

City of Cincinnati

CHM

AWB

An Ordinance No. _____ - 2022

AUTHORIZING the City Manager to execute a *Lease Agreement* with Fountain Place, LLC, pursuant to which the City will lease a portion of Convention Way west of Vine Street in the Central Business District for a term of up to thirty years.

WHEREAS, the City of Cincinnati owns certain real property, designated as right of way, commonly known as Convention Way in the Central Business District, which property is generally located north of Fifth Street and west of Vine Street (the “Property”) and is under the management of the Department of Transportation and Engineering (“DOTE”); and

WHEREAS, Fountain Place, LLC, an Ohio limited liability company (“Lessee”), holds title to certain real property abutting the Property located at 505 Vine Street in the Central Business District, which property contains the Foundry building, formerly known as the Macy’s-anchored Fountain Place building, and has requested to lease from the City a portion of the Property as more particularly depicted in the *Lease Agreement* incorporated herein as Attachment A (the “Lease Area”); and

WHEREAS, the City Manager, in consultation with DOTE, has determined that (i) the Lease Area, above grade, is not needed for any municipal purpose for the duration of the lease; (ii) leasing the Lease Area to Lessee is not adverse to the City’s retained interest in the Lease Area and the Property; and (iii) leasing the Lease Area to Lessee will not have an adverse effect on the usability or accessibility of any existing facilities in the public right-of-way; and

WHEREAS, the City’s Real Estate Services Division has determined by appraisal that the fair market rental value of the Lease Area is approximately \$9,500 per year; however, the City has agreed to lease the Lease Area to Lessee for \$1.00 per year because the City will receive benefits that equal or exceed the fair market value of the lease through avoiding the cost and expense of directly performing the management, maintenance, and repair of the Lease Area and through the stimulation of economic activity and growth in the vicinity of the Lease Area; and

WHEREAS, pursuant to Section 331-5 of the Cincinnati Municipal Code, Council may authorize the lease of City-owned property without competitive bidding in those cases in which it determines that it is in the best interest of the City, and the City Manager has determined that the City’s lease of the Lease Area is in the best interest of the City because, as a practical matter, no one other than Lessee, an abutting property owner, would have any interest in leasing the Lease Area and assuming responsibility for the maintenance and repair thereof; and

WHEREAS, the City Planning Commission, having the authority to approve the change in the use of City-owned property, approved the lease of the Lease Area at its meeting on July 15, 2022; now, therefore,

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

Section 1. That the City Manager is hereby authorized to execute a *Lease Agreement* with Fountain Place, LLC, an Ohio limited liability company (“Lessee”), in substantially the form attached as Attachment A to this ordinance and incorporated herein by reference, pursuant to which the City of Cincinnati will lease a portion of Convention Way west of Vine Street, as more particularly depicted in the *Lease Agreement* (the “Lease Area”) for a term of up to 30 years.

Section 2. That the Lease Area above grade is not needed for any municipal purpose for the duration of the lease.

Section 3. That leasing the Lease Area to Lessee is not adverse to the City’s retained interest in the Lease Area, and leasing the Lease Area to Lessee will not have an adverse effect on the usability or accessibility of any existing facilities in the public right-of-way.

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

Section 5. That the fair market value of the lease, as determined by an appraisal by the City’s Real Estate Services Division, is \$9,500 per year; however, the City has agreed to lease the Lease Area to Lessee for \$1.00 per year because the City will receive benefits that equal or exceed the fair market value of the lease through avoiding the cost and expense of directly performing the management, maintenance, and repair of the Lease Area and through the stimulation of economic activity and growth in the vicinity of the Lease Area.

Section 6. That the proper City officials are hereby authorized to take all necessary and proper actions to carry out the provisions of this ordinance and to fulfill the terms of the *Lease Agreement*, including executing any and all ancillary documents associated with the lease, such as amendments or supplements to the lease deemed by the City Manager to be in the vital and best interests of the City.

Section 7. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed: _____, 2022

Aftab Pureval, Mayor

Attest: _____
Clerk

LEASE AGREEMENT
(Portion of Convention Way)

This Lease Agreement ("**Lease**") is made and entered into by and between the **CITY OF CINCINNATI**, an Ohio municipal corporation, the address of which for purposes of this Lease is 801 Plum Street, Cincinnati, OH 45202 (the "**City**"), and **FOUNTAIN PLACE, LLC**, an Ohio limited liability company, the address of which for purposes of this Lease is 1203 Walnut Street, Fourth Floor, Cincinnati, OH 45202 ("**Lessee**").

Recitals:

A. The City owns the public right-of-way known as Convention Way, lying north of 5th Street between Vine and Race Streets (the "**City Property**"), in the Central Business District, as shown on Exhibit A (Survey) hereto. The City Property is under the management of the City's Department of Transportation and Engineering ("**DOT**").

B. By virtue of a *Quitclaim Deed* recorded on December 24, 2019, in OR 14070, Page 848, Hamilton County, Ohio Records, Lessee holds title to certain real property abutting Convention Way to the south located at 505 Vine Street, Cincinnati, OH 45202 ("**Lessee's Property**").

C. Lessee desires to lease from the City a portion of the City Property for service access and to use and operate valet parking services, which portion is more particularly depicted on Exhibit A and described on Exhibit B (Legal Description-Leased Premises) (the "**Leased Premises**").

D. Lessee has delivered to the City an *Attorney Certificate of Title*, signed by a reputable attorney practicing in Hamilton County, Ohio, certifying that the owners of all the real property abutting the City Property adjoining the Leased Premises are as follows: (i) the City, (ii) Lessee, (iii) Huntington Center Cincinnati Realty LP and (iv) Cincinnati Terrace Associates LLC.

E. The City is agreeable to lease the Leased Premises to Lessee to facilitate the renovation and adaptive reuse of Lessee's Property and has determined (i) that the Leased Premises, above grade, is not needed for any municipal purpose for the duration of the Lease, (ii) that leasing the Leased Premises to Lessee is not adverse to the City's retained interest in the Leased Premises, and (iii) that leasing the Leased Premises to Lessee will not have an adverse effect on the usability or accessibility of any existing facilities in the public right-of-way.

F. The City's Real Estate Services Division has determined that the fair market rental value of the Leased Premises, as determined by professional appraisal, is \$9,500 per year; however, the City has agreed to lease the Leased Premises to Lessee for \$1.00 per year because the City will receive benefits that equal or exceed the fair market value of the lease through avoiding the cost and expense of directly performing the management, maintenance, and repair of the Leased Premises and through the stimulation of economic activity and growth in the vicinity of the Leased Premises.

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

H. City Planning Commission, having the authority to approve the change in the use of City-owned property, approved the change in use of the Leased Premises at its meeting on July 15, 2022.

I. Cincinnati City Council approved this Lease by Ordinance No. [____]-2022, passed on August [____], 2022.

NOW THEREFORE, the parties hereby agree as follows:

1. **Grant.**

(A) **Grant.** The City does hereby lease the Leased Premises to Lessee, and Lessee does hereby lease the Leased Premises from the City, on the terms and conditions set forth herein. The rights herein granted to Lessee are subject and subordinate to any and all existing covenants, easements, restrictions, and other matters of record affecting the Leased Premises. The City makes no representations or warranties to Lessee concerning the City's title, the physical condition, or characteristics of the Leased Premises, or the suitability or fitness of the Leased Premises for the Permitted Use, as defined below. Lessee acknowledges and agrees that it is not relying upon any such representations or warranties from the City, and on the Effective Date, Lessee shall accept the Leased Premises in "as is" condition. Lessee shall not use or permit the use of the Leased Premises in any manner that is inconsistent with the terms and conditions set forth herein or in any manner that impairs or unreasonably interferes with the rights of the City or others, such as abutting property owners, having the legal right to access or use the Leased Premises.

(B) **Access by City Departments, Utility Companies, Abutting Property Owners.** Lessee shall ensure continuous, unrestricted access to the Leased Premises at a level that is at least equal to existing access to the public right-of-way as of the Effective Date (24 hours/day, 7 days/week, 52 weeks/year) for the following: (i) DOTE for inspection and other purposes; (ii) the City's Police and Fire Departments and other emergency vehicles; and (iii) all abutting property owners, and their employees, agents, tenants, licensees, and invitees. All affected public utilities, including without limitation Greater Cincinnati Water Works ("GCWW"), Metropolitan Sewer District of Greater Cincinnati ("MSD"), Duke Energy ("Duke"), and Altafiber, formerly known as Cincinnati Bell, shall have the right to access the Leased Premises at any time to inspect, construct, install, operate, maintain, repair, reconstruct, reinstall, remove, replace, or abandon any and all existing underground and overhead utility facilities located within the Leased Premises. If Lessee's use of the Leased Premises causes damage to existing utility facilities belonging to a utility provider, Lessee shall immediately notify the appropriate utility provider. All costs of repairing such damage caused by Lessee (and not utility providers), including without limitation, all costs of replacing any damaged utility facilities that are not capable of being properly repaired as determined by the applicable utility provider in its sole discretion, shall be borne by Lessee and shall be payable by Lessee within thirty (30) days after Lessee receives documentation substantiating such costs. If any utility provider damages or must remove any improvements installed by Lessee within the Leased Premises in connection with its inspection, operation, maintenance, repair, or replacement of its existing utility facilities in the area, Lessee shall be solely responsible for all costs associated with the repair, replacement, or relocation of such improvements.

2. **Term.**

(A) **Initial Term (15 years).** The initial term of this Lease (the "Term") shall commence on the Effective Date (also referred to herein as the "Commencement Date") and, unless extended or sooner terminated as herein provided, shall expire on the last day of the 15th Lease Year (being the date immediately preceding the 16th anniversary of the Commencement Date). As used herein, a "Lease Year" shall mean each successive 12-month period beginning on the Commencement Date.

(B) **Renewal Periods (three 5-year periods, up to 15 years).** Provided Lessee is not in default under this Lease beyond any applicable cure period, at the time it exercises each renewal option, Lessee shall have the option to extend the Term of this Lease for three renewal periods of 5 years (for a total Term, including the initial Term, of 30 years), exercisable by giving written notice thereof to the City at least 60 days (but no earlier than 120 days) prior to the expiration of the initial Term or the then-current renewal period. Each renewal shall be on the same terms and conditions as set forth herein (except that, after the third renewal period, there shall be no additional renewal options unless agreed to by the parties in a written amendment to this Lease). As used herein, the "Term" of this Lease means the initial Term and, if applicable, the renewal periods.

(C) **Early Termination on 120 Days Notice.** The City may need the Leased Premises in the future for municipal purposes. Therefore, notwithstanding anything in this Lease to the contrary, the City shall have the right to terminate this Lease at any time, by giving Lessee no less than 120 days prior written notice thereof, if the

City determines that it needs the Leased Premises or any portion thereof for a municipal purpose or for any other reason. Similarly, Lessee may terminate this Lease at any time and for any reason by giving the City no less than 120 days prior written notice thereof. No later than the termination date set forth in a termination notice, Lessee shall remove any of Lessee's improvements from the Leased Premises unless the City instructs otherwise as described in section 11 (*Surrender; Holdover*) below, and Lessee shall surrender possession of the Leased Premises to the City.

3. Rent.

(A) **Base Rent.** Lessee shall pay the City annual rent for the Leased Premises, in advance, without notice or setoff, in the amount of \$1.00 ("**Base Rent**"). The City acknowledges Lessee's prepayment of Base Rent for the initial Term. Any renewal by Lessee shall also include prepayment of Base Rent for the renewal Term.

(B) **Late Payment; Place of Payment.** If any payment owed by Lessee hereunder is not received by the City on the due date, Lessee shall pay the City a late charge equal to five percent of the amount past due, together with interest on the past due amount, until paid, at an annual rate of ten percent. All payments shall be made by check payable to the "City of Cincinnati - Treasurer" and mailed to: City of Cincinnati, 801 Plum Street, Room 122, Cincinnati, Ohio 45202, Attention: Real Estate, or to such other address as the City may from time to time designate in writing.

4. Permitted Use; Restrictions.

(A) **Permitted Use.** Lessee may use the Leased Premises to operate valet parking services and other operations incidental to commercial uses located within Lessee's Property and for no other purpose, including self-service parking facilities, unless consented to in writing by DOTE (the "**Permitted Use**"). The site plan for the Leased Premises and the facilities for conducting the Permitted Use is generally depicted on Exhibit C (Site Plan) hereto. Notwithstanding the foregoing, nothing herein shall be construed to permit or authorize any use or activity prohibited by applicable land use regulations, including, without limitation to, the Cincinnati Zoning Code. Lessee shall apply for and receive any and all required permits from DOTE and the City's Department of Buildings and Inspections for the Permitted Use before establishing the Permitted Use at the Leased Premises.

(B) **Restrictions.** Lessee shall not park vehicles within, across from, or in a manner that diminishes access to any loading dock or garage exit owned, operated, or accessed by an abutting property owner or their employees, agents, tenants, licensees, and invitees, unless otherwise agreed to by such abutting property owner in writing. Lessee shall not bring or permit to be brought onto the Leased Premises any hazardous materials or other contaminants or substances that are harmful to the public or to the environment.

5. Utilities & Other Expenses. During the Term of this Lease, Lessee shall pay, when due, (i) any and all utility expenses associated with the Leased Premises, (ii) any and all real estate taxes, assessments, penalties, interest, or other charges levied against the Leased Premises that become due and payable during the Term, including the two semi-annual tax bills issued by the Hamilton County Treasurer following the expiration or termination of the Term, payable in arrears, and (iii) any and all other operating expenses associated with the Leased Premises. Lessee shall have the right to contest the amount or validity of real estate taxes and assessments by appropriate legal proceedings in its own name. The City shall have the right to participate in such legal proceedings at the City's election. Lessee shall pay all costs and expenses arising from such legal proceedings. *Lessee acknowledges and agrees that the City shall not be liable for any expenses associated with the Leased Premises during the Term of this Lease.*

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

7. Future Alterations.

(A) DOTE Approval of Plans. Lessee shall not make any material alterations or improvements to the Leased Premises without, in each case, obtaining the prior written consent of the City. Lessee shall make such alterations or improvements in accordance with plans and specifications approved in writing by DOTE. Lessee shall obtain any and all necessary street opening or street use permits before installing such alterations or improvements and shall pay any and all permit fees imposed by DOTE. Before any DOTE permits can be issued, Lessee's licensed street contractor shall be required to supply two (2) sets of plans to DOTE showing the location of the alterations or improvements in relation to street fixtures and the rights of way lines.

(B) Removal. At the end of the Term, Lessee shall remove all improvements unless otherwise instructed by DOTE and immediately perform all necessary street and sidewalk restoration under a DOTE street opening permit obtained by a licensed contractor. If Lessee fails to timely remove improvements and complete such restoration to the satisfaction of the City Engineer, the City may do so at Lessee's expense, which amount shall be payable by Lessee within thirty (30) days after Lessee's receipt of a statement from the City indicating the amount due.

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

(D) Signs. Lessee shall be permitted to install or erect signage within the Leased Premises consistent with applicable provisions of the Cincinnati Municipal Code or ordinance. Lessee shall obtain any and all necessary permits or approvals from the City before installing such signage.

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

8. Insurance; Indemnification.

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

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

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

Premises.

9. Default. Should Lessee fail to pay rent or to perform any other obligation under this Lease within thirty (30) days after receiving written notice thereof from the City (herein, a "default"), the City, at its option, immediately or at any time during the continuance of the default, may terminate this Lease by delivering a written notice of termination to Lessee. Lessee shall pay to the City, upon demand, all costs and damages suffered or incurred by the City in connection with Lessee's default or the termination of this Lease. Without limitation of the City's other rights and remedies hereunder, upon the occurrence of a default, the City may, but shall not be obligated to, cure or attempt to cure such default at Lessee's sole expense and may, if necessary, enter onto the Leased Premises in order to undertake such cure. Lessee shall pay the City within ten (10) days after the City's written demand an amount equal to all costs paid or incurred by the City in effecting compliance with Lessee's obligations under this Lease, together with interest thereon from the date that the City pays or incurs such costs at an annual rate of ten percent. The rights and remedies of the City under this Lease are cumulative and are not intended to be exclusive of, and the City shall be entitled to, any and all other rights and remedies to which the City may be entitled hereunder, at law or in equity. The City's failure to insist in any one or more cases on strict performance of any provision of this Lease or to exercise any right herein contained shall not constitute a waiver in the future of such right.

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

11. Surrender; Holdover.

(A) **Surrender; Holdover.** At the end of the Term, Lessee shall surrender the Leased Premises to the City in the condition in which Lessee is required to maintain the Leased Premises under the terms of this Lease. If Lessee remains in possession of the Leased Premises after the end of the Term, then, at the City's option, such holdover shall create a tenancy from month-to-month on the same terms and conditions as set forth in this Lease except that rent payable during such month-to-month tenancy shall be equal to the then fair market rental value of the Leased Premises as determined by appraisal by the City's Real Estate Services Division.

(B) **Removal of Alterations.** If Lessee has made improvements to the Leased Premises during the Term, then, at the end of the Term, the City shall identify which improvements Lessee shall be required to surrender (at no cost to the City) and which improvements Lessee shall be required to remove. If there are improvements specific to a tenant of Lessee that are related to their brand, the City may not require Lessee to surrender such improvements, but Lessee shall be responsible for the cost of repairing any damage caused by their removal. If Lessee fails to timely remove improvements that are designated for removal by the City, such improvements shall be deemed abandoned by Lessee, whereupon the City may remove, store, keep, sell, discard or otherwise dispose of such improvements, and Lessee shall pay all costs incurred by the City in so doing within twenty days after the City's written demand.

12. General Provisions.

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

(B) **Amendments.** This Lease may be amended only by a written amendment signed by both parties, with the exception that the City reserves the right to modify this Lease at any time as necessary to accommodate the access needs of abutting property owners or their employees, agents, tenants, licensees, and invitees as may

become necessary in the City's reasonable discretion. Upon receipt of a proposed lease amendment from the City to accommodate the access needs of abutting property owners or their employees, agents, tenants, licensees, and invitees, Lessee shall execute and return such lease amendment to the City no later than 30 days following Lessee's receipt of same. If Lessee does not agree to the terms of the lease amendment, or if the City otherwise does not receive the executed lease amendment from Lessee within 30 days, then the City may terminate this Lease, following written notice to Lessee of such termination.

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

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

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

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

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

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

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

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

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

(L) Counterparts and Electronic Signatures. This Lease may be executed by the parties hereto in two or more counterparts and each executed counterpart shall be considered an original. This Lease may be executed and delivered by electronic signature.

13. Additional Conditions from City's Coordinated Report #28-2022.

(A) NOTE:

(i.) The Lease shall not extend beyond the face of the building on Vine Street.

(ii.) Any future activities such as valet operations shall not impede or block the public sidewalk, or the lease may be terminated.

(iii.) All vehicles that enter from Vine Street must be able to exit to Race Street and not back out into Vine Street.

(B) SMU: There is a 12" storm sewer inlet and manhole within the Leased Premises. Lessee shall be responsible for all maintenance and repair obligations with respect to the 12" storm sewer inlet from the inlet to the connection point within Vine Street.

(C) GCWW: There is an existing six-inch public water main connected to a 12-inch public water main and associated appurtenances and equipment within the Leased Premises. Lessee shall be solely responsible for the replacement or repair of any improvements within the Leased Premises if such improvements are damaged by the failure, repair, operation, or replacement of the existing public water system located within or adjacent to the Leased Premises.

(D) Duke Energy: Underground electric facilities are currently located within the right of way of Vine Street and Convention Way. No structures may be constructed within said utility area in conflict with such electric facilities to minimize disruption to existing utilities, nor may the utility area be physically altered so as to (i) reduce the clearances of the facilities; (ii) impair the ability to maintain the facilities or; (iii) create a hazard to the facilities.

(E) Cincinnati Bell: The existing underground telephone facilities must remain in place, in service, and able to be accessed. Any damage done to the facilities, or any work done to relocate the facilities as a result of this Lease shall be handled entirely at Lessee's expense.

(F) Buildings and Inspections: Valet parking operations shall not block fire department connection access to The Foundry, 525 Vine, or the Terrace Plaza Hotel building. Valet parking operations shall not inhibit the use of any loading area or entrance/exit to underground parking for 525 Vine or the Terrace Plaza Hotel building, unless otherwise agreed to by the applicable property owner in writing.

14. Exhibits. The following Exhibits are attached hereto:

Exhibit A – *Survey*

Exhibit B – *Legal Description—Leased Premises*

Exhibit C – *Site Plan*

[*Signature Pages Follow*]

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

Fountain Place, LLC,
an Ohio limited liability company,

By: _____

Printed name: _____

Title: _____

Date: _____, 2022

STATE OF OHIO)
) ss:
COUNTY OF HAMILTON)

The foregoing instrument was acknowledged before me this ____ day of _____, 2022 by _____, the _____ of Fountain Place, LLC, an Ohio limited liability company, on behalf of the company. The notarial act certified hereby is an acknowledgement. No oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

Notary Public
My commission expires: _____

[City Signature Page Follows]

City of Cincinnati

By: _____

Printed name: _____

Title: _____

Date: _____, 2022

STATE OF OHIO)
) ss:
COUNTY OF HAMILTON)

The foregoing instrument was acknowledged before me this ____ day of _____, 2022 by _____, the _____ of the City of Cincinnati, an Ohio municipal corporation, on behalf of the municipal corporation. The notarial act certified hereby is an acknowledgement. No oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

Notary Public
My commission expires: _____

Recommended by:

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

Approved as to Form:

Assistant City Solicitor

Certified Date: _____

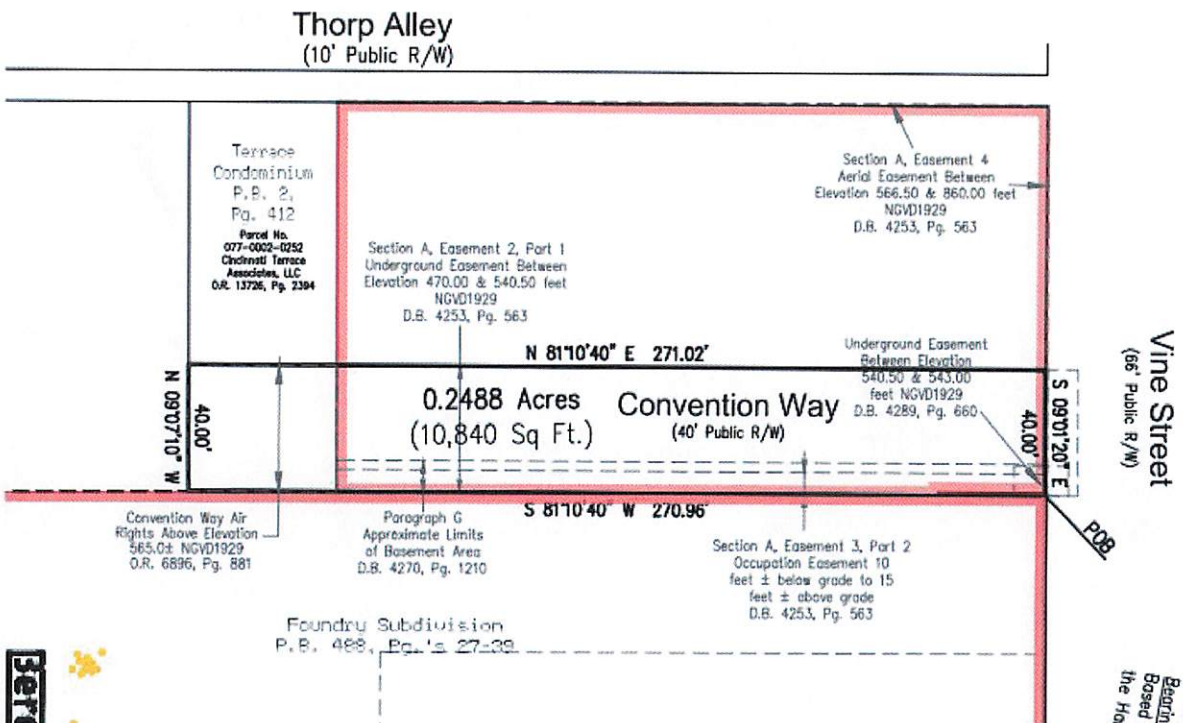
Fund/Code: _____

Amount: _____

By: _____
Karen Alder, City Finance Director

EXHIBIT A
to
Lease Agreement
SURVEY

Bearings:
Based on Plat Book 316, Page 100 of
the Hamilton County Recorder's Office.



3CDC
Foundry Subdivision

ITMS 1GJB 1" = 40'
Created On 07/01/2022 18154:30

Section 18, Town 4, F.R. 1
Between the Main's
Chickini, OH

Convention Way Exhibit



Berding Surveying
GPS Surveying • 3D Laser Scanning
741 Main Street | Marietta, OH 45750 | www.berdingsurveying.com
513.831.6521 fax | 513.831.5525 nh
Copyright © 2022 G. J. Berding Surveying, Inc. All rights reserved.

REVISIONS

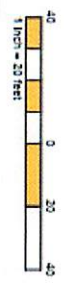


EXHIBIT B
to
Lease Agreement

LEGAL DESCRIPTION – LEASED PREMISES

Description for: 3CDC 0.2488 Acres – Convention Way
Location: City of Cincinnati, Convention Way

Situated in Section 18, Town 4, Fractional Range 1, Between the Miami's, City of Cincinnati, Ohio and being more particularly described as follow:

BEGINNING at the intersection of the south right of way line of Convention Way and the west right of way line of Vine Street,

Thence along the south line of Convention Way, South 81°10'40" West, 270.96 feet;

Thence along the west terminus of Convention Way, North 09°07'10" West, 40.00 feet;

Thence along the north right of way line of Convention Way, North 81°10'40" East, 271.02 feet to the intersection of said north line with the aforementioned west right of way line of Vine Street;

Thence South 09°01'20" East, 40.00 feet to the **POINT OF BEGINNING**.

CONTAINING 0.2488 ACRES.

The above-described parcel being the right of way of Convention Way west of Vine Street and east of Race Street.

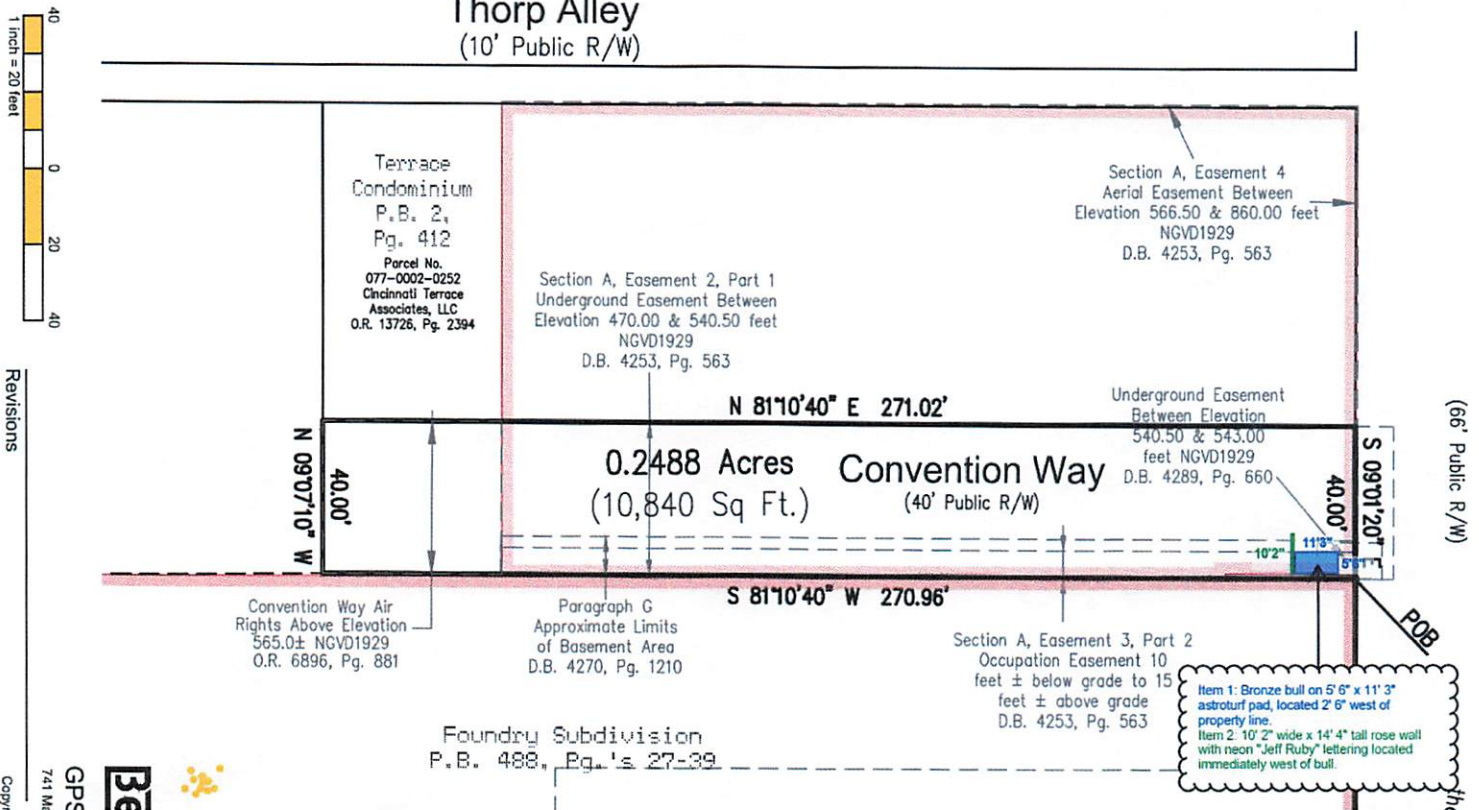
The bearings are based on Plat Book 316, Page 100 of the Hamilton County Recorder's Office.

Prepared by G.J. BERDING SURVEYING, INC. on July 1, 2022. Based on an Exhibit prepared by G.J. BERDING SURVEYING, INC. on July 1, 2022.

EXHIBIT C
to
Lease Agreement

SITE PLAN

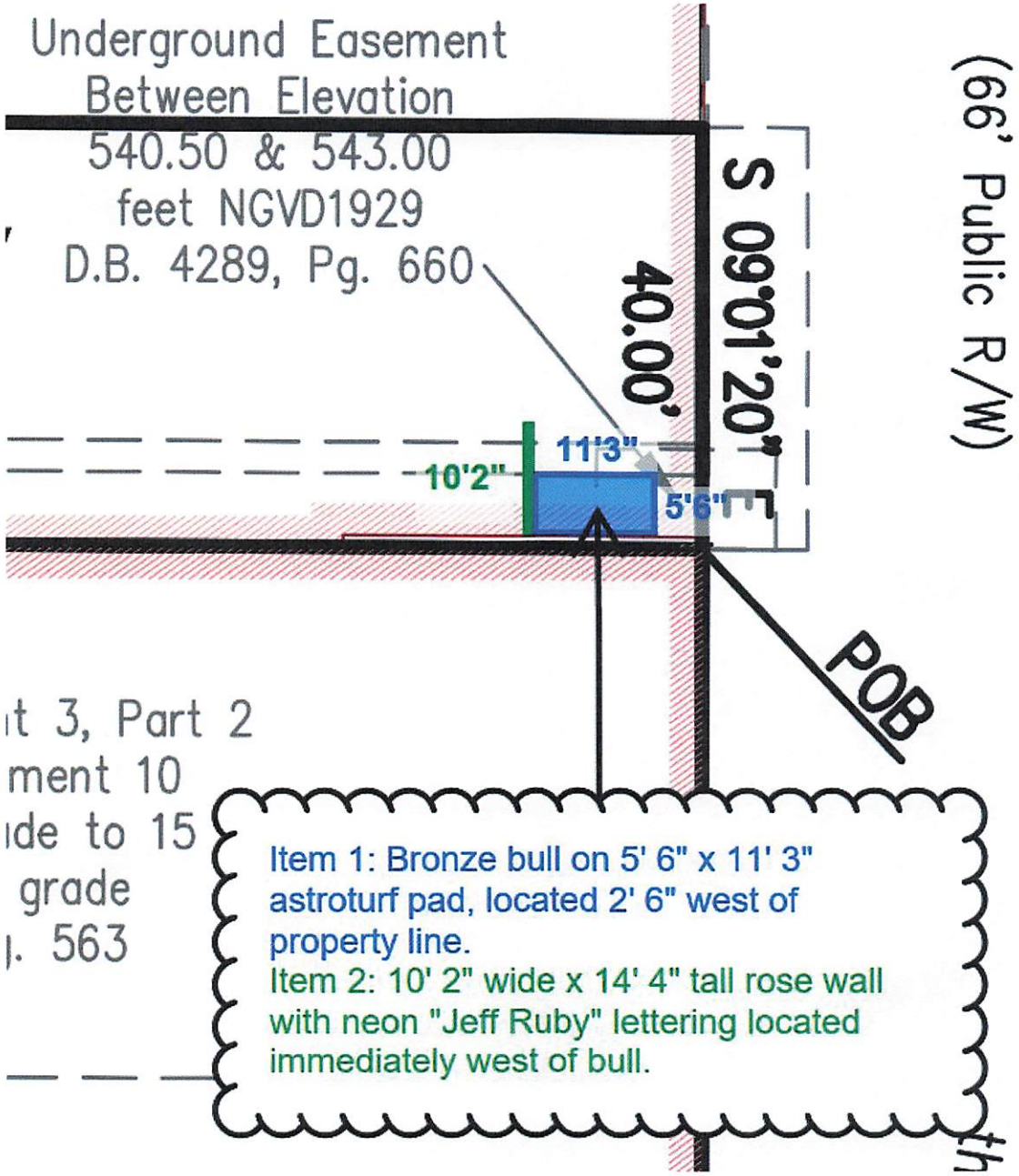
Thorp Alley
(10' Public R/W)



Revisions

GP&C
741 ME
BE

EXHIBIT C
(cont.)



it 3, Part 2
ment 10
ide to 15
grade
p. 563