

Contract No. _____

Property: Madison Road/ Myrtle Avenue
Public Parking Lot

LEASE AGREEMENT

This Lease Agreement (this "**Lease**") is made and entered into effect as of the **Effective Date** (defined on the signature page hereof) by and between the **CITY OF CINCINNATI**, an Ohio municipal corporation, the address of which is 801 Plum Street, Cincinnati, OH 45202 (the "**City**") and **THE EAST WALNUT HILLS ASSEMBLY, INC.**, an Ohio nonprofit corporation, the address of which is P.O. Box 68050, Cincinnati, OH 45206 ("**Lessee**").

Recitals:

A. The City owns approximately 0.794 acres of real property located between Madison Road on the north and Myrtle Avenue on the south, as more particularly described on Exhibit A (Legal Description) and depicted on Exhibit B (Site Map) hereto (the "**Property**"), which Property is under the management of the Department of Community and Economic Development ("**DCED**").

B. The City has leased the Property to Lessee as a public parking lot for the benefit of the general public pursuant to the terms and conditions of a *Lease Agreement* dated December 2, 2013 (the "**Prior Lease**"). The Prior Lease expired on December 1, 2021, and Lessee has continued to Lease the Property on a month-to-month basis since that time.

C. The parties desire to enter into a new lease and the City is agreeable to lease the Property to Lessee on the terms and conditions set forth herein.

D. The City has determined that the Property is not needed for any municipal purpose during the term of this Lease.

E. The estimated fair market rental value of the Property, as determined by the City's Real Estate Services Division, is approximately \$30,000/year; however, the City is agreeable to lease the Property to Lessee for less than its fair market rental value, namely, \$0.00, because (i) the City will receive benefits from the Lease that equal or exceed the estimated fair market rental value of the Property in that the City will be relieved of the expense and administrative burden of the management, operation, and maintenance of the Property through the term of this Lease; (ii) Lessee shall use all revenue generated from the Property to pay operating expenses, and City-approved ordinary and capital maintenance expenses associated with the Property; and (iii) any excess parking revenue shall be used to pay for the promotion and improvement of the East Walnut Hill neighborhood business district, for the benefit of the neighborhood and the City, as approved in advance by the City.

F. The City has determined that eliminating competitive bidding is in the best interest of the public because (i) Lessee is a local neighborhood nonprofit organization with a mission to promote the general welfare of the East Walnut Hills community, (ii) Lessee has demonstrated experience leasing the public parking lots in the neighborhood from the City, and (iii) Lessee acknowledges and agrees that all revenue derived from the use of Property are restricted funds to be reinvested into the operation and maintenance of the Property, with any excess revenue to be used for the promotion and improvement of the East Walnut Hill neighborhood business district, as approved in advance by the City.

G. The City Planning Commission, having the authority to approve the change in use of City-owned property, approved the lease of the Property at its meeting on June 21, 2024.

H. Cincinnati City Council approved this Lease by Ordinance No. [____]-2024, passed on [____], 2024.

NOW THEREFORE, the parties hereby agree as follows:

1. GRANT OF LEASEHOLD.

(A) Grant. On the terms and conditions set forth in this Lease, the City does hereby lease the Property to Lessee, and Lessee does hereby lease the Property from the City for the Term (as defined below). The City leases the Property to Lessee subject to any and all easements, covenants, restrictions, and other matters of record, matters that would be disclosed upon an ordinary inspection or survey of the Property, and any and all rights expressly reserved under this Lease for the benefit of the City, utility companies, and other third parties. Lessee acknowledges and agrees that it has conducted its own due diligence to familiarize itself with the physical condition and characteristics of the Property. The City makes no representations or warranties concerning the title, condition, or characteristics of the Property or the suitability or fitness of the Property for any purpose. Lessee acknowledges and agrees that it is not relying upon any such representations or warranties from the City. On the Effective Date, Lessee shall accept the Property in "as is," "where is" condition with all faults and defects, known or unknown. During the Term, Lessee shall not grant any easements or otherwise encumber the title to the Property without the City's prior written consent. The City shall have the right to grant easements to third parties and to take whatever other actions affecting the Property as may be deemed necessary by the City so long as such actions do not unreasonably impair the rights granted to Lessee under this Lease.

(B) Access by City Departments, Utility Companies, and Others. The City hereby reserves the right for its employees and agents to enter upon the Property from time to time for any proper purpose, provided, however, that in exercising such rights, (i) the City shall not unreasonably disrupt Lessee's use of the Property for the Permitted Use, and (ii) except in emergencies, the City shall give Lessee reasonable written notice before entering the Property. Lessee shall ensure continuous access to the Property for Greater Cincinnati Water Works ("**GCWW**"), Metropolitan Sewer District ("**MSDGC**"), Duke Energy, Altafiber, and any and all other utility companies that have utility lines or other utility installations within the Property for the inspection, maintenance, repair, replacement, and removal thereof. If Lessee undertakes any action that interferes with the access rights reserved to the City and third parties herein, the same shall constitute an immediate default of Lessee under this Lease, whereupon the City and such third parties shall be permitted to take all actions reasonably necessary to eliminate such interference at Lessee's expense. If Lessee's activities within the Property cause damage to existing utility lines or other utility facilities belonging to a utility provider, Lessee shall immediately notify the appropriate utility provider. All actual, out-of-pocket costs of repairing such damage, including, without limitation, all costs of replacing any damaged utility lines and facilities that are not capable of being properly repaired as determined by the applicable utility provider in its sole discretion, shall be borne by Lessee and shall be payable by Lessee within thirty (30) days after Lessee receives documentation substantiating such costs. If any utility company damages or must remove any improvements installed by Lessee within the Property in connection with its inspection, maintenance, repair, replacement, or removal of its existing utility facilities in the area, Lessee shall be solely responsible for all costs associated with the repair or replacement of Lessee's improvements. Under no circumstances shall the City be responsible for any damage to the Property or improvements thereon resulting from the entry onto the Property by utility companies and others having the right to enter upon the Property.

2. TERM; RENEWAL OPTIONS

(A) Initial Term (5 years). The term of this Lease ("**Term**") shall commence on the Effective Date, and, unless extended or sooner terminated in accordance with the provisions of this Lease, shall expire on the fifth anniversary thereof. All obligations of Lessee under this Lease that have accrued but have not been fully performed as of the expiration or sooner termination of the Term of this Lease, including without limitation indemnity obligations, shall survive such expiration or termination until fully performed.

(B) Renewal Options (two (2) five (5)-year extensions). Provided that, at the time that Lessee exercises each renewal option and on the commencement date of the applicable renewal period, Lessee is not in default under this Lease beyond any applicable notice or cure period provided for herein, Lessee shall have the right to renew the Term of this Lease for two successive renewal periods of five (5) years each (each, a “**Renewal Period**”), for a total Term, including the initial Term, of fifteen (15) years, exercisable by giving written notice thereof to the City at least ninety (90) days (but no earlier than nine months) before the expiration of the initial Term or then-current Renewal Period (each, a “**Written Notice of Renewal**”). Each Renewal Period shall be on the same terms and conditions as set forth herein (except that, after the second Renewal Period, there shall be no additional renewal options unless agreed to by the parties in a written amendment to this Lease). As used herein, the “**Term**” of this Lease means the initial Term and, if applicable, the Renewal Periods.

3. PERMITTED USE.

(A) Public Parking Lot. Throughout the Term, Lessee shall continuously operate the Property as a public parking lot, open and available to members of the general public on a daily, monthly, or other subscription basis. Lessee shall maintain and operate or otherwise cause the Property to be maintained and operated in a Class A Manner (as defined below). Lessee shall obtain and maintain all necessary licenses and permits and shall operate and maintain the parking lot in compliance with all applicable federal, state, and local laws, codes, ordinances, and other governmental requirements (collectively, “**Legal Requirements**”). Lessee shall not bring or permit to be brought onto the Property any hazardous materials or other contaminants or substances that are harmful to the public or the environment.

(B) Public Events. Lessee may use the Property from time to time for events intended to promote the purposes for which Lessee was formed, provided that Lessee gives the City advanced written notice at least fourteen calendar days before the event, the City approves the event in writing, and Lessee obtains all necessary licenses and permits for the proposed event (i.e., building, health, zoning, special event permits, etc.). The City may require additional insurance to be carried for certain events at the City’s sole and absolute discretion.

4. RENT.

(A) Base Rent. \$0.00/year.

(B) Additional Rent. This is a “triple net” lease. Throughout the Term, Lessee shall pay all costs associated with the operation, maintenance, repair, and replacement of the Property, including without limitation, charges for utilities serving the Property (e.g., gas, electric, water, sewer, telephone, etc.), insurance costs, real estate taxes, installments of assessments that become due and payable during the Term, salaries, wages, and benefits paid to persons employed in connection with the operation of the parking lot, management fees to any third-party operator, and all other costs that would generally be regarded in the industry as operating costs or expenses (the foregoing, together with any other costs or expenses otherwise consistent with this definition, collectively referred to as the “**Operating Costs**”). Lessee shall make payments of Operating Costs directly to the persons or entities to whom such payments are owed. To the extent that the City, rather than Lessee, pays any costs or expenses that would otherwise be payable by Lessee as Operating Costs, Lessee shall reimburse the City on an annual basis for such costs or expenses, as additional rent, within thirty (30) days after Lessee’s receipt of documentation substantiating such costs or expenses.

(C) Real Estate Taxes. As provided in section 4(B) above, Lessee shall pay all real estate taxes and installments of assessments, penalties, interest, and charges levied against the Property that become due and payable during the Term, including without limitation, the real estate taxes and assessments that are allocable to periods before the Effective Date, and the two semi-annual tax bills issued by the Hamilton County Treasurer following the expiration or termination of the Term, payable in arrears. Lessee shall furnish the City with evidence of payment upon payment of each semi-annual tax bill. If Lessee institutes proceedings to contest the validity or amount of real estate taxes on the Property, the City shall cooperate with Lessee (it being acknowledged that the City shall have no obligation to incur

any costs or expense in so doing) to the extent that the participation of the owner of the Property is required, but Lessee may not defer payment of the real estate taxes during such contest. Lessee shall be entitled to any and all amounts recovered related to tax payments previously made by Lessee. Notwithstanding the foregoing, the City reserves the right to evaluate, on a case-by-case basis, the merit of Lessee's contest and reserves the right not to cooperate in such contest if, in the reasonable determination of the City, such contest would not be in the best interest of the public.

(D) Late Charges. If Lessee fails to pay any sum due to the City hereunder, and the same remains overdue for longer than thirty (30) days past the due date, the overdue amount shall thereafter bear interest until paid at ten percent (10%).

5. OPERATION OF THE PROPERTY.

(A) Hours of Operation. Lessee shall keep the parking lot open to the public 24 hours/day, 7 days/week, 52 weeks/year, or such other hours as may be approved by the City from time to time.

(B) Parking Lot Operator. Lessee shall not hire a third-party parking lot management company to operate the Property as a public parking lot without the City's prior written approval of such company. Lessee shall provide the City with a copy of each proposed parking management agreement no less than 30 days before the date of which such agreement will go into effect. The hiring by Lessee of a parking lot operator shall not relieve Lessee of any obligations or liability under this Lease.

(C) Maintenance, Repairs, and Services. Throughout the Term, Lessee shall operate and maintain the Property in a "Class A Manner." As used herein "**Class A Manner**" means keeping the Property and abutting sidewalks in good, clean, and safe condition and repair; promptly removing any and all garbage and snow and ice; keeping all trees and any and all landscaped portions of the Property neat and properly trimmed; promptly repairing all potholes; maintaining appropriate signage and lighting; providing a sufficient number of parking lot attendants; maintaining appropriate technology; and providing all security and other services for the Property consistent with services offered at other parking facilities of similar age, size, quality and amenities in the Cincinnati area. *The City shall not have any maintenance or repair obligation or any obligation to provide services for the benefit of the Property.*

(D) Reporting of Accidents and Other Significant Occurrences. Lessee shall keep the City informed of all reported accidents and other significant, unanticipated occurrences at or otherwise affecting the Property that involve public health or safety issues, or that could lead to negative publicity. Lessee shall notify the City within 48 hours of break-ins and assaults. For all incidents for which a police report is filed, Lessee shall promptly obtain a copy of the police report and promptly provide a copy of it to the City's Department of Community and Economic Development.

(E) Parking Rates. Lessee shall establish the hourly, daily, and monthly parking rates from time to time for the public parking lot subject to the prior written approval of the City. Lessee shall charge the same parking fees to all members of the public (i.e., Lessee may not selectively charge certain members of the public to park at the Property while permitting others to park for free or at a discounted rate). Lessee shall obtain City approval before any proposed changes in the parking rates. Lessee shall at all times maintain appropriate signage at the Property advertising that the parking lot is open to the public and indicating the hourly and daily parking rates, all of which signage shall be subject to the City's prior written approval. Lessee shall at all times, maintain appropriate pay boxes or the like for the collection of parking fees.

(F) Collection of Parking Lot Revenue; Operating Account. Throughout the Term, Lessee shall collect and retain all user parking fees and other revenue generated from the operation of the Property (collectively, the "**Parking Lot Revenue**") and promptly deposit all such Parking Lot Revenue, if any, in a federally-insured bank account for the Property maintained by Lessee in its own name (the "**Operating Account**"). Upon request of the City, Lessee shall provide the City with copies of the bank statements for the Operating Account. Lessee shall not commingle any other funds in the Operating Account.

(G) Eligible Costs. Lessee may only use Parking Lot Revenue for the following uses (collectively, the “**Eligible Costs**”), in each case in accordance with the terms and conditions of this Lease, and in the following order of priority: (i) the payment of real estate taxes and assessments; (ii) the payment of utility bills for utilities supplied to the Property; and (iii) the payment of other Operating Costs, including without limitation, ordinary maintenance and repairs (e.g., cleaning, sealing, striping etc.). Following payment of Eligible Costs, Lessee shall use any remaining Parking Lot Revenue in accordance with Section 5(H) below. If the sum of the Parking Lot Revenue is insufficient to cover the Eligible Costs, Lessee shall be solely liable to cover the shortfall. *During the Term of this Lease, the City shall have no obligation under this Lease to pay for any expenses associated with the Property or the operation of the Parking Lot.*

(H) Capital Repairs and Improvements; Business District Improvement Projects. Upon the prior written approval of the City in each case, Lessee may use Parking Lot Revenue remaining after the payment of Eligible Costs each year (the “**Net Parking Lot Revenue**”), if any, for the following uses: (i) the payment of capital repairs and improvements to the Property (e.g., repaving, concrete restoration, and the installation of new infrastructure such as parking access and revenue control system equipment); and (ii) the payment of Neighborhood Business District Improvement Projects. As used herein, “**Neighborhood Business District Improvement Projects**” shall mean projects involving the development of additional public parking and other public improvements and expenditures serving a public purpose and benefiting the community, as determined by the City, in its sole discretion. Lessee shall not undertake any Neighborhood Business District Improvement Projects without the prior written approval of the City, which approval the City may grant or deny in its sole discretion. Lessee’s use of Net Parking Lot Revenue for a Neighborhood Business District Improvement Project before the date the City has approved such project shall be deemed a default of Lessee under this Lease. Before undertaking each Neighborhood Business District Improvement Project, Lessee shall submit proposed plans to the City for review and approval. Lessee shall make whatever modifications to the proposed plans the City may reasonably require. Once the City has approved such plans, Lessee shall not make any material changes thereto without submitting the proposed changes to the City for approval. All contractors and subcontractors hired by Lessee to perform the work shall be subject to the City’s prior written approval. Lessee shall notify the City in writing within thirty (30) days following substantial completion of each Neighborhood Business District Improvement Project, which notice shall be accompanied by verification of the costs incurred by Lessee in connection therewith. At any time and from time to time upon the City’s request, Lessee shall furnish to the City such budget, financial, and other information concerning Lessee’s Neighborhood Business District Improvements Projects, including without limitation, copies of contracts with third parties pertaining thereto.

(I) Excess Revenue. If, at the end of the Term, there is any excess revenue (after deducting the cost of any Neighborhood Business District Improvement Projects that have commenced but have not yet then been completed), Lessee shall pay such remaining revenue to the City within thirty (30) days of the end of the Term. Lessee shall pay all amounts payable to the City by check payable to the “City of Cincinnati-Treasurer” and shall mail it to the City of Cincinnati, Department of Community and Economic Development, Room 700, 805 Central Avenue, Cincinnati, Ohio 45202 or to such other address as the City may from time to time designate. Notwithstanding anything in this Lease to the contrary, if the Term of this Lease is terminated due to Lessee’s default, Lessee shall immediately turn over to the City all funds that are in Lessee’s operating account at the time Lessee receives notice of such termination.

(J) Transient and Monthly Parkers. To ensure that the Property maintains its character as a public parking lot, Lessee shall ensure that parking spaces are readily available for transient (hourly/daily) parkers at all times. Notwithstanding the foregoing, Lessee may issue permits to park in excess of one 24-hour period on a monthly and “first come, first served” basis. Monthly permit holders shall not be issued designated parking spaces. Lessee shall be solely responsible for determining the balance of transient and monthly permit parkers to ensure sufficient public parking is available for the neighborhood business district. Lessee shall have the right to issue monthly permits for a minimum of 35% of the parking spaces available at the Property (“**Minimum Monthly Permits**”). *(For clarity, if there are 74 total parking spaces at the Property, then the number of Minimum Monthly Permits equals 26)*. If the City determines there is an increased need for transient parking spaces at the Property as evidenced by new commercial development projects in the neighborhood business district and/or concerns expressed by

neighborhood businesses or visitors, the City shall have the right to issue Lessee written notice to reduce the number of monthly permits in increments of ten monthly permits. Upon receipt of written notice, Lessee shall have 60 days to reduce the number of monthly permits by ten monthly permits. If additional needs arise and/or additional concerns are expressed, then the City shall have the right to continue to reduce the number of monthly permits by ten monthly permits down to the number of Minimum Monthly Permits.

(K) Reporting Requirements. The City acknowledges that Lessee's fiscal year is from July 1 to and including June 30. Throughout the Term, Lessee shall provide the City with the following information and reports in a form acceptable to the City:

(i) Operating Budget. Before the Effective Date, and before the beginning of each fiscal year during the Term (i.e., before July 1), Lessee shall submit a proposed annual operating budget to the City showing the Operating Costs for the upcoming year, which shall include any and all anticipated Net Parking Lot Revenue expenditures for such year. If the City does not provide a written response to Lessee's proposed annual operating budget within 30 calendar days from the date of submission, such annual operating budget shall be deemed approved.

(ii) Quarterly Operating Reports. During the Term, within thirty (30) days of the end of each fiscal quarter (i.e., July 31, October 31, January 31, and April 30), Lessee shall provide the City with a reasonably detailed operating statement, balance sheet, and report for the Property (and such other financial statements and information as may be reasonably requested by the City) for the quarter then just ended showing (a) the Parking Lot Revenue and Operating Costs made in the fiscal quarter then just ended; (b) the calculation of the amount of the Net Parking Lot Revenue for such quarter; (c) the balance of the Operating Account as of the end of such quarter; (d) information on activities under Neighborhood Business District Improvement Projects; and (e) any and all other information regarding operations of the parking lot or compliance with the terms of this Lease as the City may from time to time reasonably request (each a "**Quarterly Operating Report**").

(iii) Annual Operating Report. During the Term, within sixty (60) days of the end of each fiscal year (i.e., August 31), Lessee shall provide the City with a reasonably detailed operating statement, balance sheet, and report for the Property prepared by Lessee's treasurer or accountant (and such other financial statements and information as may be reasonably requested by the City) for the fiscal year then just ended showing (a) the Parking Lot Revenue and Operating Costs made in the fiscal year then just ended; (b) the calculation of the amount of the Net Parking Lot Revenue for such fiscal year; (c) the balance of the Operating Account as of the end of such fiscal year; (d) information on activities under Neighborhood Business District Improvement Projects in the fiscal year; and (e) any and all other information regarding operations of the parking lot or compliance with the terms of this Lease as the City may from time to time reasonably request (each an "**Annual Operating Report**").

(iv) Financial Statements. Lessee shall collect, maintain, and furnish to the City from time to time such other accounting, financial, business, administrative, operational, and other reports, records, statements, and information as may be requested by the City pertaining to Lessee or the Property, including without limitation bank statements, loan statements, income tax returns, and such other reports and information as may be required for compliance with programs and projects funded by the City, Hamilton County, the State of Ohio, or any federal agency (all reports, records, statements and other information furnished by Lessee under this paragraph being referred to herein collectively as "**Records and Reports**"). All Records and Reports compiled by Lessee and furnished to the City shall be in such form as the City may require from time to time. During the Term, Lessee shall permit the City and its designees and auditors to access, inspect, and audit Lessee's Records and Reports. If the City's inspection or audit reveals a material discrepancy with information previously provided by Lessee, Lessee shall reimburse the City for the City's out-of-pocket costs associated with such inspection or audit.

(L) Right to Inspect. During the Term of this Lease and for a period of three (3) years after the end of the Term, the City and its representatives shall have the right to inspect all financial, accounting, administrative, and operational books, records, and statements of Lessee that relate to this Lease. Lessee shall preserve all such books, records, and statements during such three (3) year period.

6. ALTERATIONS; SIGNS; NO LIENS.

(A) Alterations. During the Term, Lessee shall not make any material alterations, additions, or other changes to the Property without the prior written consent of the City. Before undertaking any alterations, Lessee shall submit proposed plans to the City for the City's review and approval. Lessee shall make whatever modifications to the proposed plans the City may require. Once the City has approved the plans, Lessee shall not make any material changes thereto without submitting the proposed changes to the City for its approval. All contractors and subcontractors hired by Lessee to perform the work shall be subject to the City's prior written approval. All alterations made by Lessee shall become the property of the City at the end of the Term; provided, however, that the City may require Lessee to remove any or all of the alterations at the end of Term, and in such event, Lessee shall repair any and all resulting damage to the Property and shall restore the Property to the condition in which the Property was in immediately before the making of such alterations. If Lessee fails to fulfill its obligation to remove alterations, the City may do so, and Lessee shall pay all costs incurred by the City in so doing upon the City's demand. All alterations made by Lessee shall be made in a good and workmanlike manner, in compliance with all applicable Legal Requirements, shall not diminish the fair market value of the Property, and shall be consistent with the quality, design, functionality, and aesthetic appeal of the Property.

(B) Signs. Lessee shall be permitted to erect such directional, informational, and other signs on the Property; provided, however, all signs installed at the Property by Lessee shall be subject to the City's written approval. All signs are professionally prepared, comply with all Legal Requirements, and satisfy the City's requirements with respect to size, design, content, and location. Lessee shall, at its expense, keep all signs in good condition and repair. At the end of the Term, Lessee shall remove its signs and repair any and all damage to the Property resulting therefrom.

(C) No Liens. If any mechanics' lien or other similar lien is filed against the Property as a result of labor or material furnished at Lessee's request, Lessee shall cause the lien to be released or bonded off within thirty (30) days following the filing of such lien.

7. INSURANCE; INDEMNITY.

(A) Insurance. Throughout the Term, Lessee shall maintain, or cause to be maintained, the following insurance: (i) special peril (formerly known as "all-risk") full replacement cost insurance on all improvements now or hereafter located on the Property, including without limitation all fixtures and equipment, naming the City as its interest may appear; (ii) property insurance on all Lessee's personal property kept at the Property (if any) in such amount as Lessee from time to time deems commercially reasonable; (iii) garage liability insurance covering claims for bodily injury, personal injury or death, and property damage occurring at the Property in an amount not less than \$1,000,000 per accident, combined single limit, \$2,000,000 aggregate, and garagekeepers insurance in an amount not less than \$250,000 for loss in any one event, naming the City as an additional insured; (iv) umbrella or excess liability insurance in the amount of not less than \$1,000,000 per occurrence, \$1,000,000 aggregate; (v) Automobile Liability Insurance in the amount of not less than \$1,000,000 per occurrence, naming the City as an additional insured; (vi) workers' compensation insurance as required by law, and; and (vii) such other insurance as may from time to time be required by the City's Risk Management Division to be customary for similar-sized parking lots in the Cincinnati area.

(B) Policy Requirements. Lessee's insurance policies shall: (i) be written in standard form by insurance companies authorized to do business in Ohio and having an A.M. Best rating of A VII or better, (ii) provide that they may not be canceled or modified without at least thirty (30) days prior written notice to the City, and (iii) be primary and non-contributory with respect to insurance maintained by the City, if any. On the Effective Date and thereafter on an annual basis, Lessee shall provide the City with a certificate of insurance evidencing the insurance required to be maintained by Lessee hereunder.

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

(D) Indemnity. The City assumes no responsibility for any acts, errors, or omissions of Lessee or any employee, agent, representative, or any other person acting or purporting to act for or on behalf of Lessee. Lessee shall defend, indemnify, and hold the City, its council members, officers, employees, and agents harmless from and against all costs, losses, claims, damages, liabilities, actions, claims for relief of every kind and character, expenses, including legal expenses, and obligations, financial or otherwise, arising either directly or indirectly out of Lessee's operation of the parking lot or performance of its responsibilities under 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 Property. All indemnity obligations and assumption of liabilities herein provided for shall continue in full force and effect, notwithstanding the termination of this Lease.

8. CASUALTY; EMINENT DOMAIN. If the Property is damaged or destroyed by fire or other casualty, or if any portion of the Property is taken by exercise of eminent domain, Lessee shall repair and restore the Property, as expeditiously as possible, and to the extent practicable, to substantially the same condition in which the Property was in immediately before such occurrence. The City and Lessee shall jointly participate in filing claims and taking such other actions pertaining to the payment of proceeds resulting from such occurrence. Such proceeds shall be payable to the City as the owner of the Property; however, the City shall make available to Lessee so much of the proceeds as are needed to repair and restore the Property. If the proceeds are insufficient to fully repair and restore the Property, the City shall not be required to make up the deficiency. Lessee shall oversee all construction in accordance with the City's standard construction requirements. Lessee shall not be relieved of any obligations, financial or otherwise, under this Lease during any period in which the Property is being repaired or restored.

9. DEFAULT; REMEDIES.

(A) Default. The occurrence of any of the following shall be an "event of default" under this Lease:

(i) The failure of Lessee to make any required payment when due or perform any obligation under this Lease, and failure by Lessee to correct such failure within thirty (30) days after Lessee's receipt of written notice thereof from the City; provided, however, that if the nature of the default is such that it cannot reasonably be cured within (thirty) 30 days, Lessee shall not be in default so long as Lessee commence to cure the default within such thirty (30)-day period and thereafter diligently completes such cure within a reasonable period of time (but not exceeding ninety (90) days) after Lessee's receipt of the City's initial notice of default. The foregoing notwithstanding, if Lessee's failure to perform or observe any obligation, duty, or responsibility under this Lease creates a dangerous condition or otherwise constitutes an emergency as determined by the City, an event of default shall be deemed to have occurred if Lessee fails to take corrective action immediately upon discovering such dangerous condition or emergency; or

(ii) The dissolution of Lessee, the filing of bankruptcy or insolvency proceedings by it, or the making by it of an assignment for the benefit of creditors; or

(iii) The filing of bankruptcy or insolvency proceedings against Lessee, or the appointment of a receiver (temporary or permanent) for it, or the attachment of, levy upon, or seizure by legal process of any of its properties, that, in each such event, is not released within sixty (60) days after the filing thereof.

(B) Remedies. Upon the occurrence of an event of default that continues beyond the applicable notice and cure period provided for under paragraph (A) above, the City shall be entitled to: (i) terminate this Lease by giving Lessee written notice thereof, (ii) take such actions in the way of "self-help" as the City determines to be reasonably necessary or appropriate to cure or lessen the impact of such default, all at the expense of Lessee, and (iii) exercise any and all other rights and remedies under this Lease or available at law or in equity. Lessee shall be liable for all costs and damages, including without limitation, attorneys' fees suffered or incurred by the City as a result of a default of Lessee under this Lease or the City's enforcement or termination of this Lease. The failure of the City to insist upon the strict performance of any covenant or duty or to pursue any remedy under this Lease shall not constitute a waiver of the breach of such covenant or of such remedy.

10. ASSIGNMENT AND SUBLETTING. Except for parking privileges, as authorized herein, Lessee shall not assign its interests under this Lease, sublet all or any portion of the Property, or grant exclusive parking privileges to a third party without the prior written consent of the City, which consent may be withheld in the City's sole discretion. Lessee's violation of this section shall constitute an immediate default by Lessee under this Lease (without the benefit of any notice or cure period) and shall, at the option of the City, render this Lease null and void, without limitation of the City's other rights and remedies resulting from such default.

11. SURRENDER; HOLDOVER.

(A) Surrender. On the last day of the Term of this Lease, Lessee shall surrender the Property to the City in good condition and repair, reasonable wear and tear expected, and free and clear of all liens and other encumbrances created by Lessee (if any) and on or before the last day of the Term, Lessee shall remove all of Lessee's personal property and any property not so removed shall be deemed abandoned, provided, however, that unless required by the City, Lessee shall not remove any trade fixtures, ordinary fixtures or parking equipment used in connection with the Property. Lessee shall promptly repair any and all damage to the Property caused by its removal of any items under this paragraph.

(B) Holdover. If Lessee fails to surrender possession of the Property to the City at the end of the Term, such holdover shall be deemed as creating a tenancy-at-will on all of the same terms and conditions as set forth herein (except for the duration of the Term), terminable by the City at any time by giving written notice thereof to Lessee. Lessee shall be liable for all costs and damages suffered or incurred by the City as a result of Lessee's holding over.

(C) Documents to be Delivered to City. On the last day of the Term, Lessee shall deliver to the City originals of all unpaid invoices, management manuals, warranty information, books and records, contracts with third parties, and all other written materials and documents that are in Lessee's possession or under Lessee's control and that are reasonably needed in order for there to be a seamless transition with respect to the operation of the Property.

12. NOTICES. All notices required to be given to any party under this Lease shall be in writing and (i) personally delivered, (ii) deposited in the United States mail, first class, postage prepaid, or (iii) delivered by a reputable courier service (e.g., Federal Express), to the parties at the following addresses or such other address as either party may specify from time to time by notice to the other. Notices shall be deemed given upon receipt.

To the City:

City of Cincinnati
Director of Community and Economic Development
805 Central Avenue
Suite 700
Cincinnati, OH 45202

To Lessee:

The East Walnut Hills Assembly, Inc.
P.O. Box 68050
Cincinnati, OH 45206
Attn: President

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

13. ADDITIONAL CONDITIONS FROM CITY'S COORDINATED REPORT (CR Nos. 48-2023 & 69-2021). Lessee shall comply with the following additional terms and conditions: None.

14. GENERAL PROVISIONS.

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

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

(C) Governing Law. This Lease shall be governed by and construed in accordance with the laws of the City of Cincinnati and the State of Ohio. All actions regarding this Lease shall be brought in the Hamilton County Court of Common Pleas, and Lessee agrees that venue in such court is proper. The parties hereby waive 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. At the request of either party, the parties shall execute a memorandum of Lease for recording purposes.

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

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

(J) No Brokers. The City and Lessee represent to each other that they have not dealt with a real estate broker, salesperson or other person who might claim entitlement to a fee or other compensation as a result of the parties' execution of this Lease.

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

(L) Representation as to Authority. The City and Lessee each represents to the other 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 have been duly authorized by all necessary actions on the part of the performing party.

(M) Appropriation of Funds. Notwithstanding anything in this Lease, the City's performance of its obligations under the Lease that require the expenditure of money is subject to the appropriation of funds for such purposes by Cincinnati City Council.

(N) Counterpart; E-Signature. This Lease may be executed by the parties hereto in two or more counterparts and each executed counterpart shall be considered an original and all of which taken together shall constitute one and the same instrument. The parties may execute and deliver this Lease by electronic signature.

(O) Exhibits. The following exhibits are attached hereto and made a part hereof:
Exhibit A – *Legal Description*

[Signature Pages Follow]

The parties executed this Lease on the dates of acknowledgement indicated below their respective signatures, effective as of the later of such dates (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 _____, 2024 by _____, the _____ of the **CITY OF CINCINNATI**, an Ohio municipal corporation, on behalf of the municipal corporation.

Notary Public
My commission expires: _____

Recommended By:

Markiea L. Carter, Director
Department of Community and Economic Development

Approved as to Form:

Assistant City Solicitor

Certified Date: _____

Fund/Code: _____

Amount: _____

By: _____
Karen Alder, City Finance Director

[Lessee's Signature Page Follows]

THE EAST WALNUT HILLS ASSEMBLY, INC.,
an Ohio nonprofit corporation

By: _____

Printed name: _____

Title: _____

STATE OF OHIO)
) ss:
COUNTY OF HAMILTON)

The foregoing instrument was acknowledged before me this ____ day of _____, 2024 by _____, the _____ of **THE EAST WALNUT HILLS ASSEMBLY, INC.**, an Ohio nonprofit corporation, on behalf of the nonprofit corporation.

Notary Public
My commission expires: _____

EXHIBIT A
to Lease Agreement

Legal Description

Situated in Section 2, Town 3, Fractional Range 2, Millcreek Township, Hamilton County, Ohio, being all of Lots 42, 43, 46, 47, 50, 51, 53 thru 58 and part of Lots 59 & 60 of Cath. M Cook's Subdivision as recorded in Plat Book 5, Pages 117 & 118 and 136 & 137 of the Hamilton County Recorder's Office, also being part of land conveyed by deed to DeSales Square, LLC as recorded in O.R. 9403, Page 705 of Hamilton County Recorder's Office and being more particularly described as follows:

Commencing at the intersection of the west right-of-way line of Woodburn Avenue (a 60' right-of-way) and the north right-of-way line of Myrtle Avenue (a 60' right-of-way) and being the southeast corner of Lot 31 of said subdivision being a parcel of land conveyed by deed to Woodburn Properties I, LLC as recorded in O.R. 10034, Page 3845, Hamilton County Recorder's Office;

Thence, leaving said westerly right-of-way line, along the northerly right-of-way line of Myrtle Avenue, S 83° 00' 00" W., 99.94 feet to an iron pin found at the southwest corner of said Lot 31 said Woodburn parcel and being the TRUE POINT OF BEGINNING of a parcel herein described;

Thence, continuing along said right-of-way line, S. 83° 00' 00" W., 237.50 feet to a mag nail found at the southeast corner of a parcel of land conveyed by deed to Greater Cincinnati Behavioral Health Services as recorded in O.R. 11005, Page 991, Hamilton County Recorder's Office;

Thence, leaving said right-to-way line, along the east line of said Greater Cincinnati parcel, N. 07° 00' 00" W., 210.48 feet to an iron pin with cap found at the northeast corner of said Lot 60 being said Greater Cincinnati parcel and in the south right-of-way line of Madison Avenue (an 80' right-of-way);

Thence, along said right-of-way line, N. 83° 00' 00" E., 87.50 feet to an iron pin and cap found in said right-of-way line;

Thence, leaving said right-of-way line, through said Desales parcel, S. 07° 00' 00" E., 102.74 feet to a mag nail found;

Thence, continuing through said Desales parcel, N. 83° 00' 00" E., 150.00 feet to an iron pin and cap found at the northwest corner of a parcel of land conveyed by deed to Clarence E. & Margaret Lamb as recorded in O.R. 7771, Page 693 Hamilton County Recorder's Office, and the southwest corner of a parcel of land conveyed by deed to Michael Ahmadi as recorded in O.R. 10861, Page 1512 Hamilton County Recorder's Office,

Thence, along the west line of said Lamb parcel and the west line of said Woodburn parcel, S. 07° 00' 00" E., 107.74 feet to the TRUE POINT OF BEGINNING.

Containing 0.7938 acres (34578.000 square feet) of land more or less.

The above legal description was based on an actual field survey by James E. Toerner, a registered surveyor in the State of Ohio. Reg. Surveyor #S-7725.

INCLUDED IN THE ABOVE-DESCRIBED REAL ESTATE IS THE PROPERTY COMPRISING REGISTERED LAND CERTIFICATE NO. 225896 DESCRIBED AS FOLLOWS:

Situated in the City of Cincinnati, and being more particularly described as follows:
Beginning at a point in the north line of Myrtle Avenue 99.94 feet west of Woodburn Avenue;

thence running North 7° West, 107.09 feet to a point;

thence running South 83° West, 150 feet to a point;

thence running South 7° East 107.09 feet to the North line of Myrtle Avenue;

thence running North 83° East along the north line of Myrtle Avenue, 150 feet to the place of beginning.