 2032	107,560.02
January 31, 2033	107,560.02
July 17, 2033	107,560.02
January 31, 2034	107,560.02
July 17, 2034	107,560.02
January 31, 2035	107,560.02
July 17, 2035	107,560.02
January 31, 2036	107,560.02
July 17, 2036	107,560.02
January 31, 2037	107,560.02
July 17, 2037	107,560.02
January 31, 2038	107,560.02
July 17, 2038	107,560.02
January 31, 2039	107,560.02
July 17, 2039	107,560.02
January 31, 2040	107,560.02
July 17, 2040	107,560.02
January 31, 2041	107,560.02
July 17, 2041	107,560.02

Special Assessment Payment Date*	Special Assessment Payment Amount**
January 31, 2042	\$107,560.02
July 17, 2042	107,560.02
January 31, 2043	107,560.02
July 17, 2043	107,560.02
January 31, 2044	107,560.02
July 17, 2044	107,560.02
January 31, 2045	107,560.02
July 17, 2045	107,560.02
January 31, 2046	107,560.02
July 17, 2046	107,560.02
January 31, 2047	107,560.02
July 17, 2047	107,560.02
January 31, 2048	107,560.02
July 17, 2048	107,560.02
January 31, 2049	107,560.02
July 17, 2049	107,560.02

* Pursuant to Ohio Revised Code Chapter 323, the Special Assessment Payment Dates identified in this Exhibit B are subject to adjustment under certain conditions.

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

ATTACHMENT A

EMERGENCY

Legislative Resolution

RESOLUTION _____ - 2021

DECLARING by legislative resolution the necessity of the special assessment project at 2347 Reading Road in the City of Cincinnati, Ohio involving the City of Cincinnati, Ohio Energy Special Improvement District.

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

WHEREAS, pursuant to Resolution 28-2014 passed on April 9, 2014, Council approved the Petition for the Creation of the City of Cincinnati, Ohio Energy Special Improvement District, together with the Articles of Incorporation of the City of Cincinnati, Ohio Energy Special Improvement District, Inc. and, following said approvals by Council, on July 23, 2014, the City of Cincinnati, Ohio Energy Special Improvement District, Inc. (hereinafter, the “ESID”) was formed as an ESID and is now duly authorized and operating pursuant to Ohio Revised Code Chapter 1710; and

WHEREAS, 2347 Reading Road, LLC (the “Owner”), as the owner of one hundred percent (100%) of the lots and lands, including air parcels, to be assessed for the improvement described in this Resolution, previously executed and filed with this Council a *Petition for Special Assessments for Special Energy Improvement Projects* dated as of October 8, 2018 (the “Original Petition”), including a *Supplement to Plan for the 2347 Reading Road Project* (the “Original Supplemental Plan”), proposing the necessity of special assessments to pay the costs of special energy improvement projects (as more fully identified in the Original Petition and Original Supplemental Plan, the “Authorized Improvements”) to be located at 2347 Reading Road in Cincinnati (the “Assessed Property”); and

WHEREAS, the Original Petition and the Original Supplemental Plan are currently on file with the Clerk of Council; and

WHEREAS, in the Original Petition, the Owner requested that the Authorized Improvements be paid for by special assessments assessed upon the Assessed Property (the “Special Assessments”) in an amount sufficient to pay the costs of the Authorized Improvements and other related costs of financing the Authorized Improvements, which include, without limitation, the payment of principal of, interest on, and financing, credit enhancement, and issuance expenses related to, any bonds, notes, loans, or other financing provided to pay the costs of the Authorized Improvements, and requests that the Authorized Improvements be undertaken cooperatively by the City, the ESID, and the Owner in accordance with the Standing Assignment

Agreement dated as of February 28, 2017 by and among the City, the Greater Cincinnati Redevelopment Authority, and the ESID (the “Standing Assignment Agreement”); and

WHEREAS, pursuant to and as authorized by (i) Resolution No. 58-2018, declaring the necessity of the special assessment project at 2347 Reading Road in Cincinnati; (ii) Ordinance No. 345-2018, determining to proceed with such special assessment project; and (iii) Ordinance No. 344-2018, levying the Special Assessments, each passed by Council on October 31, 2018, in order to provide for the assignment and transfer of the Special Assessments, the City executed and delivered an Addendum to the Standing Assignment Agreement on November 27, 2018 (the “Addendum”); and

WHEREAS, the Owner previously executed and filed with this Council an *Amendment to the Petition for Special Assessments for Special Energy Improvement Projects* (the “First Petition Amendment”), and an *Amendment to the City of Cincinnati, Ohio Energy Special Improvement District Program Plan Supplement to Plan for the 2347 Reading Road Project* (the “First Supplemental Plan Amendment”) each dated on or before November 12, 2019, proposing that the amount of the annual installments of the Special Assessments set forth in the Original Petition and the Original Supplemental Plan be amended as reflected in the First Petition Amendment and the First Supplemental Plan Amendment; and

WHEREAS, the City previously approved the First Petition Amendment and the First Supplemental Plan Amendment, modified the amounts and times for collection of the Special Assessments as requested in the First Petition Amendment and the First Supplemental Plan Amendment, and authorized an amendment to the Addendum by passing (i) Resolution No. 67-2019 declaring the necessity of the amended special assessment project at 2347 Reading Road in Cincinnati; (ii) Ordinance No. 442-2019, determining to proceed with the amended special assessment project; and (iii) Ordinance No. 443-2019, levying the amended Special Assessments, each passed by Council on November 14, 2019; and

WHEREAS, the Owner has executed and filed with this Council a *Second Amendment to the Petition for Special Assessments for Special Energy Improvement Projects* (the “Second Petition Amendment”; and the Original Petition, as amended by the First Petition Amendment and by the Second Petition Amendment, is the “Amended Petition”), and a *Second Amendment to the City of Cincinnati, Ohio Energy Special Improvement District Program Plan Supplement to Plan for the 2347 Reading Road Project* (the “Second Supplemental Plan Amendment”; and the Original Supplemental Plan, as amended by the First Supplemental Plan Amendment and by the Second Supplemental Plan Amendment, is the “Amended Supplemental Plan”) each dated on or before January [___], 2021, proposing that the amount of the semi-annual installments of the Special Assessments set forth in the Petition and the Supplemental Plan be amended as reflected in the Amended Petition and the Amended Supplemental Plan; and

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

WHEREAS, in connection with the adjustment to the amount of semi-annual installments of the Special Assessments stated in the Amended Petition and the Amended Supplemental Plan,

the ESID has requested that the City execute and deliver a second amendment to the Addendum, substantially in the form now on file with the Clerk of Council; and

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

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

Section 1. That the recitals hereof are hereby incorporated by reference, and each capitalized term not otherwise defined in this Resolution or by reference to another document shall have the meaning assigned to it in the Amended Petition, which Amended Petition, together with the Amended Supplemental Plan, are hereby approved and accepted.

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

Section 3. That it is hereby declared necessary, and a vital and essential public purpose of the City, to improve the real property located at 2347 Reading Road, Cincinnati, Ohio 45202 (the "Assessed Property"), by providing for special energy improvement projects as more fully identified in the Amended Petition and the Amended Supplemental Plan (the "Authorized Improvements") on the Assessed Property, including any and all costs and expenses in connection with or otherwise related thereto as described in the Amended Petition (collectively, the "Assessment Project"), which Assessment Project is described in the plans, specifications, profiles, and estimates of costs included in the Amended Petition and on file in the office of the Clerk of Council.

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

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

Section 6. That pursuant to Ohio Revised Code Section 1710.02(G)(4), Council hereby determines that the energy special improvement project to be constructed and implemented at the Assessed Property is not required to be owned exclusively by the City. Council accordingly hereby authorizes the board of directors of the ESID to act as its agent to sell, transfer, lease, or convey the special energy improvement project to be constructed and implemented at the

Assessed Property. The board of directors of the ESID must obtain from any sale, transfer, lease, or conveyance of the special energy improvement project at the Assessed Property any consideration greater than or equal to \$1.00.

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

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

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

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

Section 11. That pursuant to and subject to the provisions of a valid Amended Petition signed by the Owner as one hundred percent (100%) of the owners of the Assessed Property,

which Amended Petition is hereby accepted, the entire cost of the Assessment Project shall be paid by the Special Assessments levied against the Assessed Property, which is the benefited property.

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

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

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

Section 15. That this Resolution shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is to ensure that the Board of the City of Cincinnati, Ohio Energy Special

Improvement District may proceed with the Assessment Project as soon as possible so that work thereon may commence or continue.

Passed _____, 2021

John Cranley, Mayor

Attest: _____

Clerk

**SECOND AMENDMENT TO THE PETITION FOR SPECIAL ASSESSMENTS FOR
SPECIAL ENERGY IMPROVEMENT PROJECTS AND AFFIDAVIT**

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

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

2347 Reading Road, LLC, an Ohio limited liability company (the “Petitioner”), as the owner of 100% of the property described on Exhibit A attached to the Petition (as defined below) (the “Property”), submitted a petition to the City Manager, City Council, and the City of Cincinnati, Ohio (the “City”) on October 8, 2018 (the “Original Petition”) pursuant to Ohio Revised Code Chapter 1710. All capitalized terms used in this Amendment when the rules of grammar would not so require and not defined in this Amendment shall have the meanings assigned to them in the Petition, as amended by the Amendment to the Petition for Special Assessments for Special Energy Improvement Projects dated November 1, 2019 by the Petitioner (the “Petition Amendment No. 1,” and together with the Original Petition, this petition, and any additional amendments or supplements, the “Petition”).

The Original Petition included, as Exhibit B thereto, the City of Cincinnati, Ohio Energy Special Improvement District Program Plan Supplement to Plan for 2347 Reading Road Project (the “Original Plan”). Under the Original Petition and the Original Plan, the Petitioner requested that the City levy Special Assessments on the Property in the amounts listed on Attachment B to the Original Plan. On October 31, 2018, the City levied the Special Assessments by its Ordinance No. 344-2018 as requested by the Petitioner under the Original Petition and the Original Plan.

After the date of the Original Petition and the date on which the Special Assessments were levied, the financing terms of the Petitioner’s transaction to finance the special energy improvement projects contained within the Original Petition and the Original Plan changed, and the amount of the annual installments of the Special Assessments required adjustment. The Petitioner therefore submitted the Petition Amendment No. 1 to the City, and on November 14, 2019 the City Council of the City approved and filed the Petition Amendment No. 1 and modified the Special Assessments as requested in the Petition Amendment No. 1.

Since the date of Petition Amendment No. 1 and the date on which the Special Assessments were levied, the financing terms of the Petitioner’s transaction to finance the special energy improvement projects contained within the Original Petition, as amended by the Petition Amendment No. 1, have further changed, and the amount of the annual installments of the Special Assessments require further adjustment.

The Petitioner therefore hereby respectfully requests that the City: (1) approve this Second Amendment to the Petition for Special Assessment for Special Energy Improvement Projects (the

“Petition Amendment No. 2”) to cause Exhibit B to the Original Petition to be further amended as shown on the Second Amendment to City of Cincinnati, Ohio Energy Special Improvement District Program Plan Supplement to Plan for 2347 Reading Road Project attached to, and incorporated into, this Amendment as **Exhibit B** (the “Plan Amendment No. 2”), and (2) to amend the Special Assessments so that they are levied on the Property in the amounts stated on Attachment B to the Plan Amendment No. 2.

Except as expressly modified by this Amendment, all of the provisions of the Original Petition and Petition Amendment No. 1 shall remain in full force and effect and be binding in accordance with their terms.

The Petitioner hereby re-states, as if set forth fully in this Amendment, each of the waivers contained in the Original Petition, including, without limitation, the waivers set forth in Sections 7, 9, 10, and 11 of the Original Petition.

The Petitioner acknowledges and understands that the City and the Board of Directors of the City of Cincinnati, Ohio Energy Special Improvement District, Inc. relied on the Original Petition, Petition Amendment No. 1, and will rely on this Petition Amendment No. 2 in taking actions and expending resources. Therefore, this Petition Amendment No. 2 shall be irrevocable and shall be binding upon the Petitioner, any successors or assigns of the Petitioner, the Property, and any grantees, mortgagees, lessees, or transferees of the Property. The Petitioner acknowledges that it has had an opportunity to be represented by legal counsel in this undertaking and has knowingly waived the rights identified in the Original Petition, as amended hereby.

The Petitioner further deposes and states that this Petition Amendment No. 2 and actions provided for herein impose burdens and obligations upon the Property and provide for Special Assessments to be levied upon the Property in accordance with the Petition, and that this Petition Amendment No. 2 is available for inspection at the office of the Clerk of Council of the City.

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IN WITNESS WHEREOF, the Petitioner has caused this petition to be executed by its authorized representative, as set forth below.

PETITIONER:

2347 READING ROAD, LLC,
an Ohio limited liability company

By: *Chinedum Ndukwe*

Name: Chinedum Ndukwe

Title: Manager

STATE OF Ohio)

COUNTY OF Hamilton)

SS:

On the 23 day of November, ~~2019~~ ²⁰²⁰, Chinedum Ndukwe, the Manager of 2347 READING ROAD, LLC, personally appeared before me and acknowledged that he or she did execute the foregoing Petition on behalf of that limited liability company and that the same was the free act and deed of such officer. The notarial act certified hereby is a jurat. An oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

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

Jill R. McGrail
Notary Public

[SEAL]



JILL R. MCGRAIL
Attorney At Law
NOTARY PUBLIC
STATE OF OHIO
My Commission Has
No Expiration Date
Section 147.03 O.R.C.

EXHIBIT B

SECOND AMENDMENT TO PLAN

**SECOND AMENDMENT TO THE CITY OF CINCINNATI, OHIO ENERGY SPECIAL
IMPROVEMENT DISTRICT PROGRAM PLAN SUPPLEMENT TO PLAN FOR 2347
READING ROAD PROJECT**

This Second Amendment to the City of Cincinnati, Ohio Energy Special Improvement District Program Plan Supplement to Plan for 2347 Reading Road Project (this “Plan Amendment No. 2”) is dated as of the date set forth below, and is executed by 2347 Reading Road, LLC, as the owner of real property within the District (the “Owner”) described on Attachment A to the Plan (as defined below) (the “Property”). All capitalized terms used in this Plan Amendment No. 2 when the rules of grammar would not so require and not defined in this Plan Amendment No. 2 shall have the meanings assigned to them in the City of Cincinnati, Ohio Energy Special Improvement District Program Plan Supplement to Plan for 2347 Reading Road Project (the “Original Plan”), as amended by the Amendment to the City of Cincinnati, Ohio Energy Special Improvement District Program Plan Supplement to Plan for 2347 Reading Road Project dated November 1, 2019 (the “Plan Amendment No. 1,” and together with the Original Plan, this Plan Amendment No. 2, and any additional amendments or supplements, the “Plan”).

The City of Cincinnati, Ohio Energy Special Improvement District (the “District”) is administering a property assessed clean energy (“PACE”) program (the “Program”). The Program has provided financing secured by special assessments on real property for special energy improvement projects. Pursuant to Ohio Revised Code Chapter 1710, the Owner authorized, consented to, and on or before October 8, 2018, submitted to the City of Cincinnati, Ohio (the “City”) for approval the Original Plan to provide for the Program’s administration and set forth the terms and conditions of participation in the Program.

As part of the Original Plan, the Owner requested and consented to certain special assessments, as set forth on Attachment B to the Original Plan, to be levied by the City with respect to (the “Property”). The Original Plan also included a detailed description of the Authorized Improvements and a schedule of special assessments to be levied on the Property to pay the costs of certain improvements. On October 31, 2018, the City levied the Special Assessments by its Ordinance No. 344-2018 as requested by the Petitioner under the Original Plan.

After the date of the Original Plan and the date on which the Special Assessments were levied, the financing terms of the Owner’s transaction to finance the Authorized Improvements changed, and the amount of the annual installments of the Special Assessments required adjustment. The Owner therefore submitted the Plan Amendment No. 1 to the City, and on November 14, 2019, the City approved the Plan Amendment No. 1 and modified the Special Assessments as requested in it.

Since the date of the Plan Amendment No. 1 and the date on which the Special Assessments were levied, the financing terms of the Owner's transaction to finance the Authorized Improvements have further changed, and the amount of the annual installments of the Special Assessments require further adjustment.

The Owner therefore hereby respectfully requests that the City approve this Plan Amendment No. 2 and cause the attached **Attachment B** to be attached to and incorporated into the Plan, and to fully replace existing Attachment A and Attachment B to the Plan. Except as expressly modified by this Plan Amendment No. 2, all of the provisions of the Plan shall remain in full force and effect and be binding in accordance with their terms.

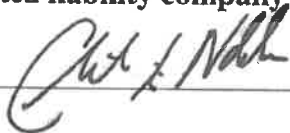
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BY EXECUTING THIS AMENDMENT TO THE PLAN, THE OWNER IDENTIFIED BELOW HEREBY AUTHORIZES AND CONSENTS TO THIS AMENDMENT TO THE PLAN, AND ALL DISTRICT DOCUMENTS (AS DEFINED IN THE PLAN), AND AGREES TO PERFORM THE OBLIGATIONS OF THE OWNER CONTAINED IN THIS AMENDMENT TO THE PLAN.

Date: November 23, 2020

Owner:

2347 READING ROAD, LLC
an Ohio limited liability company

By: 

Name: Chinedum Ndukwe

Title: Manager

PLAN—ATTACHMENT B

**DESCRIPTION OF AUTHORIZED IMPROVEMENTS AND SCHEDULE OF
AMENDED SPECIAL ASSESSMENTS**

The real property owned by 2347 Reading Road, LLC at 2347 Reading Road, Cincinnati, Ohio 45202 is the location at which the special energy improvements described below shall be constructed and installed, and shall exist (the Project). The legal description of the property is set forth on Exhibit A to the Petition, as amended. The property will be subject to special assessments for energy improvements in accordance with Ohio Revised Code Chapter 1710.

The Project is expected to consist of the following energy efficiency elements:

- High-efficiency building envelope and mechanical systems
- High-efficiency elevators
- High-efficiency roofing materials
- High-efficiency windows and doors
- High-efficiency lighting

Total assessment costs—\$6,023,361.12

Estimated average semi-annual special assessments for 28 years: \$107,560.02

Number of semi-annual assessments: 56

First annual installment due: approximately January 31, 2022

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The schedule of Special Assessments for the Project is as follows:

Special Assessment Payment Date*	Special Assessment Payment Amount**
January 31, 2022	\$107,560.02
July 17, 2022	107,560.02
January 31, 2023	107,560.02
July 17, 2023	107,560.02
January 31, 2024	107,560.02
July 17, 2024	107,560.02
January 31, 2025	107,560.02
July 17, 2025	107,560.02
January 31, 2026	107,560.02
July 17, 2026	107,560.02
January 31, 2027	107,560.02
July 17, 2027	107,560.02
January 31, 2028	107,560.02
July 17, 2028	107,560.02
January 31, 2029	107,560.02
July 17, 2029	107,560.02
January 31, 2030	107,560.02
July 17, 2030	107,560.02
January 31, 2031	107,560.02
July 17, 2031	107,560.02
January 31, 2032	107,560.02
July 17, 2032	107,560.02
January 31, 2033	107,560.02
July 17, 2033	107,560.02
January 31, 2034	107,560.02
July 17, 2034	107,560.02
January 31, 2035	107,560.02
July 17, 2035	107,560.02
January 31, 2036	107,560.02
July 17, 2036	107,560.02
January 31, 2037	107,560.02
July 17, 2037	107,560.02
January 31, 2038	107,560.02
July 17, 2038	107,560.02
January 31, 2039	107,560.02
July 17, 2039	107,560.02
January 31, 2040	107,560.02
July 17, 2040	107,560.02
January 31, 2041	107,560.02
July 17, 2041	107,560.02

Special Assessment Payment Date*	Special Assessment Payment Amount**
January 31, 2042	\$107,560.02
July 17, 2042	107,560.02
January 31, 2043	107,560.02
July 17, 2043	107,560.02
January 31, 2044	107,560.02
July 17, 2044	107,560.02
January 31, 2045	107,560.02
July 17, 2045	107,560.02
January 31, 2046	107,560.02
July 17, 2046	107,560.02
January 31, 2047	107,560.02
July 17, 2047	107,560.02
January 31, 2048	107,560.02
July 17, 2048	107,560.02
January 31, 2049	107,560.02
July 17, 2049	107,560.02

* Pursuant to Ohio Revised Code Chapter 323, the Special Assessment Payment Dates identified in this Exhibit B are subject to adjustment under certain conditions.

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

January 19, 2021

To: Mayor and Members of City Council 202100184

From: Paula Boggs Muething, City Manager

Subject: **LEGISLATIVE RESOLUTION DECLARING THE NECESSITY OF THE PACE ASSESSMENT PROJECT FOR 2347 READING ROAD, LLC (2ND AMENDMENT)**

Attached is a Legislative Resolution captioned as follows:

DECLARING by legislative resolution the necessity of the special assessment project at 2347 Reading Road in the City of Cincinnati, Ohio involving the City of Cincinnati, Ohio Energy Special Improvement District.

BACKGROUND/CURRENT CONDITIONS

The Ohio PACE (Property Assessed Clean Energy) program allows commercial property owners to opt into a special assessment which is added to the property tax bill to access long-term, fixed-rate financing for energy efficiency upgrades. The owner and developer of 2347 Reading Road previously requested to have their property added to the Energy Special Improvement District (ESID) and special assessments levied on the property, for the purpose of accessing PACE financing for energy efficiency upgrades to their commercial construction project.

The addition of the property to the ESID was approved by Council in October 2018. In November 2019 the owner and developer requested that the schedule for those special assessments be amended to commence in 2021 instead of 2020 and the request was approved by Council. The owner and developer are now requesting an additional amendment to have assessments commence in 2022 and the term of the assessment will be reduced from 30 years to 28 years.

DEVELOPER INFORMATION

2347 Reading Road, LLC is affiliated with Kingsley + Co., a minority-owned holding company and developer. The company partnered on the redevelopment of the Mabley Place Garage in the Central Business District, as well as the Fairfield Inn & Suites at U-Square in CUF.

PROJECT DESCRIPTION

This project will result in the construction of a 73,450 square foot hotel in the Mt. Auburn neighborhood. The cost of the new construction is estimated to be \$8.4MM and the total project cost is estimated be \$14MM. Construction commenced in 2019 and is expected to be completed by December 2021.

PROPOSED INCENTIVE

DCED is recommending that the City adjust the schedule for the special assessments for this previously authorized project to commence in 2022 instead of 2021 and for the term to be reduced from 30 years to 28 years.

RECOMMENDATION

The Administration recommends approval of this Legislative Resolution.

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

EMERGENCY

AWB

Legislative Resolution

RESOLUTION _____ - 2021

DECLARING by legislative resolution the necessity of the special assessment project at 2347 Reading Road in the City of Cincinnati, Ohio involving the City of Cincinnati, Ohio Energy Special Improvement District.

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

WHEREAS, pursuant to Resolution 28-2014 passed on April 9, 2014, Council approved the Petition for the Creation of the City of Cincinnati, Ohio Energy Special Improvement District, together with the Articles of Incorporation of the City of Cincinnati, Ohio Energy Special Improvement District, Inc. and, following said approvals by Council, on July 23, 2014, the City of Cincinnati, Ohio Energy Special Improvement District, Inc. (hereinafter, the "ESID") was formed as an ESID and is now duly authorized and operating pursuant to Ohio Revised Code Chapter 1710; and

WHEREAS, 2347 Reading Road, LLC (the "Owner"), as the owner of one hundred percent (100%) of the lots and lands, including air parcels, to be assessed for the improvement described in this Resolution, previously executed and filed with this Council a *Petition for Special Assessments for Special Energy Improvement Projects* dated as of October 8, 2018 (the "Original Petition"), including a *Supplement to Plan for the 2347 Reading Road Project* (the "Original Supplemental Plan"), proposing the necessity of special assessments to pay the costs of special energy improvement projects (as more fully identified in the Original Petition and Original Supplemental Plan, the "Authorized Improvements") to be located at 2347 Reading Road in Cincinnati (the "Assessed Property"); and

WHEREAS, the Original Petition and the Original Supplemental Plan are currently on file with the Clerk of Council; and

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

Agreement dated as of February 28, 2017 by and among the City, the Greater Cincinnati Redevelopment Authority, and the ESID (the “Standing Assignment Agreement”); and

WHEREAS, pursuant to and as authorized by (i) Resolution No. 58-2018, declaring the necessity of the special assessment project at 2347 Reading Road in Cincinnati; (ii) Ordinance No. 345-2018, determining to proceed with such special assessment project; and (iii) Ordinance No. 344-2018, levying the Special Assessments, each passed by Council on October 31, 2018, in order to provide for the assignment and transfer of the Special Assessments, the City executed and delivered an Addendum to the Standing Assignment Agreement on November 27, 2018 (the “Addendum”); and

WHEREAS, the Owner previously executed and filed with this Council an *Amendment to the Petition for Special Assessments for Special Energy Improvement Projects* (the “First Petition Amendment”), and an *Amendment to the City of Cincinnati, Ohio Energy Special Improvement District Program Plan Supplement to Plan for the 2347 Reading Road Project* (the “First Supplemental Plan Amendment”) each dated on or before November 12, 2019, proposing that the amount of the annual installments of the Special Assessments set forth in the Original Petition and the Original Supplemental Plan be amended as reflected in the First Petition Amendment and the First Supplemental Plan Amendment; and

WHEREAS, the City previously approved the First Petition Amendment and the First Supplemental Plan Amendment, modified the amounts and times for collection of the Special Assessments as requested in the First Petition Amendment and the First Supplemental Plan Amendment, and authorized an amendment to the Addendum by passing (i) Resolution No. 67-2019 declaring the necessity of the amended special assessment project at 2347 Reading Road in Cincinnati; (ii) Ordinance No. 442-2019, determining to proceed with the amended special assessment project; and (iii) Ordinance No. 443-2019, levying the amended Special Assessments, each passed by Council on November 14, 2019; and

WHEREAS, the Owner has executed and filed with this Council a *Second Amendment to the Petition for Special Assessments for Special Energy Improvement Projects* (the “Second Petition Amendment”; and the Original Petition, as amended by the First Petition Amendment and by the Second Petition Amendment, is the “Amended Petition”), and a *Second Amendment to the City of Cincinnati, Ohio Energy Special Improvement District Program Plan Supplement to Plan for the 2347 Reading Road Project* (the “Second Supplemental Plan Amendment”; and the Original Supplemental Plan, as amended by the First Supplemental Plan Amendment and by the Second Supplemental Plan Amendment, is the “Amended Supplemental Plan”) each dated on or before January [___], 2021, proposing that the amount of the semi-annual installments of the Special Assessments set forth in the Petition and the Supplemental Plan be amended as reflected in the Amended Petition and the Amended Supplemental Plan; and

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

WHEREAS, in connection with the adjustment to the amount of semi-annual installments of the Special Assessments stated in the Amended Petition and the Amended Supplemental Plan,

the ESID has requested that the City execute and deliver a second amendment to the Addendum, substantially in the form now on file with the Clerk of Council; and

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

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

Section 1. That the recitals hereof are hereby incorporated by reference, and each capitalized term not otherwise defined in this Resolution or by reference to another document shall have the meaning assigned to it in the Amended Petition, which Amended Petition, together with the Amended Supplemental Plan, are hereby approved and accepted.

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

Section 3. That it is hereby declared necessary, and a vital and essential public purpose of the City, to improve the real property located at 2347 Reading Road, Cincinnati, Ohio 45202 (the "Assessed Property"), by providing for special energy improvement projects as more fully identified in the Amended Petition and the Amended Supplemental Plan (the "Authorized Improvements") on the Assessed Property, including any and all costs and expenses in connection with or otherwise related thereto as described in the Amended Petition (collectively, the "Assessment Project"), which Assessment Project is described in the plans, specifications, profiles, and estimates of costs included in the Amended Petition and on file in the office of the Clerk of Council.

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

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

Section 6. That pursuant to Ohio Revised Code Section 1710.02(G)(4), Council hereby determines that the energy special improvement project to be constructed and implemented at the Assessed Property is not required to be owned exclusively by the City. Council accordingly hereby authorizes the board of directors of the ESID to act as its agent to sell, transfer, lease, or convey the special energy improvement project to be constructed and implemented at the

Assessed Property. The board of directors of the ESID must obtain from any sale, transfer, lease, or conveyance of the special energy improvement project at the Assessed Property any consideration greater than or equal to \$1.00.

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

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

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

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

Section 11. That pursuant to and subject to the provisions of a valid Amended Petition signed by the Owner as one hundred percent (100%) of the owners of the Assessed Property,

which Amended Petition is hereby accepted, the entire cost of the Assessment Project shall be paid by the Special Assessments levied against the Assessed Property, which is the benefited property.

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

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

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

Section 15. That this Resolution shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is to ensure that the Board of the City of Cincinnati, Ohio Energy Special

Improvement District may proceed with the Assessment Project as soon as possible so that work thereon may commence or continue.

Passed _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

ATTACHMENT A

**SECOND AMENDMENT TO THE PETITION FOR SPECIAL ASSESSMENTS FOR
SPECIAL ENERGY IMPROVEMENT PROJECTS AND AFFIDAVIT**

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

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

2347 Reading Road, LLC, an Ohio limited liability company (the “Petitioner”), as the owner of 100% of the property described on Exhibit A attached to the Petition (as defined below) (the “Property”), submitted a petition to the City Manager, City Council, and the City of Cincinnati, Ohio (the “City”) on October 8, 2018 (the “Original Petition”) pursuant to Ohio Revised Code Chapter 1710. All capitalized terms used in this Amendment when the rules of grammar would not so require and not defined in this Amendment shall have the meanings assigned to them in the Petition, as amended by the Amendment to the Petition for Special Assessments for Special Energy Improvement Projects dated November 1, 2019 by the Petitioner (the “Petition Amendment No. 1,” and together with the Original Petition, this petition, and any additional amendments or supplements, the “Petition”).

The Original Petition included, as Exhibit B thereto, the City of Cincinnati, Ohio Energy Special Improvement District Program Plan Supplement to Plan for 2347 Reading Road Project (the “Original Plan”). Under the Original Petition and the Original Plan, the Petitioner requested that the City levy Special Assessments on the Property in the amounts listed on Attachment B to the Original Plan. On October 31, 2018, the City levied the Special Assessments by its Ordinance No. 344-2018 as requested by the Petitioner under the Original Petition and the Original Plan.

After the date of the Original Petition and the date on which the Special Assessments were levied, the financing terms of the Petitioner’s transaction to finance the special energy improvement projects contained within the Original Petition and the Original Plan changed, and the amount of the annual installments of the Special Assessments required adjustment. The Petitioner therefore submitted the Petition Amendment No. 1 to the City, and on November 14, 2019 the City Council of the City approved and filed the Petition Amendment No. 1 and modified the Special Assessments as requested in the Petition Amendment No. 1.

Since the date of Petition Amendment No. 1 and the date on which the Special Assessments were levied, the financing terms of the Petitioner’s transaction to finance the special energy improvement projects contained within the Original Petition, as amended by the Petition Amendment No. 1, have further changed, and the amount of the annual installments of the Special Assessments require further adjustment.

The Petitioner therefore hereby respectfully requests that the City: (1) approve this Second Amendment to the Petition for Special Assessment for Special Energy Improvement Projects (the

“Petition Amendment No. 2”) to cause Exhibit B to the Original Petition to be further amended as shown on the Second Amendment to City of Cincinnati, Ohio Energy Special Improvement District Program Plan Supplement to Plan for 2347 Reading Road Project attached to, and incorporated into, this Amendment as **Exhibit B** (the “Plan Amendment No. 2”), and (2) to amend the Special Assessments so that they are levied on the Property in the amounts stated on Attachment B to the Plan Amendment No. 2.

Except as expressly modified by this Amendment, all of the provisions of the Original Petition and Petition Amendment No. 1 shall remain in full force and effect and be binding in accordance with their terms.

The Petitioner hereby re-states, as if set forth fully in this Amendment, each of the waivers contained in the Original Petition, including, without limitation, the waivers set forth in Sections 7, 9, 10, and 11 of the Original Petition.

The Petitioner acknowledges and understands that the City and the Board of Directors of the City of Cincinnati, Ohio Energy Special Improvement District, Inc. relied on the Original Petition, Petition Amendment No. 1, and will rely on this Petition Amendment No. 2 in taking actions and expending resources. Therefore, this Petition Amendment No. 2 shall be irrevocable and shall be binding upon the Petitioner, any successors or assigns of the Petitioner, the Property, and any grantees, mortgagees, lessees, or transferees of the Property. The Petitioner acknowledges that it has had an opportunity to be represented by legal counsel in this undertaking and has knowingly waived the rights identified in the Original Petition, as amended hereby.

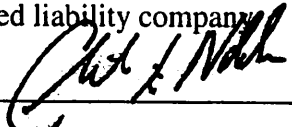
The Petitioner further deposes and states that this Petition Amendment No. 2 and actions provided for herein impose burdens and obligations upon the Property and provide for Special Assessments to be levied upon the Property in accordance with the Petition, and that this Petition Amendment No. 2 is available for inspection at the office of the Clerk of Council of the City.

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IN WITNESS WHEREOF, the Petitioner has caused this petition to be executed by its authorized representative, as set forth below.

PETITIONER:

2347 READING ROAD, LLC,
an Ohio limited liability company

By: 

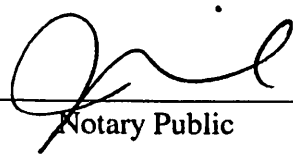
Name: Chinedum Ndukwe

Title: Manager

STATE OF Ohio)
COUNTY OF Hamilton) SS:

On the 23 day of November, ~~2019~~ ²⁰²⁰, Chinedum Ndukwe, the Manager of 2347 READING ROAD, LLC, personally appeared before me and acknowledged that he or she did execute the foregoing Petition on behalf of that limited liability company and that the same was the free act and deed of such officer. The notarial act certified hereby is a jurat. An oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

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


Notary Public

[SEAL]



JILL R. MCGRAIL
Attorney At Law
NOTARY PUBLIC
STATE OF OHIO
My Commission Has
No Expiration Date
Section 147.03 O.R.C.

EXHIBIT B

SECOND AMENDMENT TO PLAN

SECOND AMENDMENT TO THE CITY OF CINCINNATI, OHIO ENERGY SPECIAL IMPROVEMENT DISTRICT PROGRAM PLAN SUPPLEMENT TO PLAN FOR 2347 READING ROAD PROJECT

This Second Amendment to the City of Cincinnati, Ohio Energy Special Improvement District Program Plan Supplement to Plan for 2347 Reading Road Project (this “Plan Amendment No. 2”) is dated as of the date set forth below, and is executed by 2347 Reading Road, LLC, as the owner of real property within the District (the “Owner”) described on Attachment A to the Plan (as defined below) (the “Property”). All capitalized terms used in this Plan Amendment No. 2 when the rules of grammar would not so require and not defined in this Plan Amendment No. 2 shall have the meanings assigned to them in the City of Cincinnati, Ohio Energy Special Improvement District Program Plan Supplement to Plan for 2347 Reading Road Project (the “Original Plan”), as amended by the Amendment to the City of Cincinnati, Ohio Energy Special Improvement District Program Plan Supplement to Plan for 2347 Reading Road Project dated November 1, 2019 (the “Plan Amendment No. 1,” and together with the Original Plan, this Plan Amendment No. 2, and any additional amendments or supplements, the “Plan”).

The City of Cincinnati, Ohio Energy Special Improvement District (the “District”) is administering a property assessed clean energy (“PACE”) program (the “Program”). The Program has provided financing secured by special assessments on real property for special energy improvement projects. Pursuant to Ohio Revised Code Chapter 1710, the Owner authorized, consented to, and on or before October 8, 2018, submitted to the City of Cincinnati, Ohio (the “City”) for approval the Original Plan to provide for the Program’s administration and set forth the terms and conditions of participation in the Program.

As part of the Original Plan, the Owner requested and consented to certain special assessments, as set forth on Attachment B to the Original Plan, to be levied by the City with respect to (the “Property”). The Original Plan also included a detailed description of the Authorized Improvements and a schedule of special assessments to be levied on the Property to pay the costs of certain improvements. On October 31, 2018, the City levied the Special Assessments by its Ordinance No. 344-2018 as requested by the Petitioner under the Original Plan.

After the date of the Original Plan and the date on which the Special Assessments were levied, the financing terms of the Owner’s transaction to finance the Authorized Improvements changed, and the amount of the annual installments of the Special Assessments required adjustment. The Owner therefore submitted the Plan Amendment No. 1 to the City, and on November 14, 2019, the City approved the Plan Amendment No. 1 and modified the Special Assessments as requested in it.

Since the date of the Plan Amendment No. 1 and the date on which the Special Assessments were levied, the financing terms of the Owner's transaction to finance the Authorized Improvements have further changed, and the amount of the annual installments of the Special Assessments require further adjustment.

The Owner therefore hereby respectfully requests that the City approve this Plan Amendment No. 2 and cause the attached **Attachment B** to be attached to and incorporated into the Plan, and to fully replace existing Attachment A and Attachment B to the Plan. Except as expressly modified by this Plan Amendment No. 2, all of the provisions of the Plan shall remain in full force and effect and be binding in accordance with their terms.


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BY EXECUTING THIS AMENDMENT TO THE PLAN, THE OWNER IDENTIFIED BELOW HEREBY AUTHORIZES AND CONSENTS TO THIS AMENDMENT TO THE PLAN, AND ALL DISTRICT DOCUMENTS (AS DEFINED IN THE PLAN), AND AGREES TO PERFORM THE OBLIGATIONS OF THE OWNER CONTAINED IN THIS AMENDMENT TO THE PLAN.

Date: November 23, 2020

Owner:

2347 READING ROAD, LLC
an Ohio limited liability company

By: 

Name: Chinedum Ndukwe

Title: Manager

PLAN—ATTACHMENT B

**DESCRIPTION OF AUTHORIZED IMPROVEMENTS AND SCHEDULE OF
AMENDED SPECIAL ASSESSMENTS**

The real property owned by 2347 Reading Road, LLC at 2347 Reading Road, Cincinnati, Ohio 45202 is the location at which the special energy improvements described below shall be constructed and installed, and shall exist (the Project). The legal description of the property is set forth on Exhibit A to the Petition, as amended. The property will be subject to special assessments for energy improvements in accordance with Ohio Revised Code Chapter 1710.

The Project is expected to consist of the following energy efficiency elements:

- High-efficiency building envelope and mechanical systems
- High-efficiency elevators
- High-efficiency roofing materials
- High-efficiency windows and doors
- High-efficiency lighting

Total assessment costs—\$6,023,361.12

Estimated average semi-annual special assessments for 28 years: \$107,560.02

Number of semi-annual assessments: 56

First annual installment due: approximately January 31, 2022

[Balance of Page Intentionally Left Blank]

The schedule of Special Assessments for the Project is as follows:

Special Assessment Payment Date*	Special Assessment Payment Amount**
January 31, 2022	\$107,560.02
July 17, 2022	107,560.02
January 31, 2023	107,560.02
July 17, 2023	107,560.02
January 31, 2024	107,560.02
July 17, 2024	107,560.02
January 31, 2025	107,560.02
July 17, 2025	107,560.02
January 31, 2026	107,560.02
July 17, 2026	107,560.02
January 31, 2027	107,560.02
July 17, 2027	107,560.02
January 31, 2028	107,560.02
July 17, 2028	107,560.02
January 31, 2029	107,560.02
July 17, 2029	107,560.02
January 31, 2030	107,560.02
July 17, 2030	107,560.02
January 31, 2031	107,560.02
July 17, 2031	107,560.02
January 31, 2032	107,560.02
July 17, 2032	107,560.02
January 31, 2033	107,560.02
July 17, 2033	107,560.02
January 31, 2034	107,560.02
July 17, 2034	107,560.02
January 31, 2035	107,560.02
July 17, 2035	107,560.02
January 31, 2036	107,560.02
July 17, 2036	107,560.02
January 31, 2037	107,560.02
July 17, 2037	107,560.02
January 31, 2038	107,560.02
July 17, 2038	107,560.02
January 31, 2039	107,560.02
July 17, 2039	107,560.02
January 31, 2040	107,560.02
July 17, 2040	107,560.02
January 31, 2041	107,560.02
July 17, 2041	107,560.02

Special Assessment Payment Date*	Special Assessment Payment Amount**
January 31, 2042	\$107,560.02
July 17, 2042	107,560.02
January 31, 2043	107,560.02
July 17, 2043	107,560.02
January 31, 2044	107,560.02
July 17, 2044	107,560.02
January 31, 2045	107,560.02
July 17, 2045	107,560.02
January 31, 2046	107,560.02
July 17, 2046	107,560.02
January 31, 2047	107,560.02
July 17, 2047	107,560.02
January 31, 2048	107,560.02
July 17, 2048	107,560.02
January 31, 2049	107,560.02
July 17, 2049	107,560.02

* Pursuant to Ohio Revised Code Chapter 323, the Special Assessment Payment Dates identified in this Exhibit B are subject to adjustment under certain conditions.

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

ATTACHMENT A

**SECOND AMENDMENT TO THE PETITION FOR SPECIAL ASSESSMENTS FOR
SPECIAL ENERGY IMPROVEMENT PROJECTS AND AFFIDAVIT**

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

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

2347 Reading Road, LLC, an Ohio limited liability company (the “Petitioner”), as the owner of 100% of the property described on Exhibit A attached to the Petition (as defined below) (the “Property”), submitted a petition to the City Manager, City Council, and the City of Cincinnati, Ohio (the “City”) on October 8, 2018 (the “Original Petition”) pursuant to Ohio Revised Code Chapter 1710. All capitalized terms used in this Amendment when the rules of grammar would not so require and not defined in this Amendment shall have the meanings assigned to them in the Petition, as amended by the Amendment to the Petition for Special Assessments for Special Energy Improvement Projects dated November 1, 2019 by the Petitioner (the “Petition Amendment No. 1,” and together with the Original Petition, this petition, and any additional amendments or supplements, the “Petition”).

The Original Petition included, as Exhibit B thereto, the City of Cincinnati, Ohio Energy Special Improvement District Program Plan Supplement to Plan for 2347 Reading Road Project (the “Original Plan”). Under the Original Petition and the Original Plan, the Petitioner requested that the City levy Special Assessments on the Property in the amounts listed on Attachment B to the Original Plan. On October 31, 2018, the City levied the Special Assessments by its Ordinance No. 344-2018 as requested by the Petitioner under the Original Petition and the Original Plan.

After the date of the Original Petition and the date on which the Special Assessments were levied, the financing terms of the Petitioner’s transaction to finance the special energy improvement projects contained within the Original Petition and the Original Plan changed, and the amount of the annual installments of the Special Assessments required adjustment. The Petitioner therefore submitted the Petition Amendment No. 1 to the City, and on November 14, 2019 the City Council of the City approved and filed the Petition Amendment No. 1 and modified the Special Assessments as requested in the Petition Amendment No. 1.

Since the date of Petition Amendment No. 1 and the date on which the Special Assessments were levied, the financing terms of the Petitioner’s transaction to finance the special energy improvement projects contained within the Original Petition, as amended by the Petition Amendment No. 1, have further changed, and the amount of the annual installments of the Special Assessments require further adjustment.

The Petitioner therefore hereby respectfully requests that the City: (1) approve this Second Amendment to the Petition for Special Assessment for Special Energy Improvement Projects (the

“Petition Amendment No. 2”) to cause Exhibit B to the Original Petition to be further amended as shown on the Second Amendment to City of Cincinnati, Ohio Energy Special Improvement District Program Plan Supplement to Plan for 2347 Reading Road Project attached to, and incorporated into, this Amendment as **Exhibit B** (the “Plan Amendment No. 2”), and (2) to amend the Special Assessments so that they are levied on the Property in the amounts stated on Attachment B to the Plan Amendment No. 2.

Except as expressly modified by this Amendment, all of the provisions of the Original Petition and Petition Amendment No. 1 shall remain in full force and effect and be binding in accordance with their terms.

The Petitioner hereby re-states, as if set forth fully in this Amendment, each of the waivers contained in the Original Petition, including, without limitation, the waivers set forth in Sections 7, 9, 10, and 11 of the Original Petition.

The Petitioner acknowledges and understands that the City and the Board of Directors of the City of Cincinnati, Ohio Energy Special Improvement District, Inc. relied on the Original Petition, Petition Amendment No. 1, and will rely on this Petition Amendment No. 2 in taking actions and expending resources. Therefore, this Petition Amendment No. 2 shall be irrevocable and shall be binding upon the Petitioner, any successors or assigns of the Petitioner, the Property, and any grantees, mortgagees, lessees, or transferees of the Property. The Petitioner acknowledges that it has had an opportunity to be represented by legal counsel in this undertaking and has knowingly waived the rights identified in the Original Petition, as amended hereby.

The Petitioner further deposes and states that this Petition Amendment No. 2 and actions provided for herein impose burdens and obligations upon the Property and provide for Special Assessments to be levied upon the Property in accordance with the Petition, and that this Petition Amendment No. 2 is available for inspection at the office of the Clerk of Council of the City.

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IN WITNESS WHEREOF, the Petitioner has caused this petition to be executed by its authorized representative, as set forth below.

PETITIONER:

2347 READING ROAD, LLC,
an Ohio limited liability company

By: *Chinedum Ndukwe*

Name: Chinedum Ndukwe

Title: Manager

STATE OF Ohio)
COUNTY OF Hamilton) SS:

On the 23 day of November, ~~2019~~ ²⁰²⁰, Chinedum Ndukwe, the Manager of 2347 READING ROAD, LLC, personally appeared before me and acknowledged that he or she did execute the foregoing Petition on behalf of that limited liability company and that the same was the free act and deed of such officer. The notarial act certified hereby is a jurat. An oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

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

Jill R. McGrail
Notary Public

[SEAL]



JILL R. MCGRAIL
Attorney At Law
NOTARY PUBLIC
STATE OF OHIO
My Commission Has
No Expiration Date
Section 147.03 O.R.C.

EXHIBIT B

SECOND AMENDMENT TO PLAN

**SECOND AMENDMENT TO THE CITY OF CINCINNATI, OHIO ENERGY SPECIAL
IMPROVEMENT DISTRICT PROGRAM PLAN SUPPLEMENT TO PLAN FOR 2347
READING ROAD PROJECT**

This Second Amendment to the City of Cincinnati, Ohio Energy Special Improvement District Program Plan Supplement to Plan for 2347 Reading Road Project (this “Plan Amendment No. 2”) is dated as of the date set forth below, and is executed by 2347 Reading Road, LLC, as the owner of real property within the District (the “Owner”) described on Attachment A to the Plan (as defined below) (the “Property”). All capitalized terms used in this Plan Amendment No. 2 when the rules of grammar would not so require and not defined in this Plan Amendment No. 2 shall have the meanings assigned to them in the City of Cincinnati, Ohio Energy Special Improvement District Program Plan Supplement to Plan for 2347 Reading Road Project (the “Original Plan”), as amended by the Amendment to the City of Cincinnati, Ohio Energy Special Improvement District Program Plan Supplement to Plan for 2347 Reading Road Project dated November 1, 2019 (the “Plan Amendment No. 1,” and together with the Original Plan, this Plan Amendment No. 2, and any additional amendments or supplements, the “Plan”).

The City of Cincinnati, Ohio Energy Special Improvement District (the “District”) is administering a property assessed clean energy (“PACE”) program (the “Program”). The Program has provided financing secured by special assessments on real property for special energy improvement projects. Pursuant to Ohio Revised Code Chapter 1710, the Owner authorized, consented to, and on or before October 8, 2018, submitted to the City of Cincinnati, Ohio (the “City”) for approval the Original Plan to provide for the Program’s administration and set forth the terms and conditions of participation in the Program.

As part of the Original Plan, the Owner requested and consented to certain special assessments, as set forth on Attachment B to the Original Plan, to be levied by the City with respect to (the “Property”). The Original Plan also included a detailed description of the Authorized Improvements and a schedule of special assessments to be levied on the Property to pay the costs of certain improvements. On October 31, 2018, the City levied the Special Assessments by its Ordinance No. 344-2018 as requested by the Petitioner under the Original Plan.

After the date of the Original Plan and the date on which the Special Assessments were levied, the financing terms of the Owner’s transaction to finance the Authorized Improvements changed, and the amount of the annual installments of the Special Assessments required adjustment. The Owner therefore submitted the Plan Amendment No. 1 to the City, and on November 14, 2019, the City approved the Plan Amendment No. 1 and modified the Special Assessments as requested in it.

Since the date of the Plan Amendment No. 1 and the date on which the Special Assessments were levied, the financing terms of the Owner's transaction to finance the Authorized Improvements have further changed, and the amount of the annual installments of the Special Assessments require further adjustment.

The Owner therefore hereby respectfully requests that the City approve this Plan Amendment No. 2 and cause the attached **Attachment B** to be attached to and incorporated into the Plan, and to fully replace existing Attachment A and Attachment B to the Plan. Except as expressly modified by this Plan Amendment No. 2, all of the provisions of the Plan shall remain in full force and effect and be binding in accordance with their terms.

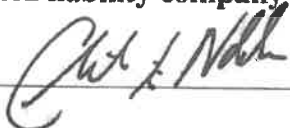
[Balance of Page Intentionally Left Blank]

BY EXECUTING THIS AMENDMENT TO THE PLAN, THE OWNER IDENTIFIED BELOW HEREBY AUTHORIZES AND CONSENTS TO THIS AMENDMENT TO THE PLAN, AND ALL DISTRICT DOCUMENTS (AS DEFINED IN THE PLAN), AND AGREES TO PERFORM THE OBLIGATIONS OF THE OWNER CONTAINED IN THIS AMENDMENT TO THE PLAN.

Date: November 23, 2020

Owner:

2347 READING ROAD, LLC
an Ohio limited liability company

By: 

Name: Chinedum Ndukwe

Title: Manager

PLAN—ATTACHMENT B

**DESCRIPTION OF AUTHORIZED IMPROVEMENTS AND SCHEDULE OF
AMENDED SPECIAL ASSESSMENTS**

The real property owned by 2347 Reading Road, LLC at 2347 Reading Road, Cincinnati, Ohio 45202 is the location at which the special energy improvements described below shall be constructed and installed, and shall exist (the Project). The legal description of the property is set forth on Exhibit A to the Petition, as amended. The property will be subject to special assessments for energy improvements in accordance with Ohio Revised Code Chapter 1710.

The Project is expected to consist of the following energy efficiency elements:

- High-efficiency building envelope and mechanical systems
- High-efficiency elevators
- High-efficiency roofing materials
- High-efficiency windows and doors
- High-efficiency lighting

Total assessment costs—\$6,023,361.12

Estimated average semi-annual special assessments for 28 years: \$107,560.02

Number of semi-annual assessments: 56

First annual installment due: approximately January 31, 2022

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The schedule of Special Assessments for the Project is as follows:

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January 31, 2026	107,560.02
July 17, 2026	107,560.02
January 31, 2027	107,560.02
July 17, 2027	107,560.02
January 31, 2028	107,560.02
July 17, 2028	107,560.02
January 31, 2029	107,560.02
July 17, 2029	107,560.02
January 31, 2030	107,560.02
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January 31, 2034	107,560.02
July 17, 2034	107,560.02
January 31, 2035	107,560.02
July 17, 2035	107,560.02
January 31, 2036	107,560.02
July 17, 2036	107,560.02
January 31, 2037	107,560.02
July 17, 2037	107,560.02
January 31, 2038	107,560.02
July 17, 2038	107,560.02
January 31, 2039	107,560.02
July 17, 2039	107,560.02
January 31, 2040	107,560.02
July 17, 2040	107,560.02
January 31, 2041	107,560.02
July 17, 2041	107,560.02

Special Assessment Payment Date*	Special Assessment Payment Amount**
January 31, 2042	\$107,560.02
July 17, 2042	107,560.02
January 31, 2043	107,560.02
July 17, 2043	107,560.02
January 31, 2044	107,560.02
July 17, 2044	107,560.02
January 31, 2045	107,560.02
July 17, 2045	107,560.02
January 31, 2046	107,560.02
July 17, 2046	107,560.02
January 31, 2047	107,560.02
July 17, 2047	107,560.02
January 31, 2048	107,560.02
July 17, 2048	107,560.02
January 31, 2049	107,560.02
July 17, 2049	107,560.02

* Pursuant to Ohio Revised Code Chapter 323, the Special Assessment Payment Dates identified in this Exhibit B are subject to adjustment under certain conditions.

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

**SECOND AMENDMENT TO THE PETITION FOR SPECIAL ASSESSMENTS FOR
SPECIAL ENERGY IMPROVEMENT PROJECTS AND AFFIDAVIT**

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

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

2347 Reading Road, LLC, an Ohio limited liability company (the “Petitioner”), as the owner of 100% of the property described on Exhibit A attached to the Petition (as defined below) (the “Property”), submitted a petition to the City Manager, City Council, and the City of Cincinnati, Ohio (the “City”) on October 8, 2018 (the “Original Petition”) pursuant to Ohio Revised Code Chapter 1710. All capitalized terms used in this Amendment when the rules of grammar would not so require and not defined in this Amendment shall have the meanings assigned to them in the Petition, as amended by the Amendment to the Petition for Special Assessments for Special Energy Improvement Projects dated November 1, 2019 by the Petitioner (the “Petition Amendment No. 1,” and together with the Original Petition, this petition, and any additional amendments or supplements, the “Petition”).

The Original Petition included, as Exhibit B thereto, the City of Cincinnati, Ohio Energy Special Improvement District Program Plan Supplement to Plan for 2347 Reading Road Project (the “Original Plan”). Under the Original Petition and the Original Plan, the Petitioner requested that the City levy Special Assessments on the Property in the amounts listed on Attachment B to the Original Plan. On October 31, 2018, the City levied the Special Assessments by its Ordinance No. 344-2018 as requested by the Petitioner under the Original Petition and the Original Plan.

After the date of the Original Petition and the date on which the Special Assessments were levied, the financing terms of the Petitioner’s transaction to finance the special energy improvement projects contained within the Original Petition and the Original Plan changed, and the amount of the annual installments of the Special Assessments required adjustment. The Petitioner therefore submitted the Petition Amendment No. 1 to the City, and on November 14, 2019 the City Council of the City approved and filed the Petition Amendment No. 1 and modified the Special Assessments as requested in the Petition Amendment No. 1.

Since the date of Petition Amendment No. 1 and the date on which the Special Assessments were levied, the financing terms of the Petitioner’s transaction to finance the special energy improvement projects contained within the Original Petition, as amended by the Petition Amendment No. 1, have further changed, and the amount of the annual installments of the Special Assessments require further adjustment.

The Petitioner therefore hereby respectfully requests that the City: (1) approve this Second Amendment to the Petition for Special Assessment for Special Energy Improvement Projects (the

“Petition Amendment No. 2”) to cause Exhibit B to the Original Petition to be further amended as shown on the Second Amendment to City of Cincinnati, Ohio Energy Special Improvement District Program Plan Supplement to Plan for 2347 Reading Road Project attached to, and incorporated into, this Amendment as **Exhibit B** (the “Plan Amendment No. 2”), and (2) to amend the Special Assessments so that they are levied on the Property in the amounts stated on Attachment B to the Plan Amendment No. 2.

Except as expressly modified by this Amendment, all of the provisions of the Original Petition and Petition Amendment No. 1 shall remain in full force and effect and be binding in accordance with their terms.

The Petitioner hereby re-states, as if set forth fully in this Amendment, each of the waivers contained in the Original Petition, including, without limitation, the waivers set forth in Sections 7, 9, 10, and 11 of the Original Petition.

The Petitioner acknowledges and understands that the City and the Board of Directors of the City of Cincinnati, Ohio Energy Special Improvement District, Inc. relied on the Original Petition, Petition Amendment No. 1, and will rely on this Petition Amendment No. 2 in taking actions and expending resources. Therefore, this Petition Amendment No. 2 shall be irrevocable and shall be binding upon the Petitioner, any successors or assigns of the Petitioner, the Property, and any grantees, mortgagees, lessees, or transferees of the Property. The Petitioner acknowledges that it has had an opportunity to be represented by legal counsel in this undertaking and has knowingly waived the rights identified in the Original Petition, as amended hereby.

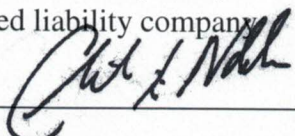
The Petitioner further deposes and states that this Petition Amendment No. 2 and actions provided for herein impose burdens and obligations upon the Property and provide for Special Assessments to be levied upon the Property in accordance with the Petition, and that this Petition Amendment No. 2 is available for inspection at the office of the Clerk of Council of the City.

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IN WITNESS WHEREOF, the Petitioner has caused this petition to be executed by its authorized representative, as set forth below.

PETITIONER:

2347 READING ROAD, LLC,
an Ohio limited liability company

By: 

Name: Chinedom Ndukwe

Title: Manager

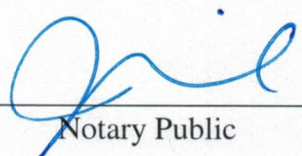
STATE OF Ohio)

COUNTY OF Hamilton)

SS:

On the 23 day of November, ~~2019~~ ²⁰²⁰, Chinedom Ndukwe, the Manager of 2347 READING ROAD, LLC, personally appeared before me and acknowledged that he or she did execute the foregoing Petition on behalf of that limited liability company and that the same was the free act and deed of such officer. The notarial act certified hereby is a jurat. An oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

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


Notary Public

[SEAL]



JILL R. MCGRAIL
Attorney At Law
NOTARY PUBLIC
STATE OF OHIO
My Commission Has
No Expiration Date
Section 147.03 O.R.C.

EXHIBIT B

SECOND AMENDMENT TO PLAN

**SECOND AMENDMENT TO THE CITY OF CINCINNATI, OHIO ENERGY SPECIAL
IMPROVEMENT DISTRICT PROGRAM PLAN SUPPLEMENT TO PLAN FOR 2347
READING ROAD PROJECT**

This Second Amendment to the City of Cincinnati, Ohio Energy Special Improvement District Program Plan Supplement to Plan for 2347 Reading Road Project (this “Plan Amendment No. 2”) is dated as of the date set forth below, and is executed by 2347 Reading Road, LLC, as the owner of real property within the District (the “Owner”) described on Attachment A to the Plan (as defined below) (the “Property”). All capitalized terms used in this Plan Amendment No. 2 when the rules of grammar would not so require and not defined in this Plan Amendment No. 2 shall have the meanings assigned to them in the City of Cincinnati, Ohio Energy Special Improvement District Program Plan Supplement to Plan for 2347 Reading Road Project (the “Original Plan”), as amended by the Amendment to the City of Cincinnati, Ohio Energy Special Improvement District Program Plan Supplement to Plan for 2347 Reading Road Project dated November 1, 2019 (the “Plan Amendment No. 1,” and together with the Original Plan, this Plan Amendment No. 2, and any additional amendments or supplements, the “Plan”).

The City of Cincinnati, Ohio Energy Special Improvement District (the “District”) is administering a property assessed clean energy (“PACE”) program (the “Program”). The Program has provided financing secured by special assessments on real property for special energy improvement projects. Pursuant to Ohio Revised Code Chapter 1710, the Owner authorized, consented to, and on or before October 8, 2018, submitted to the City of Cincinnati, Ohio (the “City”) for approval the Original Plan to provide for the Program’s administration and set forth the terms and conditions of participation in the Program.

As part of the Original Plan, the Owner requested and consented to certain special assessments, as set forth on Attachment B to the Original Plan, to be levied by the City with respect to (the “Property”). The Original Plan also included a detailed description of the Authorized Improvements and a schedule of special assessments to be levied on the Property to pay the costs of certain improvements. On October 31, 2018, the City levied the Special Assessments by its Ordinance No. 344-2018 as requested by the Petitioner under the Original Plan.

After the date of the Original Plan and the date on which the Special Assessments were levied, the financing terms of the Owner’s transaction to finance the Authorized Improvements changed, and the amount of the annual installments of the Special Assessments required adjustment. The Owner therefore submitted the Plan Amendment No. 1 to the City, and on November 14, 2019, the City approved the Plan Amendment No. 1 and modified the Special Assessments as requested in it.

Since the date of the Plan Amendment No. 1 and the date on which the Special Assessments were levied, the financing terms of the Owner's transaction to finance the Authorized Improvements have further changed, and the amount of the annual installments of the Special Assessments require further adjustment.

The Owner therefore hereby respectfully requests that the City approve this Plan Amendment No. 2 and cause the attached **Attachment B** to be attached to and incorporated into the Plan, and to fully replace existing Attachment A and Attachment B to the Plan. Except as expressly modified by this Plan Amendment No. 2, all of the provisions of the Plan shall remain in full force and effect and be binding in accordance with their terms.

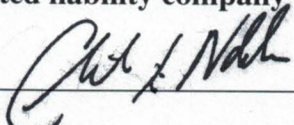
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BY EXECUTING THIS AMENDMENT TO THE PLAN, THE OWNER IDENTIFIED BELOW HEREBY AUTHORIZES AND CONSENTS TO THIS AMENDMENT TO THE PLAN, AND ALL DISTRICT DOCUMENTS (AS DEFINED IN THE PLAN), AND AGREES TO PERFORM THE OBLIGATIONS OF THE OWNER CONTAINED IN THIS AMENDMENT TO THE PLAN.

Date: November 23, 2020

Owner:

2347 READING ROAD, LLC
an Ohio limited liability company

By: 

Name: Chinedum Ndukwue

Title: Manager

PLAN—ATTACHMENT B

**DESCRIPTION OF AUTHORIZED IMPROVEMENTS AND SCHEDULE OF
AMENDED SPECIAL ASSESSMENTS**

The real property owned by 2347 Reading Road, LLC at 2347 Reading Road, Cincinnati, Ohio 45202 is the location at which the special energy improvements described below shall be constructed and installed, and shall exist (the Project). The legal description of the property is set forth on Exhibit A to the Petition, as amended. The property will be subject to special assessments for energy improvements in accordance with Ohio Revised Code Chapter 1710.

The Project is expected to consist of the following energy efficiency elements:

- High-efficiency building envelope and mechanical systems
- High-efficiency elevators
- High-efficiency roofing materials
- High-efficiency windows and doors
- High-efficiency lighting

Total assessment costs—\$6,023,361.12

Estimated average semi-annual special assessments for 28 years: \$107,560.02

Number of semi-annual assessments: 56

First annual installment due: approximately January 31, 2022

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The schedule of Special Assessments for the Project is as follows:

Special Assessment Payment Date*	Special Assessment Payment Amount**
January 31, 2022	\$107,560.02
July 17, 2022	107,560.02
January 31, 2023	107,560.02
July 17, 2023	107,560.02
January 31, 2024	107,560.02
July 17, 2024	107,560.02
January 31, 2025	107,560.02
July 17, 2025	107,560.02
January 31, 2026	107,560.02
July 17, 2026	107,560.02
January 31, 2027	107,560.02
July 17, 2027	107,560.02
January 31, 2028	107,560.02
July 17, 2028	107,560.02
January 31, 2029	107,560.02
July 17, 2029	107,560.02
January 31, 2030	107,560.02
July 17, 2030	107,560.02
January 31, 2031	107,560.02
July 17, 2031	107,560.02
January 31, 2032	107,560.02
July 17, 2032	107,560.02
January 31, 2033	107,560.02
July 17, 2033	107,560.02
January 31, 2034	107,560.02
July 17, 2034	107,560.02
January 31, 2035	107,560.02
July 17, 2035	107,560.02
January 31, 2036	107,560.02
July 17, 2036	107,560.02
January 31, 2037	107,560.02
July 17, 2037	107,560.02
January 31, 2038	107,560.02
July 17, 2038	107,560.02
January 31, 2039	107,560.02
July 17, 2039	107,560.02
January 31, 2040	107,560.02
July 17, 2040	107,560.02
January 31, 2041	107,560.02
July 17, 2041	107,560.02

Special Assessment Payment Date*	Special Assessment Payment Amount**
January 31, 2042	\$107,560.02
July 17, 2042	107,560.02
January 31, 2043	107,560.02
July 17, 2043	107,560.02
January 31, 2044	107,560.02
July 17, 2044	107,560.02
January 31, 2045	107,560.02
July 17, 2045	107,560.02
January 31, 2046	107,560.02
July 17, 2046	107,560.02
January 31, 2047	107,560.02
July 17, 2047	107,560.02
January 31, 2048	107,560.02
July 17, 2048	107,560.02
January 31, 2049	107,560.02
July 17, 2049	107,560.02

* Pursuant to Ohio Revised Code Chapter 323, the Special Assessment Payment Dates identified in this Exhibit B are subject to adjustment under certain conditions.

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