



City of Cincinnati

801 Plum Street
Cincinnati, Ohio 45202

CALENDAR

Cincinnati City Council

Thursday, November 12, 2020

2:00 PM

Council Chambers, Room 300

ROLL CALL

PRAYER AND PLEDGE OF ALLEGIANCE

FILING OF THE JOURNAL

MAYOR CRANLEY

MR. SMITHERMAN

MR. MANN

MRS. KEARNEY

MR. SEELBACH

1. [202002137](#) **MOTION**, submitted by Mayor John Cranley, Vice-Mayor Smitherman, Councilmember Mann, Seelbach, and Kearney, **WE MOVE** that the City of Cincinnati cancel the Council Session scheduled for November 25, 2020.

Recommendation ADOPT

Sponsors: Kearney, Mann, Mayor, Seelbach and Smitherman

CITY MANAGER

2. [202002092](#) **REPORT**, dated 11/12/2020 submitted by Paula Boggs Muething, City Manager, on a communication from the State of Ohio, Division of Liquor Control, advising of a permit application for SHAH & SON INC, DBA REDS DELI, 2801-2803 Price Avenue, Cincinnati, Ohio 45204. (#80190220001, C1, C2, D6, TRANSFER) [Objections: NONE]

Recommendation FILE

Sponsors: City Manager

3. [202002093](#) **REPORT**, dated 11/12/2020 submitted by Paula Boggs Muething, City Manager, on a communication from the State of Ohio, Division of Liquor Control, advising of a permit application for SHAH & SON INC, DBA REDS DELI, 2801-2803 Price Avenue, Cincinnati, Ohio 45204. (#80190220001, LIQUOR AGENCY CONTRACT) [Objections: NONE]

Recommendation FILE

Sponsors: City Manager

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4. [202001742](#) **REPORT**, dated 11/12/2020 submitted by Paula Boggs Muething, City Manager, on a communication from the State of Ohio, Division of Liquor Control, advising of a permit application for UP CINCINNATI LLC, 2038 MADISON ROAD, CINCINNATI, OHIO 45208. (#91332300011, D5, D6, TRANSFER) [Objections: NONE]
Recommendation FILE
Sponsors: City Manager
5. [202001978](#) **REPORT**, dated 11/12/2020 submitted by Paula Boggs, Muething, City Manager, on a communication from the State of Ohio, Division of Liquor Control, advising of a permit application for WOODS HARDWARE CINCINNATI LLC, 125 E. 9th Street, Cincinnati, Ohio 45202. (#9281212, C1, NEW) [Objections: NONE]
Recommendation FILE
Sponsors: City Manager
6. [202001979](#) **REPORT**, dated 11/12/2020 submitted by Paula Boggs, Muething, City Manager, on a communication from the State of Ohio, Division of Liquor Control, advising of a permit application for SAI ADRISTA LLC, DBA CLIFTON MINI MART, 2450 Highland Avenue, 1st Fl, Cincinnati, Ohio 45219. (#7674587, C1, C2, TRANSFER) [Objections: NONE]
Recommendation FILE
Sponsors: City Manager
7. [202001980](#) **REPORT**, dated 11/12/2020 submitted by Paula Boggs Muething, City Manager, on a communication from the State of Ohio, Division of Liquor Control, advising of a permit application for HUBBUB GROUP LLC, DBA TAQUERIA 251, 1st FLOOR & PATIO, 4110 HAMILTON AVENUE, CINCINNATI, OHIO 45223. (#4044534, D5J, NEW) [Objections: NONE]
Recommendation FILE
Sponsors: City Manager
8. [202002080](#) **REPORT**, dated 11/12/2020 submitted by Paula Boggs Muething, City Manager, on a communication from the State of Ohio, Division of Liquor Control, advising of a permit application for COSMIC COFFEE LLC, DBA UPSIDE COFFEE, 329 Ludlow Avenue, Cincinnati, Ohio 45220. (#1765893, D5J, D6, NEW) [Objections: NONE]
Recommendation FILE
Sponsors: City Manager
9. [202002081](#) **REPORT**, dated 11/12/2020 submitted by Paula Boggs Muething, City Manager, on a communication from the State of Ohio, Division of Liquor Control, advising of a permit application for WASHINGTON PARK MANAGEMENT GROUP, 1230 ELM STREET, CINCINNATI, OHIO 45202. (#9416563, F8, TEMPORARY) [Objections: NONE]
Recommendation FILE
Sponsors: City Manager
10. [202002090](#) **REPORT**, dated 11/12/2020 submitted by Paula Boggs Muething, City Manager, on a communication from the State of Ohio, Division of Liquor

Control, advising of a permit application for HORRORHOUND HOLDINGS LLC, 1706 Republic, Cincinnati, Ohio 45202. (#39848050005, D5J, NEW) [Objections: Law Department, Cincinnati Police Department, Department of Buildings & Inspections, OTR North Collaborative, St. Francis Seraph Church and Franciscan Friars]

Recommendation FILE

Sponsors: City Manager

11. [202002064](#) **REPORT**, dated 11/12/2020, submitted by Paula Boggs Muething, City Manager, regarding a Motion to establish a task force aimed at solving issues around Livingston Avenue. (SEE REFERENCE DOC #202001432)

Recommendation LAW AND PUBLIC SAFETY COMMITTEE

Sponsors: City Manager

12. [202002105](#) **RESOLUTION (LEGISLATIVE) (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 11/12/2020, **AUTHORIZING** the Administration to do all that is necessary to cooperate with the Director of the Ohio Department of Transportation to repair and rehabilitate two bridges on Martin Drive that are located along and over Columbia Parkway (U.S. Route 50) in the Mt. Adams neighborhood within the corporate limits of the City of Cincinnati; and **REQUESTING** the Director of the Ohio Department of Transportation proceed with the project as required under Ohio Revised Code Section 5521.05.

Recommendation MAJOR PROJECTS AND SMART GOVERNMENT COMMITTEE

Sponsors: City Manager

13. [202002107](#) **ORDINANCE** submitted by Paula Boggs Muething, City Manager, on 11/12/2020, **AUTHORIZING** the City Manager to execute a *Grant of Easement* in favor of the Board of Trustees of the University of Cincinnati, granting a utility easement across a portion of City-owned right-of-way commonly known as Clifton Avenue in the CUF neighborhood of Cincinnati.

Recommendation BUDGET AND FINANCE COMMITTEE

Sponsors: City Manager and City Solicitor Boggs Muething

14. [202002110](#) **ORDINANCE** submitted by Paula Boggs Muething, City Manager, on 11/12/2020, **AUTHORIZING** the City Manager to accept and deposit a donation from the Cincinnati Fire Foundation in the amount of up to \$32,500 into the General Fund revenue account no. 050x8571; **AUTHORIZING** the transfer and appropriation of up to \$32,500 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 advanced life support equipment for the Cincinnati Fire Department's EMS Mountain Bike Unit.

Recommendation BUDGET AND FINANCE COMMITTEE

Sponsors: City Manager

15. [202002111](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 11/12/2020, **ESTABLISHING** new capital improvement program project account no. 980x199x211916, "LeBlond Walking Trail Grant" for the purpose of providing resources for the engineering, design, and construction of a 0.25 mile long trail connecting the LeBlond

Playground to the St. Rose Soccer Field; and AUTHORIZING the City Manager to apply for, accept, and appropriate a grant in an amount up to \$70,000 from the Land and Water Conservation Fund awarded by the State of Ohio, Ohio Department of Natural Resources to newly established capital improvement program project account no. 980x199x211916, "LeBlond Walking Trail Grant," for the purpose of assisting the Cincinnati Recreation Commission with the construction of a walking trail at the LeBlond Recreation Center.

Recommendation BUDGET AND FINANCE COMMITTEE

Sponsors: City Manager

16. [202002119](#) **ORDINANCE** submitted by Paula Boggs Muething, City Manager, on 11/12/2020, **AUTHORIZING** the City Manager to execute a Grant of Easement in favor of Duke Energy Ohio, Inc., granting a utility easement over a portion of City-owned property generally located at 7215 Bridgetown Road in Miami Township, Hamilton County, Ohio.

Recommendation BUDGET AND FINANCE COMMITTEE

Sponsors: City Manager

BUDGET AND FINANCE COMMITTEE

17. [202002089](#) **REPORT**, dated 11/9/2020, submitted by Paula Boggs Muething, City Manager, regarding Saving our Brothers and Sisters Project. (SEE REFERENCE DOC#202001902)

Recommendation APPROVE & FILE

Sponsors: City Manager

18. [202002056](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 10/28/2020, **AUTHORIZING** the establishment of new capital improvement program project account no. 980x164x211642, "Oakley Pedestrian Tunnel," for the purpose of providing resources to facilitate the design and construction of a pedestrian tunnel in the Oakley neighborhood; **AUTHORIZING** the transfer and appropriation of \$265,000 from the unappropriated surplus of Oakley District Equivalent Fund 499 to the newly established capital improvement program project account no. 980x164x211642, "Oakley Pedestrian Tunnel," to provide resources for the design of a pedestrian tunnel under the railroad that separates the former Kenner Factory site and the Castfab/Oakley Station site; and **DECLARING** that expenditures from capital improvement program project account no. 980x164x211642, "Oakley Pedestrian Tunnel," are for a public purpose because the project will foster local improvements and investment and increase neighborhood vitality.

Recommendation PASS EMERGENCY

Sponsors: City Manager

19. [202002116](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 11/9/2020, **APPROVING AND AUTHORIZING** the City Manager to execute a *Community Reinvestment Area Tax Exemption Agreement* with BH New Arts, LP, thereby authorizing a 15-year tax exemption for 100% of the value of improvements made to

real property located at 845 Ezzard Charles Drive in the West End neighborhood of Cincinnati, in connection with the remodeling of 21 buildings into approximately 170,300 square feet of residential space, consisting of 248 affordable units which will be rented to individuals earning at or below 60% of the Area Median Income, at a total remodeling cost of approximately \$11,118,302.

Recommendation PASS EMERGENCY

Sponsors: City Manager

20. [202002058](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 10/28/2020, **ACCEPTING** and confirming the grant of a permanent sidewalk easement by BRE Retail Residual Owner 1 LLC in favor of the City of Cincinnati, on behalf of the general pedestrian public, across certain real property located in proximity to Werk Road in the Westwood neighborhood.

Recommendation PASS EMERGENCY

Sponsors: City Manager

21. [202002065](#) **REPORT**, dated 10/28/2020, submitted by Paula Boggs Muething, City Manager, regarding W 8th Street and Glenway Avenue - Removal of Parking Restrictions. (SEE REFERENCE DOCUMENT #202001571)

Recommendation APPROVE & FILE

Sponsors: City Manager

22. [202002108](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 11/9/2020, **AUTHORIZING** City Manager to accept and appropriate a grant of up to \$500,000 from the Ohio Transit Partnership Program awarded by the Ohio Department of Transportation to the Streetcar Operations Fund non-personnel operating budget account no. 455x236x7200 for the purpose of providing resources for operating assistance to the streetcar system; and **AUTHORIZING** the Director of Finance to deposit the funds in Fund 455, "Streetcar Operations."

Recommendation PASS EMERGENCY

Sponsors: City Manager

23. [202002109](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 11/9/2020, **AUTHORIZING** the City Manager to apply for, accept, and appropriate a grant in the amount of up to \$250,000 from the Hamilton County CARES Expanding Free Wi-Fi Program for the purpose of assisting the Cincinnati Recreation Commission (CRC) in the upgrading and new installation of public Wi-Fi offerings in the CRC community recreation centers; and **AUTHORIZING** the Finance Director to deposit the grant funds into Recreation Federal Grant Projects Fund 324.

Recommendation PASS EMERGENCY

Sponsors: City Manager

24. [202002113](#) **ORDINANCE** submitted by Paula Boggs Muething, City Manager, on 11/9/2020, **ESTABLISHING** new capital improvement program project account no. 980x233x212348, "Street Rehabilitation Grants," for the purpose of providing grant resources for the repair and resurfacing of

streets under the Street Rehabilitation Program, including repairs to curbs, pavements, and resurfacing the roadway; AUTHORIZING the City Manager to accept and appropriate resources in the amount of up to \$1,031,232.70 from Federal Highway Administration funding (CFDA 20.205), administered by the Ohio Department of Transportation, to newly created capital improvement program project account no. 980x233x212348, "Street Rehabilitation Grants," for the purpose of providing grant resources for the Columbia Parkway Rehabilitation (HAM-50-24.39 PID 107128) project, which will rehabilitate Columbia Parkway from William H. Taft Road to Delta Avenue; and further AUTHORIZING the City Manager to do all things necessary to cooperate with the Director of the Ohio Department of Transportation in order to complete the HAM-50-24.39 PID 107128 Project.

Recommendation

PASS

Sponsors:

City Manager

25. [202002094](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 11/9/2020, **AUTHORIZING** the transfer and appropriation of the sum of \$93,750 from the unappropriated surplus of Fund 151, "Bond Retirement," to Bond Retirement debt service account no. 151x134x7700 for the purpose of providing resources for the payment of debt service related to the installation of the historic Union Terminal murals at the Duke Energy Convention Center pursuant to an agreement between the City of Cincinnati and Hamilton County, by which the City and Hamilton County each agreed to bear one-half of the costs of the historic mural preservation and installation project, as provided in the Seventh and Eighth Supplements to the Cooperative Agreement between the City, the County, and the Convention Facilities Authority regarding the Duke Energy Convention Center.

Recommendation PASS EMERGENCY

Sponsors:

City Manager

26. [202002106](#) **ORDINANCE** submitted by Paula Boggs Muething, City Manager, on 11/9/2020, **AUTHORIZING** the City Manager to vacate and sell certain portions of an unnamed alley and the public right-of-way known as Bigelow Street in the Mt. Auburn neighborhood to Bigelow Land LLC to facilitate its construction of a multi-family development.

Recommendation PASS

Sponsors:

City Manager

27. [202002115](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 11/9/2020, **APPROVING AND AUTHORIZING** the execution of a *Job Creation Tax Credit Agreement* with Team Industrial Services, Inc., pursuant to which the company agrees to create 150 new jobs at 2249 E. Seymour Avenue in Cincinnati's Bond Hill neighborhood and, for a period of 6 years, the City agrees to provide an income tax credit equal to 40% of City income tax revenue from such new jobs.

Recommendation PASS EMERGENCY

Sponsors:

City Manager

28. [202001815](#) **RESOLUTION (LEGISLATIVE)** submitted by Paula Boggs Muething, Interim City Manager, on 10/14/2020, **DECLARING** the intent to appropriate to public use property required for the construction of stormwater sewer pipes and associated appurtenances, equipment, and facilities as part of the Delta Avenue - Widman Place Drainage Improvement Project.
- Recommendation** PASS
- Sponsors:** City Manager
29. [202002117](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 11/9/2020, **MODIFYING** the provisions of Chapter 313, "Outdoor Advertising Sign Excise Tax," of Title III, "Financial, Personnel, Procurement and Real Property Procedures," of the Cincinnati Municipal Code by AMENDING Section 313-1-O, "Outdoor Advertising Sign," and Section 313-5, "Exemptions," and by REPEALING Section 313-7, "Tax Not to be Separately Stated or Charged"; and further MODIFYING the provisions of Chapter 895, "Outdoor Advertising Signs," of Title VIII, "Business Regulations," of the Cincinnati Municipal Code by AMENDING Section 895-1-O, "Outdoor Advertising Sign," and Section 895-2, "Applicability," by REPEALING Section 895-10, "Additional Permitted Uses of Outdoor Advertising Signs," and by ORDAINING new Section 895-29, "Severability," to provide additional clarity regarding the applicability of the City's outdoor advertising excise tax to the owners and operators of outdoor advertising signs.
- Recommendation** PASS EMERGENCY
- Sponsors:** City Manager
30. [202002127](#) **MOTION**, dated 10/27/2020, submitted by Councilmember Landsman, Sittenfeld and Kearney, **WE MOVE** that the Administration conduct a zoning study on the high-frequency and 24-hour transit corridors proposed by Reinventing Metro and provide a report to Council within 60 days. The study should focus on updating zoning rules along these corridors to provide flexibility on density and parking minimum requirements to increase neighborhood investments. By conducting a zoning study, we can determine how to best attract new residents and help existing Cincinnatians live closer to those express routes. Attachments: 24-hour route map and letter from partners.
- Recommendation** ADOPT
- Sponsors:** Landsman, Sittenfeld and Kearney
- NEIGHBORHOODS COMMITTEE**
31. [202001901](#) **MOTION**, submitted by Councilmember Kearney, **WE MOVE** for the Department of Transportation and Engineering (DOTE) to provide a report in response to Community Budget Requests from East Price Hill Improvement Association (EPHIA) pertaining to Purcell Street improvements, Mt. Hope Hill sidewalk, and enhanced crosswalks for the Warsaw Avenue business corridor.
- Recommendation** ADOPT
- Sponsors:** Kearney

32. [202002010](#) **MOTION**, submitted by Councilmember Mann, **WE MOVE** that the City administration, in light of a recent fatality on Langdon Farm Road, immediately work with Pleasant Ridge Neighborhood representatives to develop a plan to remedy the documented safety issues along this heavily travelled road. (STATEMENT ATTACHED).

Recommendation ADOPT

Sponsors: Mann

SUPPLEMENTAL ITEMS

ECONOMIC GROWTH & ZONING COMMITTEE

33. [202002114](#) **ORDINANCE**, submitted by Vice Mayor Smitherman, from Andrew W. Garth, Interim City Solicitor, **AMENDING** Ordinance Nos. 274-2017, 275-2017, and 276-2017 to reflect certain real property tax abatement policies as proposed by members of the Property Tax Working Group, including creating additional caps on residential real property tax abatements and expanding the definition of residential properties to include structures containing four dwelling units.

Recommendation PURSUANT TO RULE 10.8

Sponsors: Smitherman

ANNOUNCEMENTS

NEW BUSINESS

Adjournment



Office of Mayor John Cranley

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

MOTION

WE MOVE that the City of Cincinnati cancel the Council Session scheduled for
November 25, 2020.

John Cranley

[Signature]

Jan Michele Jenkins

Dr. Carling

Date: November 12, 2020

To: Mayor and Members of City Council

202002092

From: Paula Boggs Muething, City Manager

Subject: **Liquor License – Transfer of Location**

FINAL RECOMMENDATION REPORT

OBJECTIONS: Cincinnati Police Department, Department of Buildings & Inspections, OTR North Collaborative, St. Francis Seraph Church and Franciscan Friars

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

APPLICATION: 80190220001
PERMIT TYPE: TRFL
CLASS: C1 C2 D6
NAME: SHAH & SON INC
DBA: REDS DELI
2801-2803 PRIVE AVE
CINCINNATI, OH 45204

The City of Cincinnati Health Department, Cincinnati Recreation Commission, and Park Board have completed their investigations regarding this application and do not object.

On October 14, 2020 East Price Hill Improvement Association was notified of this application and do not object.

Police Department Approval

David M. Laing, Assistant City Prosecutor
Law Department - Recommendation
 Objection No Objection

MUST BE RECEIVED BY OHIO DIVISION OF LIQUOR CONTROL BY: December 11, 2020

Date: November 12, 2020

To: Mayor and Members of City Council 202002093
From: Paula Boggs Muething, City Manager
Subject: **Liquor License – Liquor Agency Contract**

FINAL RECOMMENDATION REPORT

OBJECTIONS: Cincinnati Police Department, Department of Buildings & Inspections, OTR North Collaborative, St. Francis Seraph Church and Franciscan Friars

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

APPLICATION: 80190220001
PERMIT TYPE: LIQUOR AGENCY CONTRACT
CLASS: LIQUOR AGENCY CONTRACT
NAME: SHAH & SON INC
DBA: REDS DELI
2801-2803 PRIVE AVE
CINCINNATI, OH 45204

The City of Cincinnati Health Department, Cincinnati Recreation Commission, and Park Board have completed their investigations regarding this application and do not object.

On October 19, 2020 East Price Hill Improvement Association was notified of this application and do not object.

Police Department Approval

David M. Laing, Assistant City Prosecutor
Law Department - Recommendation
 Objection No Objection

MUST BE RECEIVED BY OHIO DIVISION OF LIQUOR CONTROL BY: December 11, 2020

Date: November 12, 2020

To: Mayor and Members of City Council

202001742

From: Paula Boggs Muething, City Manager

Subject: **Liquor License – Transfer of Location**

FINAL RECOMMENDATION REPORT

OBJECTIONS: None

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

APPLICATION: 91332300011
PERMIT TYPE: TRFL
CLASS: D5 D6
NAME: UP CINCINNATI LLC
DBA: NONE LISTED
2038 MADISON RD
CINCINNATI, OH 45208

The City of Cincinnati Police Department, Department of Buildings & Inspections, Health Department, Cincinnati Recreation Commission, and Park Board have completed their investigations regarding this application and do not object.

On September 28, 2020 Evanston Community Council was notified of this application and do not object.

Police Department Approval

David M. Laing, Assistant City Prosecutor
Law Department - Recommendation
 Objection No Objection

MUST BE RECEIVED BY OHIO DIVISION OF LIQUOR CONTROL BY: November 17, 2020

Date: November 12, 2020

To: Mayor and Members of City Council

202001978

From: Paula Boggs Muething, City Manager

Subject: **Liquor License – New**

FINAL RECOMMENDATION REPORT

OBJECTIONS: None

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

APPLICATION: 9281212
PERMIT TYPE: NEW
CLASS: C1
NAME: WOODS HARDWARE CINCINNATI LLC
DBA: NONE LISTED
125 E 9TH ST
CINCINNATI, OH 45202

The City of Cincinnati Police Department, Department of Buildings & Inspections, Health Department, Cincinnati Recreation Commission, and Park Board have completed their investigations regarding this application and do not object.

On September 23, 2020 Downtown Residents Council was notified of this application and do not object.

Police Department Approval

David M. Laing, Assistant City Prosecutor
Law Department - Recommendation
 Objection No Objection

MUST BE RECEIVED BY OHIO DIVISION OF LIQUOR CONTROL BY: November 13, 2020

Date: November 12, 2020

To: Mayor and Members of City Council 202001979
From: Paula Boggs Muething, City Manager
Subject: **Liquor License – Transfer of Ownership**

FINAL RECOMMENDATION REPORT

OBJECTIONS: None

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

APPLICATION: 7674587
PERMIT TYPE: TRFO
CLASS: C1 C2
NAME: SAI ADRISTA LLC
DBA: CLIFTON MINI MART
2450 HIGHLAND AVE 1ST FL
CINCINNATI, OH 45219

The City of Cincinnati Police Department, Department of Buildings & Inspections, Health Department, Cincinnati Recreation Commission, and Park Board have completed their investigations regarding this application and do not object.

On September 18, 2020 Mt. Auburn Community Council was notified of this application and do not object.

Police Department Approval

David M. Laing, Assistant City Prosecutor
Law Department - Recommendation
 Objection No Objection

MUST BE RECEIVED BY OHIO DIVISION OF LIQUOR CONTROL BY: November 11, 2020

Date: November 12, 2020

To: Mayor and Members of City Council

202001980

From: Paula Boggs Muething, City Manager

Subject: **Liquor License – New**

FINAL RECOMMENDATION REPORT

OBJECTIONS: None

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

APPLICATION: 4044534
PERMIT TYPE: NEW
CLASS: D5J
NAME: HUBBUB GROUP LLC
DBA: TAQUERIA 251
1st FL & PATIO
4110 HAMILTON AV
CINCINNATI, OH 45223

The City of Cincinnati Police Department, Department of Buildings & Inspections, Health Department, Cincinnati Recreation Commission, and Park Board have completed their investigations regarding this application and do not object.

On September 28, 2020 Northside Community Council was notified of this application and do not object.

Police Department Approval

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

Objection No Objection

MUST BE RECEIVED BY OHIO DIVISION OF LIQUOR CONTROL BY: November 24, 2020

Date: November 12, 2020

To: Mayor and Members of City Council

202002080

From: Paula Boggs Muething, City Manager

Subject: **Liquor License – New**

FINAL RECOMMENDATION REPORT

OBJECTIONS: None

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

APPLICATION: 1765893
PERMIT TYPE: NEW
CLASS: D5J D6
NAME: COSMIC COFFEE LLC
DBA: UPSIDE COFFEE
329 LUDLOW
CINCINNATI, OH 45220

The City of Cincinnati Police Department, Department of Buildings & Inspections, Health Department, Cincinnati Recreation Commission, and Park Board have completed their investigations regarding this application and do not object.

On September 28, 2020 Clifton Towne Meeting was notified of this application and do not object.

Police Department Approval

David M. Laing, Assistant City Prosecutor
Law Department - Recommendation
 Objection No Objection

MUST BE RECEIVED BY OHIO DIVISION OF LIQUOR CONTROL BY: November 17, 2020

Date: November 12, 2020

To: Mayor and Members of City Council 202002081
From: Paula Boggs Muething, City Manager
Subject: **Liquor License – Temporary (F8)**

FINAL RECOMMENDATION REPORT

OBJECTIONS: None

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

APPLICATION: 9416563
PERMIT TYPE: TEMP
CLASS: F8
NAME: WASHINGTON PARK MANAGEMENT GROUP
DBA: NONE LISTED
1230 ELM ST
CINCINNATI, OH 45202

The City of Cincinnati Police Department, Department of Buildings & Inspections, Health Department, Cincinnati Recreation Commission, and Park Board have completed their investigations regarding this application and do not object.

On September 29, 2020 Over-The-Rhine Community Council was notified of this application and do not object.

Police Department Approval

David M. Laing, Assistant City Prosecutor
Law Department - Recommendation
 Objection No Objection

MUST BE RECEIVED BY OHIO DIVISION OF LIQUOR CONTROL BY: November 17, 2020

Date: November 12, 2020

To: Mayor and Members of City Council

202002090

From: Paula Boggs Muething, City Manager

Subject: Liquor License – New

FINAL RECOMMENDATION REPORT

OBJECTIONS: Cincinnati Police Department, Department of Buildings & Inspections, OTR North Collaborative, St. Francis Seraph Church and Franciscan Friars

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

APPLICATION: 39848050005
PERMIT TYPE: NEW
CLASS: D5J
NAME: HORRORHOUND HOLDINGS LLC
DBA: NONE LISTED
1706 REPUBLIC
CINCINNATI, OH 45202

The City of Cincinnati Health Department, Cincinnati Recreation Commission, and Park Board have completed their investigations regarding this application and do not object.

On October 1, 2020 Over-The-Rhine Community Council was notified of this application and do not object.

Police Department Approval

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

Objection No Objection

MUST BE RECEIVED BY OHIO DIVISION OF LIQUOR CONTROL BY: November 20, 2020

November 12, 2020

To: Mayor and Members of City Council

202002064

From: Paula Boggs Muething, City Manager

Subject: Report on Motion to Establish a Task Force Aimed at Solving Issues Around Livingston Avenue

REFERENCE DOCUMENT #202001432

On August 24, 2020, the Law and Public Safety Committee referred the following for a report:

MOTION, submitted by Councilmember Mann and Councilmember Sundermann, WE MOVE that the City administration establish a task force aimed at solving the safety issues around Livingston Avenue. A multi-agency task force should be established, including Police, Building Inspection, Public Services, and Engineering, and outside agencies like the Port Authority for a comprehensive and sustainable approach.

The City Administration is assembling a cross departmental team to address quality of life issues around Livingston Avenue. The City team will include representatives from Police, Fire, Health, Public Services, Transportation and Engineering, Buildings and Inspections, and Law. Community stakeholders such as West End Community Council, Seven Hills Neighborhood House, and Keep Cincinnati Beautiful will be invited to participate in this effort and help guide enforcement priorities. Area of focus will include litter and weed blight reduction, removal of junk vehicles, and the enforcement of exterior building code violations.

Regularly scheduled meetings with City staff and stakeholders will be held throughout the year. This will enable City and community participants to create a collaborative and productive dialogue on how to best improve the quality of life in the Livingston Avenue area.

SUMMARY

The City Manager's Office will coordinate a cross departmental team aimed at developing a City-Community strategy for addressing concerns regarding crime and property conditions in the Livingston Avenue area of the West End. This team will be activated in the next 30 days.

Date: November 12, 2020

To: Mayor and Members of City Council

202002105

From: Paula Boggs Muething, City Manager

Subject: EMERGENCY LEGISLATIVE RESOLUTION – REHABILITATION OF MARTIN DRIVE
OVER COLUMBIA PARKWAY

Attached is an emergency legislative resolution captioned as follows:

AUTHORIZING the Administration to do all that is necessary to cooperate with the Director of the Ohio Department of Transportation to repair and rehabilitate two bridges on Martin Drive that are located along and over Columbia Parkway (U.S. Route 50) in the Mt. Adams neighborhood within the corporate limits of the City of Cincinnati; and REQUESTING the Director of the Ohio Department of Transportation proceed with the project as required under Ohio Revised Code Section 5521.05.

The City's Department of Transportation and Engineering (DOTE) and the Ohio Department of Transportation (ODOT) need to rehabilitate two bridges on Martin Drive along and over Columbia Parkway within the neighborhood of Mount Adams. The project includes replacement of the roadway surfaces and painting of both bridges.

ODOT will lead and manage the project and will provide 100% of the eligible cost of the project. The total estimated cost of the project is approximately \$1.9 million. The City will be responsible only for the cost of an upgraded paint for decorative graphic on the bridge's exterior, estimated at \$25,000.

This resolution expresses the City's desire for ODOT to proceed with the project and for City officials to do all things necessary in connection with the project.

This resolution is an emergency measure in order improve the City's transportation network and to allow ODOT to proceed as soon as possible.

The Administration recommends passage of the attached emergency legislative resolution.

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

EMERGENCY

Legislative Resolution

RESOLUTION NO. _____ - 2020

AUTHORIZING the Administration to do all that is necessary to cooperate with the Director of the Ohio Department of Transportation to repair and rehabilitate two bridges on Martin Drive that are located along and over Columbia Parkway (U.S. Route 50) in the Mt. Adams neighborhood within the corporate limits of the City of Cincinnati; and **REQUESTING** the Director of the Ohio Department of Transportation proceed with the project as required under Ohio Revised Code Section 5521.05.

WHEREAS, the City’s Department of Transportation and Engineering (“DOTE”) and the Ohio Department of Transportation (“ODOT”) have identified the need to rehabilitate two bridges on Martin Drive along and over Columbia Parkway, Bridge No. HAM-50-2238 and Bridge No. HAM-50-2230, PID No. 96696 (the “Project”), including replacement of the bridges’ surfaces, replacement of expansion joints, and painting; and

WHEREAS, ODOT will be the public agency leading and managing the Project, and the City will serve as the Local Public Agency (“LPA”); and

WHEREAS, the State of Ohio (“State”) will provide 100% of the eligible cost of the Project, with the City responsible only for 100% of the cost of the upgraded paint to be used for a decorative graphic on the exterior of Bridge No. HAM-50-2238; and

WHEREAS, the City’s estimated costs for the upgraded paint and decorative graphic is estimated to be \$25,000 but no deposit is required at this time, and the actual costs will be determined upon bidding of the Project; and

WHEREAS, Council passed Ordinance No. 381-2018 authorizing the Administration to cooperate with ODOT for the Project; and

WHEREAS, ODOT has agreed to cooperate with DOTE to complete the Project and has provided the City with plans and specification; and

WHEREAS, Ohio Revised Code Section 5521.05 and ODOT regulations require Council to pass an additional final resolution requesting the Director of ODOT to proceed with the Project; now, therefore,

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

Section 1. That the City Manager is hereby authorized to enter into agreements with the Ohio Department of Transportation (“ODOT”) in connection with the repair and rehabilitation of

two bridges on Martin Drive along and over the mainline and a relief of Columbia Parkway (U.S. Route 50), located within the corporate limits of the City, identified as HAM-50-2230 and HAM-50-2238, which rehabilitation will include replacement of the bridges' surfaces, replacement of expansion joints, and painting (the "Project").

Section 2. That Council hereby requests the Director of the Ohio Department of Transportation proceed with the Project.

Section 3. That the Clerk of Council or other appropriate City officials are hereby authorized to take all necessary and proper actions to submit a certified copy of this Legislative Resolution to the Director of the Ohio Department of Transportation, thereby fulfilling such obligations as are required in Ohio Revised Code Section 5521.05.

Section 4. That the proper City officials are hereby authorized to do all things necessary and proper to comply with the terms of Sections 1 through 3 hereof.

Section 5. That this Legislative 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 improve the City's transportation network and accessibility and increase the amount of developable land within Cincinnati as soon as possible.

Passed: _____, 2020

John Cranley, Mayor

Attest: _____
Clerk

Date: November 12, 2020

To: Mayor and Members of City Council
From: Paula Boggs Muething, City Manager
Subject: ORDINANCE – EASEMENT IN FAVOR OF UNIVERSITY OF CINCINNATI

Attached is an ordinance captioned as follows:

AUTHORIZING the City Manager to execute a *Grant of Easement* in favor of the Board of Trustees of the University of Cincinnati, granting a utility easement across a portion of City-owned right-of-way commonly known as Clifton Avenue in the CUF neighborhood of Cincinnati.

The Board of Trustees of the University of Cincinnati (“Grantee”) has requested an easement across Clifton Avenue in the CUF neighborhood and generally located at 2839 Clifton Avenue. The easement is to construct, reconstruct, operate, maintain, repair, replace, and remove telecommunication lines and associated facilities, fixtures, and equipment to assist the expansion of the University of Cincinnati campus.

Granting this easement is not adverse to the City’s retained interest in the property.

The fair market value of the easement is \$5,625, which Grantee has deposited with the City Treasurer.

The City Planning Commission approved the grant of the easement at its meeting on October 23, 2020.

The Administration recommends passage of the attached ordinance.

Attachment I – Attachment A, Grant of Easement

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

AUTHORIZING the City Manager to execute a *Grant of Easement* in favor of the Board of Trustees of the University of Cincinnati, granting a utility easement across a portion of City-owned right-of-way commonly known as Clifton Avenue in the CUF neighborhood of Cincinnati.

WHEREAS, the City of Cincinnati owns certain real property, designated as right of way, commonly known as Clifton Avenue in the CUF neighborhood of Cincinnati and generally located at 2839 Clifton Avenue (the “Property”), which property is under the management of the Department of Transportation and Engineering (“DOTE”); and

WHEREAS, the Board of Trustees of the University of Cincinnati (“Grantee”) has requested an easement across the Property, as more particularly depicted in the *Grant of Easement* incorporated herein as Attachment A, to construct, reconstruct, operate, maintain, repair, replace, and remove telecommunication lines and associated facilities, fixtures, and equipment to assist the expansion of the University of Cincinnati campus; and

WHEREAS, the City Manager, in consultation with DOTE, has determined that the grant of the easement to Grantee is not adverse to the City’s retained interest in the Property; and

WHEREAS, pursuant to Cincinnati Municipal Code Section 331-5, 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 fair market value of the easement, as determined by appraisal by the City’s Real Estate Services Division, is \$5,625, which Grantee has 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 grant of the easement at its meeting on October 23, 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 the Board of Trustees of the University of Cincinnati (“Grantee”), pursuant to which the City will grant to Grantee a utility easement across a portion of City-owned right-of-way

commonly known as Clifton Avenue and generally located at 2839 Clifton Avenue (the “Property”), in substantially the form attached hereto as Attachment A and incorporated herein by reference, to construct, reconstruct, operate, maintain, repair, replace, and remove telecommunication lines and associated facilities, fixtures, and equipment.

Section 2. That the grant of the easement to Grantee is not adverse to the City’s retained interests in the Property.

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 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 \$5,625, which Grantee has deposited with the City Treasurer.

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

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 proper City officials are hereby authorized to take all necessary and proper actions to carry out the terms of this ordinance, including execution of all necessary 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: _____, 2020

John Cranley, Mayor

Attest: _____
Clerk

[SPACE ABOVE FOR RECORDER'S USE]

GRANT OF EASEMENT
(Clifton Avenue)

This Grant of Easement is made as of the Effective Date (as defined on the signature page hereof) by the **CITY OF CINCINNATI**, an Ohio municipal corporation, the address of which is 801 Plum Street, Cincinnati, OH 45202 (the "**City**"), in favor of **THE BOARD OF TRUSTEES OF THE UNIVERSITY OF CINCINNATI**, an Ohio public university, the address of which for the purposes of this instrument is 51 Goodman, P.O. Box 210186 Cincinnati, OH 45221 ("**Grantee**").

Recitals:

A. By virtue of a Deed recorded in Official Record 13750, Page 1415, Hamilton County, Ohio Records, UCF Holdings, LLC, an Ohio limited liability company, an affiliate of the University of Cincinnati Foundation, an Ohio nonprofit corporation, owns certain real property located at 2839 Clifton Avenue, Cincinnati, Ohio 45220 (Auditor's Parcel No. 101-6-84), as more particularly described on Exhibit A (*Legal Description – Benefitted Property*) hereto (the "**Benefitted Property**").

B. The City owns the 100-foot-wide public right-of-way known as Clifton Avenue, which abuts the Benefitted Property to the east, as depicted on Exhibit B (*Depiction of Easement Area*), (the "**City Property**"). The City Property is under the management of the Department of Transportation and Engineering ("**DOT**").

C. Grantee has undertaken the renovation of a structure on the Benefitted Property with the intention of expanding the University of Cincinnati campus. In connection with the campus expansion, Grantee has requested a utility easement across the portion of the City Property depicted on Exhibit B and described on Exhibit C (*Legal Description – Easement Area*) hereto to install communications facilities to serve the Benefitted Property.

D. The City Manager, in consultation with DOTE, has determined that granting the utility easement will not have an adverse effect on the City's retained interest in the City Property.

E. The City's Real Estate Services Division has determined that the approximate fair market value of the utility easement is \$5,625, which Grantee has deposited with the City Treasurer.

F. The City Planning Commission, having the authority to approve the change in use of City-owned property, approved the easements at its meeting on October 23, 2020.

G. The City's execution of this instrument is authorized by Ordinance No. ____-2020, passed by Cincinnati City Council on _____, 2020.

NOW THEREFORE, the parties agree as follows:

1. Grant of Utility 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 Property, a non-exclusive utility easement, for the construction, installation, operation, maintenance, repair, reconstruction, removal, and replacement of telecommunication lines and associated facilities and fixtures (the "**Telecommunication Facilities**"), under and across that portion of the City Property depicted on Exhibit B and described on Exhibit C hereto (the "**Utility Easement**", and the "**Utility Easement Area**", as applicable).

2. Termination of Utility Easement. The Utility Easement shall automatically terminate upon the complete removal of the Telecommunication Facilities unless construction to replace the removed Telecommunication Facilities is commenced within six months thereafter. Each party shall have the right to execute and record an affidavit in the Hamilton County Recorder's Office to memorialize such termination.

3. Relocation of Utility Easement. The City, in its sole discretion, shall have the right to require Grantee, at Grantee's sole expense, to relocate the Telecommunication Facilities, at no cost to the City following prior written notice to Grantee that the City needs the Utility Easement Area or any portion thereof for a municipal purpose or upon the City's determination that the Telecommunication Facilities are creating a public safety issue. The City shall have the right to execute and record an amendment to this instrument in the Hamilton County Recorder's Office to memorialize the relocated Utility Easement Area.

4. Alterations; Maintenance and Repairs.

(A) No Alterations. Once installed, Grantee shall not make any enlargements or other modifications to the Telecommunication Facilities without the prior written consent of DOTE.

(B) Maintenance and Repairs. Grantee, at no cost to the City, shall maintain the Telecommunication Facilities in a continuous state of good and safe condition and repair. Grantee acknowledges that there may be existing easements, utility lines and related facilities in the vicinity of the Utility Easement Area ("**Third Party Utility Lines**"). In connection with Grantee's maintenance, repair and use of the Telecommunication Facilities, Grantee shall not interfere with the access of utility companies to maintain and repair the Third Party Utility Lines and shall, at Grantee's expense, promptly repair any and all damage to Third Party Utility Lines caused by Grantee, its agents, employees, contractors, subcontractors, licensees or invitees. Any relocation of Third Party Utility Lines necessitated by Grantee's activities under this instrument shall be handled entirely at Grantee's expense. All activities undertaken by Grantee under this instrument shall be in compliance with all applicable codes, laws, and other governmental standards, policies, guidelines and requirements.

5. Insurance. The City acknowledges that Grantee, as a governmental entity, is self-insured and does not maintain Commercial General Liability insurance. Notwithstanding the foregoing, If Grantee authorizes a third party contractor to work in the Utility Easement Area, then, as a condition of such authorization, such third party contractor 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/\$2,000,000 aggregate, or in such greater amounts as the City may from time to time require. Grantee shall cause such third party contractor to 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 Utility Easement Area. (The foregoing shall not be construed as permitting Grantee to engage in construction activities within the Utility Easement Area.)

6. Indemnity. The City acknowledges that, as a governmental entity, Grantee is not legally permitted under Ohio law to contractually agree to indemnify the City. As such, Grantee shall have no indemnity obligations to the City under this section; nevertheless, Grantee shall comply with all DOTE requirements as pertains to working on the Utility Easement Area. Grantee waives all claims against the City for damage or theft of Grantee's equipment or other property that may from time to time be at the Utility Easement Area. If Grantee authorizes a third party contractor to work in the Utility Easement Area, then, as a condition of such authorization, such third party contractor shall indemnify, defend and hold harmless the City, its employees, agents, contractors, licensees and invitees from and against any and all claims, causes of action, losses, injuries, damages, liability, costs, and Workers' Compensation claims whatsoever arising from the work performed in the Utility Easement Area.

7. 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 Grantee and its successors-in-interest with respect to the Benefitted Property, subject however to the termination provisions hereof.

8. Governing Law; Severability. This instrument shall be governed by and construed in accordance with the laws of the City of Cincinnati and the State of Ohio. If any provisions hereof are determined to be invalid or unenforceable by a court of law, the remainder of this instrument shall not be affected thereby, and all other provisions of this instrument shall be valid and enforceable to the fullest extent permitted by law.

9. Notices. All notices given hereunder shall be in writing and shall be sent by U.S. certified or registered mail, return receipt requested, or delivered by a recognized courier service, or by personal delivery, to the parties at their respective addresses set forth in the introductory paragraph hereof or such other address as either party may specify from time to time by notice given in the manner prescribed herein. All notices to the City shall be addressed to the Office of the City Manager, and a copy of each such notice shall simultaneously be delivered to: City of Cincinnati, Department of Transportation and Engineering, 801 Plum Street, 4th Floor, Cincinnati, OH 45202. In the event of an alleged breach by the City of this instrument, a copy of each notice of breach shall simultaneously be delivered to the Office of the City Solicitor, 801 Plum Street, Room 214, Cincinnati, OH 45202.

10. Exhibits. The following exhibits are attached hereto and made a part hereof:
Exhibit A – *Legal Description—Benefitted Property*
Exhibit B – *Depiction of Easement Area*
Exhibit C – *Legal Description—Easement Area*

[SIGNATURE PAGE FOLLOWS]

Executed on the date of acknowledgment set forth below (the "Effective Date").

CITY OF CINCINNATI

By: _____
Paula Boggs Muething, Interim City Manager

STATE OF OHIO)
) ss:
COUNTY OF HAMILTON)

The foregoing instrument was acknowledged before me this ____ day of _____, 2020 by Paula Boggs Muething, Interim City Manager 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 hereby.

Notary Public
My commission expires: _____

Approved as to Form:

Assistant City Solicitor

**ACKNOWLEDGED AND ACCEPTED BY:
THE BOARD OF TRUSTEES OF THE UNIVERSITY
OF CINCINNATI**

By: _____

Printed name: _____

Title: _____

Date: _____, 2020

This instrument prepared by:

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

EXHIBIT A
to Grant of Easement

Legal Description—Benefitted Property

SITUATE IN THE CITY OF CINCINNATI, HAMILTON COUNTY, OHIO, AND BEING FURTHER DESCRIBED AS PART OF LOT 61 OF COL. JOHN RIDDLE'S SUBDIVISION, BEGINNING ON THE WEST SIDE OF CLIFTON AVENUE AT A POINT THREE HUNDRED SEVENTY-FIVE (375) FEET NORTH OF JOSELIN AVENUE, THENCE WEST PARALLEL WITH JOSELIN AVENUE TWO HUNDRED (200) FEET TO A TWELVE (12) FOOT ALLEY; THENCE NORTH PARALLEL WITH CLIFTON AVENUE ONE HUNDRED SIX AND TWELVE HUNDREDTHS (106.12) FEET TO THE SOUTH LINE OF PROBASCO AVENUE, THENCE EAST ON SAID SOUTH LINE TWO HUNDRED FEET AND FIFTY-SIX HUNDREDTHS (200.56) FEET TO CLIFTON AVENUE, THENCE SOUTH ALONG THE WEST LINE OF CLIFTON AVENUE ONE HUNDRED TWENTY (120) FEET TO THE PLACE OF BEGINNING.

Property Address: 2839 Clifton Avenue, Cincinnati, OH
Parcel No.: 101-0006-0084-90

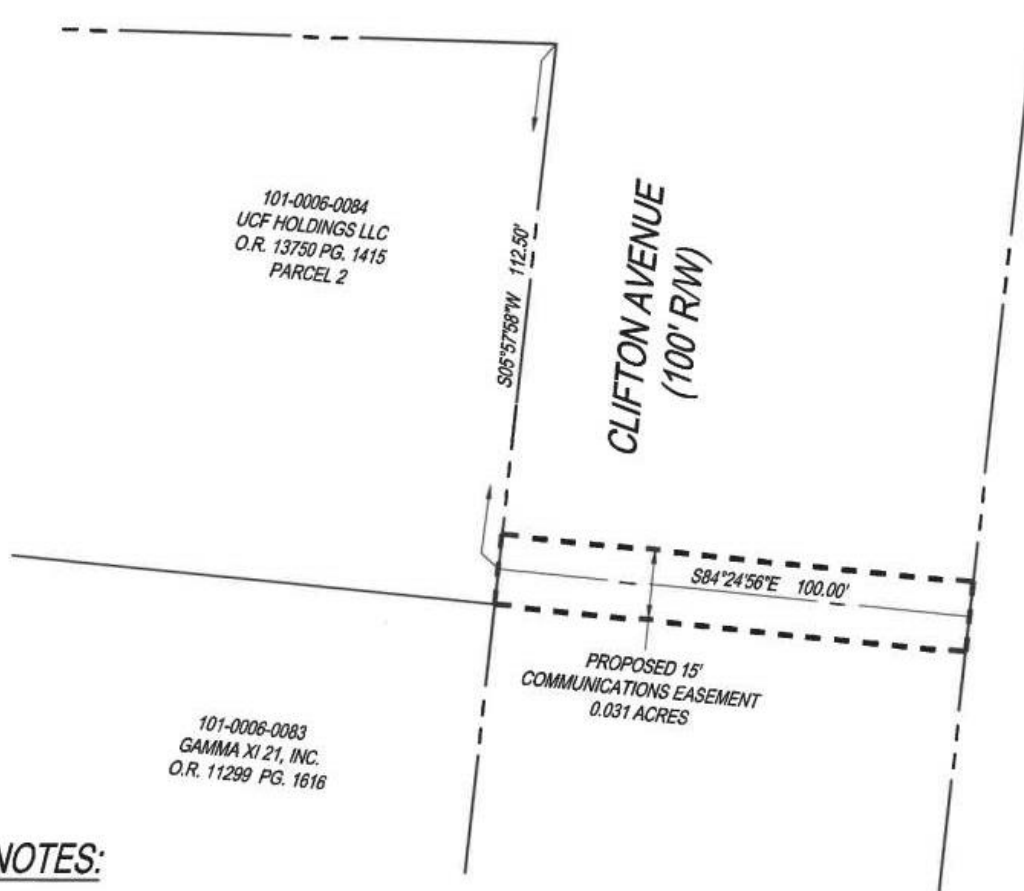
EXHIBIT B
to Grant of Easement

Depiction of Easement Area

INSPIRED PEOPLE ► CREATIVE DESIGN ► TRANSFORMING COMMUNITIES



PROBASCO STREET
(50' R/W)



NOTES:

- HORIZONTAL DATUM IS BASED ON UNIVERSITY OF CINCINNATI CONTROL NETWORK. (NAD 83)

<p>THE KLEINGERS GROUP</p> <p>CIVIL ENGINEERING SURVEYING LANDSCAPE ARCHITECTURE www.kleingers.com 6219 Centre Park Dr. West Chester, OH 45069 513.779.7851</p>	<p align="center">PROPOSED 15' COMMUNICATION EASEMENT</p> <p align="center">SECTION 20, TOWN 3, F.R. 2, 5TH. CITY OF CINCINNATI HAMILTON COUNTY, OHIO</p>	PROJECT NO: 200071VEA000
		DATE: 07-06-2020
		SCALE: 1" = 30'
		SHEET NO. 1 OF 1

H:\2020\200071\0000_DWG\200071VEA000 - UC CLIFTON COMMONS - EASEMENTS.dwg, 7/15/2020 6:37:12 AM, algal

EXHIBIT C
to Grant of Easement

Legal Description—Easement Area



CINCINNATI
COLUMBUS
DAYTON
LOUISVILLE

6219 Centre Park Drive
West Chester, OH 45069
phone ☎ 513.779.7851
fax ☎ 513.779.7852
www.kleingers.com

Legal Description
15' Communication Easement

Situated in Section 20, Town 3, Fractional Range 2, BTM, City of Cincinnati, Hamilton County, Ohio being part of the right of way of Clifton Avenue, the centerline of a 15' Communication easement being more particularly described as follows:

Beginning at a point in the westerly right of way line of Clifton Avenue being S05°57'58"W a distance of 112.50 feet from the intersection with the south right of way line of Probasco Street;

Thence S84°24'56"E a distance of 100.00 feet to the terminus of said easement being in the easterly right of way line of Clifton Avenue.

Bearings are based on University of Cincinnati Control Network (NAD83)

November 12, 2020

To: Mayor and Members of City Council 202002110
From: Paula Boggs Muething, City Manager
Subject: Ordinance – Cincinnati Fire Foundation Monetary Donation

Attached is an Ordinance captioned:

AUTHORIZING the City Manager to accept and deposit a donation from the Cincinnati Fire Foundation in the amount of up to \$32,500 into the General Fund revenue account no. 050x8571; **AUTHORIZING** the transfer and appropriation of up to \$32,500 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 advanced life support equipment for 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 \$32,500 into the General Fund revenue account no. 050x8571. This Ordinance further authorizes the transfer and appropriation of up to \$32,500 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 advanced life support equipment 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 the amount of up to \$32,500 into the General Fund revenue account no. 050x8571; and **AUTHORIZING** the transfer and appropriation of up to \$32,500 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 advanced life support equipment for the Cincinnati Fire Department's EMS Mountain Bike Unit.

WHEREAS, the Cincinnati Fire Department 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 advanced life support equipment; and

WHEREAS, the Cincinnati Fire Foundation has generously offered to donate up to \$32,500 to CFD for the purchase of said equipment; 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 the amount of up to \$32,500 into the General Fund revenue account no. 050x8571 from the Cincinnati Fire Foundation for the purpose of purchasing advanced life support equipment for the Cincinnati Fire Department's EMS Mountain Bike Unit.

Section 2. That the City Manager is authorized to transfer and appropriate an amount not to exceed \$32,500 from the unappropriated surplus of General Fund 050 to the Fire Department General Fund non-personnel operating budget account number 050x271x7300 for the purpose of

purchasing advanced life support equipment for the Cincinnati Fire Department's EMS Mountain Bike Unit.

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: _____, 2020

John Cranley, Mayor

Attest: _____
Clerk

November 12, 2020

To: Mayor and Members of City Council 202002111
From: Paula Boggs Muething, City Manager
Subject: Emergency Ordinance – LeBlond Recreation Center Walking Trail

Attached is an Emergency Ordinance captioned:

ESTABLISHING new capital improvement program project account no. 980x199x211916, “LeBlond Walking Trail Grant” for the purpose of providing resources for the engineering, design, and construction of a 0.25 mile long trail connecting the LeBlond Playground to the St. Rose Soccer Field; and **AUTHORIZING** the City Manager to apply for, accept, and appropriate a grant in an amount up to \$70,000 from the Land and Water Conservation Fund awarded by the State of Ohio, Ohio Department of Natural Resources to newly established capital improvement program project account no. 980x199x211916, “LeBlond Walking Trail Grant,” for the purpose of assisting the Cincinnati Recreation Commission with the construction of a walking trail at the LeBlond Recreation Center.

This Emergency Ordinance authorizes the City Manager to apply for, accept, and appropriate a grant in an amount up to \$70,000 from the Land and Water Conservation Fund awarded by the State of Ohio, Ohio Department of Natural Resources to newly established capital improvement program project account no. 980x199x211916, “LeBlond Walking Trail Grant,” for the purpose of assisting the Cincinnati Recreation Commission with the construction of a walking trail at the LeBlond Recreation Center. The trail will be a total of 0.25 miles long and connect the LeBlond Playground to the St. Rose Soccer Field.

The Land and Water Conservation Fund (CFDA 15.916) is a federally funded reimbursement grant program that provides up to 50% project funding and requires a 50% match. The required match of up to \$70,000 will be partially offset by Cincinnati Recreation Commission (CRC) staff providing engineering and design services as in-kind labor and the remaining local match amount will come from resources available in capital improvement program project account no. 980x199x211900, “Outdoor Facilities Renovation”. There will be no new FTE associated with the acceptance of this grant. The application deadline for these grant resources is November 16, 2020, and CRC intends to apply by this date. However, funding will not be accepted without authorization by City Council.

The LeBlond Recreation Center Walking Trail is in accordance with the Plan Cincinnati goal to “Develop an efficient multi-modal transportation system that supports neighborhood livability” as well as the strategies to “Expand options for non-automotive travel,” and “Plan, design, and implement a safe and sustainable transportation system,” as described on pages 129-138 of Plan Cincinnati (2012).

The Administration recommends passage of this Emergency Ordinance.

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



Attachment

EMERGENCY

LES

- 2020

ESTABLISHING new capital improvement program project account no. 980x199x211916, “LeBlond Walking Trail Grant” for the purpose of providing resources for the engineering, design, and construction of a 0.25 mile long trail connecting the LeBlond Playground to the St. Rose Soccer Field; and **AUTHORIZING** the City Manager to apply for, accept, and appropriate a grant in an amount up to \$70,000 from the Land and Water Conservation Fund awarded by the State of Ohio, Ohio Department of Natural Resources to newly established capital improvement program project account no. 980x199x211916, “LeBlond Walking Trail Grant,” for the purpose of assisting the Cincinnati Recreation Commission with the construction of a walking trail at the LeBlond Recreation Center.

WHEREAS, the walking trail is a total of 0.25 miles long and will connect the LeBlond Playground to the St. Rose Soccer Field; and

WHEREAS, the Land and Water Conservation Fund (CFDA 15.916) is a federally funded reimbursement grant program that provides up to 50% project funding and requires a 50% match; and

WHEREAS, the required match of \$70,000 will be partially offset by Cincinnati Recreation Commission (“CRC”) staff providing engineering and design services as in-kind labor and the remaining local match amount will come from resources available in capital improvement program project account no. 980x199x211900, “Outdoor Facilities Renovation”; and

WHEREAS, there are no new FTEs associated with the grants; and

WHEREAS, the application deadline for these grant resources is November 16, 2020, and CRC intends to apply by this date, but funding will not be accepted without authorization by City Council; and

WHEREAS, the LeBlond Walking Trail is in accordance with the Plan Cincinnati goal to “Develop an efficient multi-modal transportation system that supports neighborhood livability” as well as the strategies to “Expand options for non-automotive travel,” and “Plan, design, and implement a safe and sustainable transportation system,” as described on pages 129-138 of Plan Cincinnati (2012); now, therefore,

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

Section 1. That the Director of Finance is authorized to establish new capital improvement program project account no. 980x199x211916, “LeBlond Walking Trail Grant,” for the purpose

of providing resources for the engineering, design, and construction of a 0.25 mile long trail connecting the LeBlond Playground to the St. Rose Soccer Field.

Section 2. That the City Manager is hereby authorized to apply for, accept, and appropriate a grant in an amount up to \$70,000 from the Land and Water Conservation Fund awarded by the State of Ohio, Ohio Department of Natural Resources to newly established capital improvement program project account no. 980x199x211916, "LeBlond Walking Trail Grant," for the purpose of assisting the Cincinnati Recreation Commission with the construction of a walking trail at the LeBlond Recreation Center.

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

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

Passed: _____, 2020

John Cranley, Mayor

Attest: _____
Clerk

City of Cincinnati



Interdepartmental
Correspondence Sheet

November 12, 2020

To: Mayor and Members of Council 202002119

From: Paula Boggs Muething, City Manager

Subject: Ordinance – Execute a Grant of Easement in favor of Duke Energy Ohio, Inc., for the Property located at 7215 Bridgetown Road.

Transmitted herewith is an ordinance captioned as follows:

AUTHORIZING the City Manager to execute a *Grant of Easement* in favor of Duke Energy Ohio, Inc., granting a utility easement over a portion of City-owned property generally located at 7215 Bridgetown Road in Miami Township, Hamilton County, Ohio.

This ordinance would authorize the City Manager to execute a *Grant of Easement* in favor of Duke Energy Ohio, Inc., granting a utility easement over a portion of City-owned property generally located at 7215 Bridgetown Road in Miami Township, Hamilton County, Ohio. The homeowners at 7195 Bridgetown Road, are requesting the city to grant an easement to Duke Energy for the purposes of providing an electrical source to a structure located towards the back of their property. Electrical source access (transformer) is located close to the Neumann Golf Course maintenance facility. The approval of this easement does not impede any golf operations or patron safety.

cc: Daniel E. Betts, Director of Cincinnati Recreation Commission

City of Cincinnati

CHM
AWB

An Ordinance No. _____

- 2020

AUTHORIZING the City Manager to execute a *Grant of Easement* in favor of Duke Energy Ohio, Inc., granting a utility easement over a portion of City-owned property generally located at 7215 Bridgetown Road in Miami Township, Hamilton County, Ohio.

WHEREAS, the City of Cincinnati owns certain real property commonly known as Neumann Golf Course and generally located at 7215 Bridgetown Road in Miami Township, Hamilton County, Ohio (the "Property"), which property is under the management of the Cincinnati Recreation Commission ("CRC"); and

WHEREAS, Duke Energy Ohio, Inc. ("Grantee") has requested an easement over the Property, as more particularly depicted in the *Grant of Easement* incorporated herein as Attachment A, to construct, reconstruct, operate, maintain, repair, replace, add to, modify, and remove electric lines and all necessary and convenient supporting structures such as poles, wires, cables, guy wires with anchors, grounding systems, counterpoises, and all other appurtenances, fixtures, and equipment for the transmission and distribution of electrical energy, and for technological purposes, including, but not limited to, telecommunication services to serve an adjacent property; and

WHEREAS, the City Manager, in consultation with CRC, has determined that the grant of the easement to Grantee is not adverse to the City's retained interest in the Property; and

WHEREAS, pursuant to Cincinnati Municipal Code Section 331-5, 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 fair market value of the easement, as determined by appraisal by the City's Real Estate Services Division, is \$255, which Grantee has 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 grant of the easement at its meeting on October 23, 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 Duke Energy Ohio, Inc. ("Grantee"), pursuant to which the City will grant to Grantee a

utility easement over a portion of City-owned property located at 7215 Bridgetown Road in Miami Township, Hamilton County, Ohio (the "Property"), in substantially the form attached hereto as Attachment A and incorporated herein by reference, to construct, reconstruct, operate, maintain, repair, replace, add to, modify, and remove electric lines and all necessary and convenient supporting structures such as poles, wires, cables, guy wires with anchors, grounding systems, counterpoises, and all other appurtenances, fixtures, and equipment for the transmission and distribution of electrical energy, and for technological purposes, including, but not limited to, telecommunication services.

Section 2. That the grant of the easement to Grantee is not adverse to the City's retained interests in the Property.

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 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 \$255, which Grantee has deposited with the City Treasurer.

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

Section 6. That the proper City officials are hereby authorized to take all necessary and proper actions to carry out the terms of this ordinance, including execution of all necessary real estate documents.

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

Passed: _____, 2020

John Cranley, Mayor

Attest: _____
Clerk

ATTACHMENT A

----- space above for County Recorder -----

GRANT OF EASEMENT

Pt. Parcel #570-0040-0023-90
Neumann Golf Course

In consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, the **CITY OF CINCINNATI**, an Ohio municipal corporation, having an address of 801 Plum Street, Cincinnati, OH 45202 (“Grantor”), hereby grants unto **DUKE ENERGY OHIO, INC.**, an Ohio corporation, having an address of 139 East Fourth Street, Cincinnati, OH 45202 (“Grantee”), a perpetual, non-exclusive easement to construct, reconstruct, operate, maintain, repair, replace, add to, modify and remove electric lines and all necessary and convenient supporting structures (such as poles), wires, cables, guy wires with anchors, grounding systems, counterpoises, and all other appurtenances, fixtures and equipment (hereinafter referred to as the “Facilities”), for the transmission and distribution of electrical energy, and for technological purposes (including but not limited to telecommunications), across a portion of the following described real estate (the land and any and all improvements now or hereafter located thereon being referred to herein as the “Property”):

Situate in Section 3, Town 1, Fractional Range 2, Miami Purchase, Miami Township, Hamilton County, State of Ohio; said Property being part of a larger tract of land, as conveyed to the **CITY OF CINCINNATI** from Gerhardt Development Company, Fred J. Morr, Auditor of Hamilton County, Ohio, and Paul A. O’Brien, Treasurer of Hamilton County, Ohio by Judgment Entry in Case Nos. A-189332 and A-191807, consolidated, filed with the Court of Common Pleas of Hamilton County, Ohio dated March 18, 1963 and recorded in Deed Book 3303, Page 191 in the Office of the Recorder of Hamilton County, Ohio (hereinafter referred to as “Grantor’s Property”), and further described in Exhibit “B”, attached hereto and hereby made a part hereof:

Said overhead electric easement being a strip of land twenty feet (20’) in uniform width, lying ten feet (10’) wide on both sides of a centerline, which centerline shall be established by the center of the Facilities as constructed and as generally shown on Exhibit “A”, attached hereto and becoming a part hereof (hereinafter referred to as the “Easement Area”).

The respective rights and duties of Grantor and Grantee hereunder are as follows:

1. Access. Grantee shall have the right of ingress and egress over the Easement Area and Property using existing lanes, driveways and adjoining public roads where practical as determined by Grantee.

2. Clearing of Vegetation. Grantee shall have the right to cut down, clear, trim, remove, and otherwise control any trees, shrubs, overhanging branches and other vegetation (collectively, "Vegetation") within the Easement Area. Grantee shall also have the right to cut down, clear, trim, remove and otherwise control any Vegetation that is adjacent to the Easement Area but only to the extent such Vegetation may endanger the safe or reliable operation of the Facilities as reasonably determined by Grantee. Following Grantee's removal of Vegetation, Grantee shall restore the surface of the Easement Area and Property, as the case may be, to a safe and sightly condition. By way of example and not limitation, if Grantee cuts down trees, Grantee shall either completely remove the tree stumps or cut them off level to the ground, and if Grantee damages grassy areas, Grantee shall either re-sod or re-seed the damaged area.

3. Environmental Condition. To the best of Grantor's actual knowledge without having performed any independent inquiry, investigation or environmental assessment, the Easement Area does not contain any hazardous or toxic materials or other environmental contamination.

4. No Obstructions or Excavation. Grantor shall not, without Grantee's prior written consent, (a) place, or permit the placement of, any structures or other permanent obstructions within or adjacent to the Easement Area that may interfere with Grantee's exercise of its rights hereunder; (b) excavate or place, or permit the excavation or placement of, any dirt or other similar material within the Easement Area; or (c) install, or permit the installation of, a pond, lake or similar containment vehicle within or adjacent to the Easement Area that would result in the retention of water within the Easement Area. Grantee shall have the right to remove any and all such unauthorized obstructions and, notwithstanding the provisions of paragraph 6 (Repair of Damage) below, Grantee shall not be required to repair any damage to the surface of the Easement Area or Property resulting therefrom.

5. Storing of Dirt. Grantee shall have the right to temporarily pile dirt and other material and to operate equipment upon the surface of the Easement Area, and also on the land immediately adjacent to the Easement Area not to exceed fifteen (15) feet in width on either side of the Easement Area, but only during those times when Grantee is constructing, reconstructing, maintaining, repairing, replacing, adding to, modifying, or removing the Facilities.

6. Repair of Damage. Grantee, at its expense, shall promptly repair any and all physical damage to the surface area of the Easement Area and any and all damage to the Property resulting from Grantee's exercise of its rights hereunder, including without limitation damage caused by Grantee's employees, agents, contractors and subcontractors. In making such repairs, Grantee shall restore the affected area to a safe and sightly condition and otherwise to a condition that is reasonably close to the condition that the affected area was in immediately prior to the damage. If Grantee does not, in the opinion of Grantor, satisfactorily repair any such damage, Grantor may, within ninety (90) days of discovering such damage, file a claim for such damage with Grantee (a) at 139 East Fourth Street, Cincinnati, OH 45202, Attn: Right of Way Services EF320, or (b) by contacting an authorized Right of Way Services representative of Grantee. Grantee shall not be expected to respond to claims filed thereafter.

7. Grantor's Reserved Rights. Grantor shall have the right to use the Easement Area in any manner that is not inconsistent with the rights granted herein to Grantee. Grantor's and Grantee's use of the Easement Area shall comply with all applicable laws and codes.

8. Authority to Grant Easement. Grantor represents that it has the necessary authority and title to the Property to grant this easement to Grantee.

9. Easement to Run with the Land. The provisions hereof shall be deemed to "run with the land" and shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns. Upon any transfer of the fee simple interest in the Property, the transferor of such interest shall be relieved of all liability and obligations hereunder thereafter accruing, and the transferee shall be deemed to have assumed all such liability and obligations.

The rights herein granted to Grantee are subject to any and all existing easements, restrictions and other matters of record affecting the Property.

Executed for the CITY of CINCINNATI by the City Manager on this ____ day of _____, 2020, as duly authorized by Ordinance _____-20____ passed on _____, 2020.

CITY OF CINCINNATI

By: _____
City Manager

STATE OF OHIO)
) ss:
COUNTY OF HAMILTON)

The foregoing instrument was acknowledged before me this ____ day of _____, 2020, by Harry Black, City Manager of the City of Cincinnati, an Ohio municipal corporation, on behalf of the corporation.

Notary Public
My commission expires: _____

Approved as to Form:

Assistant City Solicitor

**ACKNOWLEDGED AND ACCEPTED BY:
DUKE ENERGY OHIO, INC.**

By: _____

Its: **Manager of Land Services, Midwest Region**

Date: _____, 20__

STATE OF OHIO)
) ss:
COUNTY OF HAMILTON)

The foregoing instrument was acknowledged before me this ____ day of _____, 2020,
by KEVIN M. JENNINGS of Duke Energy Ohio, Inc., an Ohio corporation, on behalf of the corporation.

Notary Public
My commission expires: _____

This Instrument Prepared by Janice L. Walker, Attorney-at-Law, 139 E. Fourth St., Cincinnati, OH 45202.

*For Grantee's Internal Use:
Maximo No. 34099960
Prepared by: DP
Prepared date: 12/12/2019
Reviewed by:
Pole No. HMO-30257*

EXHIBIT "B"

Situate, lying and being in Section 3, Town 1, Fractional Range 2 of the Miami Purchase, in Miami Township, Hamilton County, Ohio, more particularly described as follows:

Commencing at a stone on the south east corner of Section 3, measure N 89°35'14" W, three thousand and eighty five, and ninety five hundredths (3085.95) feet along the south line of said Section 3 to a point, thence N 0°33'40" W, six hundred and sixty (660.00) feet to a point in the east line of a lot conveyed to Michael Herschel by deed recorded in Deed Book 2539, page 475 in the Recorder's Office, Hamilton County, Ohio, thence S 89°55'10" E six hundred and three and seventy three hundredths (603.73) feet to the place of beginning, thence N 0°24'00" W, twenty six hundred and forty eight and forty one hundredths (2648.41) feet to a point thence N 89°36'20" E one hundred and twenty seven and seventy four hundredths (127.74) feet to a point, thence S 0°24'00" E twenty six hundred and forty nine and forty one hundredths (2649.41) feet to a point, N 89°55'10" W one hundred and twenty seven and seventy four hundredths (127.74) feet to the place of beginning. Containing 7.768 acres of land. Being part of the same premises conveyed to Gerhardt Development Co., Inc. by Deed, recorded in Deed Book 3021, Page 474 in the Recorder's Office of Hamilton County, Ohio.

Subject to the right of way and easement over part of the premises herein above described, granted by John Getz, Jr. and Catherine Getz to the Union Gas and Electric Company by Deed recorded in Deed Book 1306, Page 594 of the Deed Records of Hamilton County, Ohio, and Deed Book 1881, Page 16.

ALSO:

Situate lying and being in Section 3, Town 1, Fractional Range 2 of the Miami Purchase, in Miami Township, Hamilton County, Ohio, more particularly described as follows:

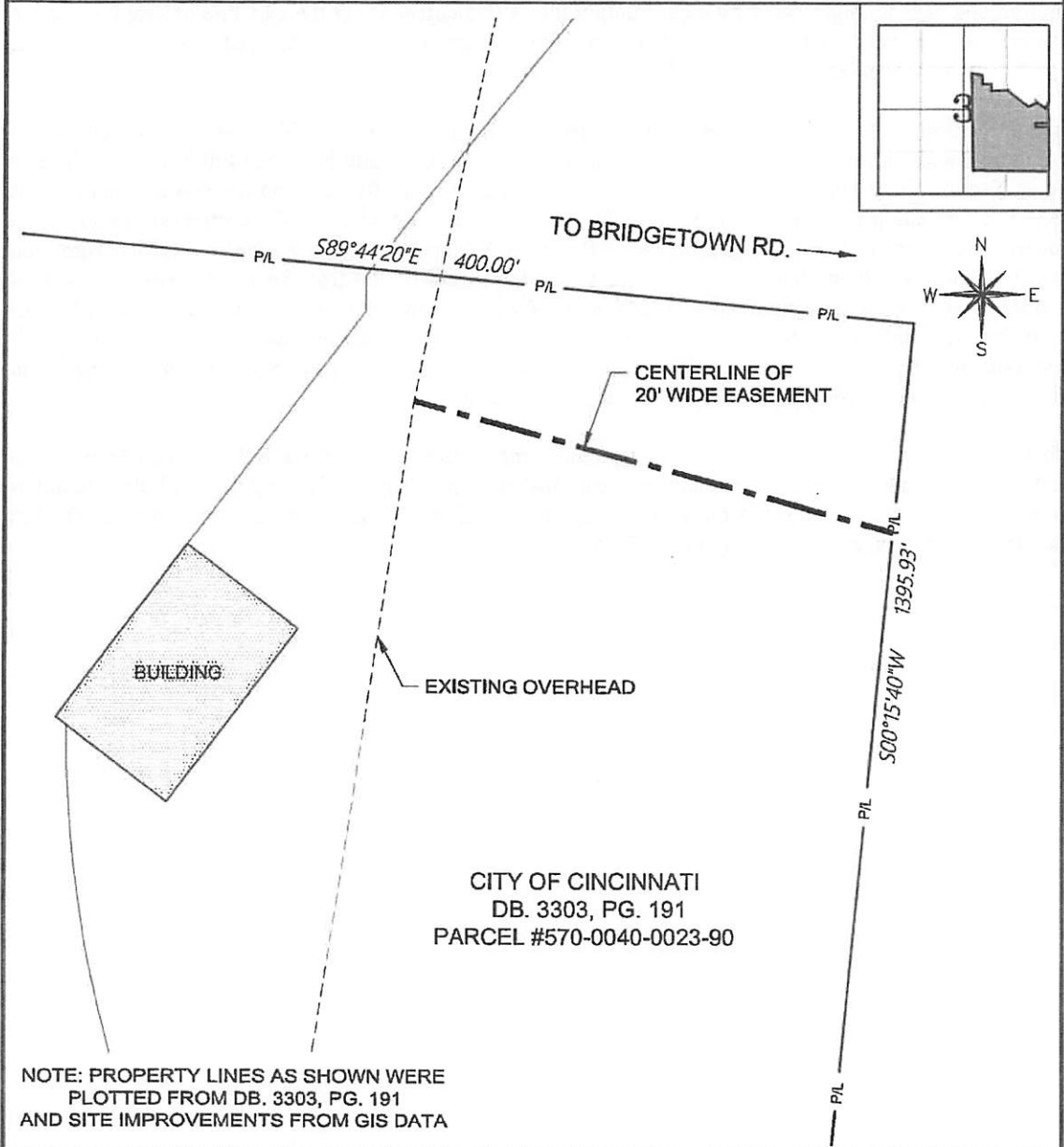
Commencing at a stone on the southeast corner of Section 3, measure N 89°35'14" W, three thousand and eighty five, and ninety five hundredths (3085.95) feet along the south line of said Section 3 to a point, thence N 0°33'40" W, six hundred and sixty (660.00) feet to a point in the east line of a lot conveyed to Michael Herschel by deed recorded in Deed Book 2539, page 475 in the Recorder's Office, Hamilton County, Ohio, thence S 89°55'10" E seven hundred and thirty one and forty seven hundredths (731.47) feet to the place of beginning, thence N 0°24'00" W, three thousand and forty nine and forty one hundredths (3049.41) feet to a point, which is to the southwest corner of lot number one (1) in Gerhardt's 3rd Subdivision Block "A" as recorded in Plat Book 75, pages 15 and 16 in the Recorder's Office of Hamilton County, Ohio; thence S 79°39'50" E three hundred and forty two and thirty four hundredths (342.34) feet to a point, which is the southeast corner of lot number four (4) of the aforementioned Gerhardt's 3rd Subdivision Block "A", thence S 0°28'30" W two hundred and sixty five (265.00) feet to a point, thence S 89°48'30" E two hundred and seventy seven and ninety hundredths (277.90) feet to a point in the west line of William Miller as recorded in Deed Book 2479, page 61 of the Hamilton County Ohio Records, thence S 0°28'30" W two hundred and seven and seventy-nine hundredths (207.49) feet to a point, thence N 89°09'10" W five hundred and twenty five and seventy-nine hundredths (525.79) feet to a point in the west line of lot number six (6) of the aforementioned Gerhardt's 3rd Subdivision Block "A", S 0°33'50" E sixty (60) feet to the southwest corner of said lot number six (6); thence S 54°10'50" E seven hundred and seventy three and sixty eight hundredths (773.68) feet to a point, thence N 59°45'00" E two hundred and ninety five and eighty three hundredths (295.83) feet to an angle point in the westerly line of lot number twelve (12) of the aforementioned Gerhardt's 3rd Subdivision Block "A", thence S 54°21'10" E three hundred and fifty nine and fifty one hundredths (359.51) feet to the most southerly corner of lot number fourteen (14) of Gerhardt's 3rd Subdivision Block "A", thence N 39°28'50" E seventy three and

ninety hundreds (73.90) feet to a point in the west line of Bridgetown Road. Thence S 9°00'10" E forty eight and forty hundredths (48.40) feet along the west line of Bridgetown Road to a point, thence S 13°09'10" E fifty two and eighty two hundreds (52.82) feet to a point, thence S 19°45'10" E, fifteen and fifty hundredths (15.50) feet to a point in the east line of Section Three (3) thence S 0°15'40" W four hundred and seventy eight and fifty eight hundredths (478.58) feet along the east line of section three to the northeast corner of a lot conveyed to Norman W. Kline et al by deed, as recorded in Deed Book 2465, page 518 in the Recorder's Office Hamilton County, Ohio.

Thence N 89°44'20" W, four hundred (400.00) feet to a point; thence S 0°15'40" W, one hundred eight and ninety hundredths (108.90) feet to a point; thence S 89°44'20" E four hundred (400.00) feet to the east line of Section Three, thence S 0°15'40" W thirteen hundred and fifty-nine and ninety-three hundredths (1359.93) feet along the east line of Section Three to a field stone which is the northwest corner of the property conveyed by Deed recorded in Deed Book 1828, page 90, in the Recorder's Office Hamilton County, Ohio, said field stone also being the southeast corner of the tract herein described, thence N 88°43'30" W twenty three hundred and fifty and fifty-three hundredths (2350.53) feet to the place of beginning. Containing 131.627 acres of land. Being part of the same premises conveyed to Gerhardt Development Co., Inc. by Deed recorded in Deed Book 2795, page 472 (referred to as Parcel One (1) in said Deed) in the Recorder's Office of Hamilton County, Ohio.

Subject to all local highways, 40 feet from the center line of Bridgetown Road. Subject to an easement to the Cincinnati Gas & Electric Company as described in Deed Book 1890, page 234 of the Hamilton County, Ohio, Records; and subject to an easement to the Union Gas & Electric Company as described in Deed Book 1350, page 296 of the Hamilton County, Ohio records.

THIS IS NOT A SURVEY. LOCATIONS SHOWN ARE APPROXIMATE. THE ACTUAL CENTERLINE LOCATION OF THE UTILITY LINE IS THE CENTERLINE OF THE EASEMENT.



CITY OF CINCINNATI
DB. 3303, PG. 191
PARCEL #570-0040-0023-90

NOTE: PROPERTY LINES AS SHOWN WERE PLOTTED FROM DB. 3303, PG. 191 AND SITE IMPROVEMENTS FROM GIS DATA

HAMILTON COUNTY, OHIO

SITE NAME: MIAMI TOWNSHIP SECTION 3 T-1, F.R.-2, MIAMI PURCHASE

	DR.	AM	EXHIBIT MAP OF:	EASEMENT
	CK.	MT	EXHIBIT MAP FOR:	CITY OF CINCINNATI
	DATE	02/05/2020	LOCATION	7215 BRIDGETOWN RD. CINCINNATI, OH
EXHIBIT 'A'				EMAX #34099960

----- space above for County Recorder -----

GRANT OF EASEMENT

Pt. Parcel #570-0040-0023-90
Neumann Golf Course

In consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, the **CITY OF CINCINNATI**, an Ohio municipal corporation, having an address of 801 Plum Street, Cincinnati, OH 45202 (“**Grantor**”), hereby grants unto **DUKE ENERGY OHIO, INC.**, an Ohio corporation, having an address of 139 East Fourth Street, Cincinnati, OH 45202 (“**Grantee**”), a perpetual, non-exclusive easement to construct, reconstruct, operate, maintain, repair, replace, add to, modify and remove electric lines and all necessary and convenient supporting structures (such as poles), wires, cables, guy wires with anchors, grounding systems, counterpoises, and all other appurtenances, fixtures and equipment (hereinafter referred to as the “**Facilities**”), for the transmission and distribution of electrical energy, and for technological purposes (including but not limited to telecommunications), across a portion of the following described real estate (the land and any and all improvements now or hereafter located thereon being referred to herein as the “**Property**”):

Situate in Section 3, Town 1, Fractional Range 2, Miami Purchase, Miami Township, Hamilton County, State of Ohio; said Property being part of a larger tract of land, as conveyed to the **CITY OF CINCINNATI** from Gerhardt Development Company, Fred J. Morr, Auditor of Hamilton County, Ohio, and Paul A. O’Brien, Treasurer of Hamilton County, Ohio by Judgment Entry in Case Nos. A-189332 and A-191807, consolidated, filed with the Court of Common Pleas of Hamilton County, Ohio dated March 18, 1963 and recorded in **Deed Book 3303, Page 191** in the Office of the Recorder of Hamilton County, Ohio (hereinafter referred to as “**Grantor’s Property**”), and further described in Exhibit “B”, attached hereto and hereby made a part hereof:

Said overhead electric easement being a strip of land twenty feet (20’) in uniform width, lying ten feet (10’) wide on both sides of a centerline, which centerline shall be established by the center of the Facilities as constructed and as generally shown on Exhibit “A”, attached hereto and becoming a part hereof (hereinafter referred to as the “**Easement Area**”).

The respective rights and duties of Grantor and Grantee hereunder are as follows:

1. Access. Grantee shall have the right of ingress and egress over the Easement Area and Property using existing lanes, driveways and adjoining public roads where practical as determined by Grantee.

2. Clearing of Vegetation. Grantee shall have the right to cut down, clear, trim, remove, and otherwise control any trees, shrubs, overhanging branches and other vegetation (collectively, “**Vegetation**”) within the Easement Area. Grantee shall also have the right to cut down, clear, trim, remove and otherwise control any Vegetation that is adjacent to the Easement Area but only to the extent such Vegetation may endanger the safe or reliable operation of the Facilities as reasonably determined by Grantee. Following Grantee’s removal of Vegetation, Grantee shall restore the surface of the Easement Area and Property, as the case may be, to a safe and sightly condition. By way of example and not limitation, if Grantee cuts down trees, Grantee shall either completely remove the tree stumps or cut them off level to the ground, and if Grantee damages grassy areas, Grantee shall either re-sod or re-seed the damaged area.

3. Environmental Condition. To the best of Grantor’s actual knowledge without having performed any independent inquiry, investigation or environmental assessment, the Easement Area does not contain any hazardous or toxic materials or other environmental contamination.

4. No Obstructions or Excavation. Grantor shall not, without Grantee’s prior written consent, (a) place, or permit the placement of, any structures or other permanent obstructions within or adjacent to the Easement Area that may interfere with Grantee’s exercise of its rights hereunder; (b) excavate or place, or permit the excavation or placement of, any dirt or other similar material within the Easement Area; or (c) install, or permit the installation of, a pond, lake or similar containment vehicle within or adjacent to the Easement Area that would result in the retention of water within the Easement Area. Grantee shall have the right to remove any and all such unauthorized obstructions and, notwithstanding the provisions of paragraph 6 (Repair of Damage) below, Grantee shall not be required to repair any damage to the surface of the Easement Area or Property resulting therefrom.

5. Storing of Dirt. Grantee shall have the right to temporarily pile dirt and other material and to operate equipment upon the surface of the Easement Area, and also on the land immediately adjacent to the Easement Area not to exceed fifteen (15) feet in width on either side of the Easement Area, but only during those times when Grantee is constructing, reconstructing, maintaining, repairing, replacing, adding to, modifying, or removing the Facilities.

6. Repair of Damage. Grantee, at its expense, shall promptly repair any and all physical damage to the surface area of the Easement Area and any and all damage to the Property resulting from Grantee's exercise of its rights hereunder, including without limitation damage caused by Grantee's employees, agents, contractors and subcontractors. In making such repairs, Grantee shall restore the affected area to a safe and sightly condition and otherwise to a condition that is reasonably close to the condition that the affected area was in immediately prior to the damage. If Grantee does not, in the opinion of Grantor, satisfactorily repair any such damage, Grantor may, within ninety (90) days of discovering such damage, file a claim for such damage with Grantee (a) at 139 East Fourth Street, Cincinnati, OH 45202, Attn: Right of Way Services EF320, or (b) by contacting an authorized Right of Way Services representative of Grantee. Grantee shall not be expected to respond to claims filed thereafter.

7. Grantor's Reserved Rights. Grantor shall have the right to use the Easement Area in any manner that is not inconsistent with the rights granted herein to Grantee. Grantor's and Grantee's use of the Easement Area shall comply with all applicable laws and codes.

8. Authority to Grant Easement. Grantor represents that it has the necessary authority and title to the Property to grant this easement to Grantee.

9. Easement to Run with the Land. The provisions hereof shall be deemed to "run with the land" and shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns. Upon any transfer of the fee simple interest in the Property, the transferor of such interest shall be relieved of all liability and obligations hereunder thereafter accruing, and the transferee shall be deemed to have assumed all such liability and obligations.

The rights herein granted to Grantee are subject to any and all existing easements, restrictions and other matters of record affecting the Property.

Executed for the CITY of CINCINNATI by the City Manager on this ____ day of _____, 2020, as duly authorized by Ordinance _____-20____ passed on _____, 2020.

CITY OF CINCINNATI

By: _____
City Manager

STATE OF OHIO)
) ss:
COUNTY OF HAMILTON)

The foregoing instrument was acknowledged before me this ____ day of _____, 2020, by Harry Black, City Manager of the City of Cincinnati, an Ohio municipal corporation, on behalf of the corporation.

Notary Public
My commission expires: _____

Approved as to Form:

Assistant City Solicitor

ACKNOWLEDGED AND ACCEPTED BY:
DUKE ENERGY OHIO, INC.

By: _____

Its: Manager of Land Services, Midwest Region

Date: _____, 20__

STATE OF OHIO)
)ss:
COUNTY OF HAMILTON)

The foregoing instrument was acknowledged before me this ____ day of _____, 2020, by KEVIN M. JENNINGS of Duke Energy Ohio, Inc., an Ohio corporation, on behalf of the corporation.

Notary Public
My commission expires: _____

This Instrument Prepared by Janice L. Walker, Attorney-at-Law, 139 E. Fourth St., Cincinnati, OH 45202.

For Grantee's Internal Use:
Maximo No. 34099960
Prepared by: DP
Prepared date: 12/12/2019
Reviewed by:
Pole No. HMO-30257

EXHIBIT "B"

Situate, lying and being in Section 3, Town 1, Fractional Range 2 of the Miami Purchase, in Miami Township, Hamilton County, Ohio, more particularly described as follows:

Commencing at a stone on the south east corner of Section 3, measure N 89°35'14" W, three thousand and eighty five, and ninety five hundredths (3085.95) feet along the south line of said Section 3 to a point, thence N 0°33'40" W, six hundred and sixty (660.00) feet to a point in the east line of a lot conveyed to Michael Herschel by deed recorded in Deed Book 2539, page 475 in the Recorder's Office, Hamilton County, Ohio, thence S 89°55'10" E six hundred and three and seventy three hundredths (603.73) feet to the place of beginning, thence N 0°24'00" W, twenty six hundred and forty eight and forty one hundredths (2648.41) feet to a point thence N 89°36'20" E one hundred and twenty seven and seventy four hundredths (127.74) feet to a point, thence S 0°24'00" E twenty six hundred and forty nine and forty one hundredths (2649.41) feet to a point, N 89°55'10" W one hundred and twenty seven and seventy four hundredths (127.74) feet to the place of beginning. Containing 7.768 acres of land. Being part of the same premises conveyed to Gerhardt Development Co., Inc. by Deed, recorded in Deed Book 3021, Page 474 in the Recorder's Office of Hamilton County, Ohio.

Subject to the right of way and easement over part of the premises herein above described, granted by John Getz, Jr. and Catherine Getz to the Union Gas and Electric Company by Deed recorded in Deed Book 1306, Page 594 of the Deed Records of Hamilton County, Ohio, and Deed Book 1881, Page 16.

ALSO:

Situate lying and being in Section 3, Town 1, Fractional Range 2 of the Miami Purchase, in Miami Township, Hamilton County, Ohio, more particularly described as follows:

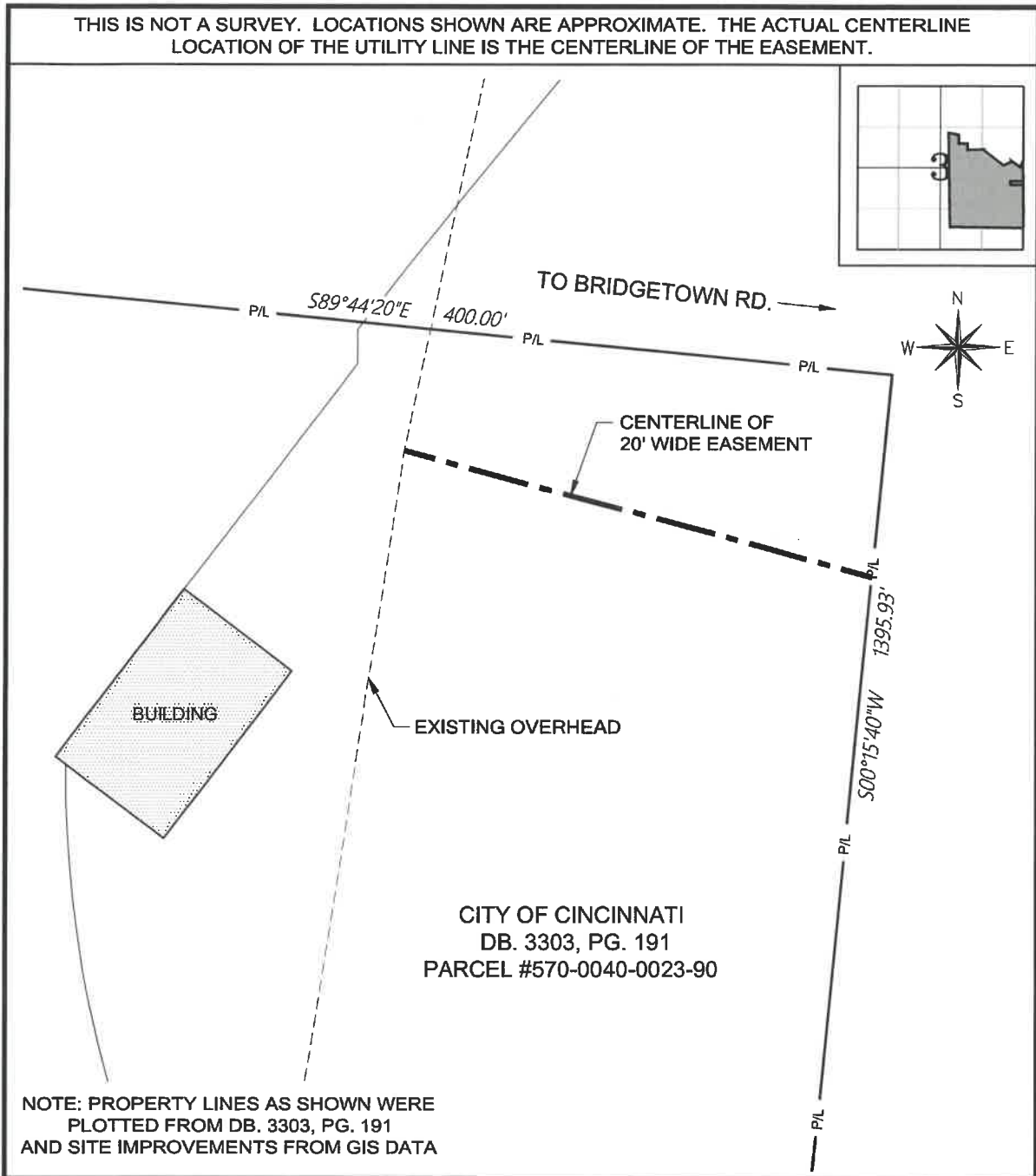
Commencing at a stone on the southeast corner of Section 3, measure N 89°35'14" W, three thousand and eighty five, and ninety five hundredths (3085.95) feet along the south line of said Section 3 to a point, thence N 0°33'40" W, six hundred and sixty (660.00) feet to a point in the east line of a lot conveyed to Michael Herschel by deed recorded in Deed Book 2539, page 475 in the Recorder's Office, Hamilton County, Ohio, thence S 89°55'10" E seven hundred and thirty one and forty seven hundredths (731.47) feet to the place of beginning, thence N 0°24'00" W, three thousand and forty nine and forty one hundredths (3049.41) feet to a point, which is to the southwest corner of lot number one (1) in Gerhardt's 3rd Subdivision Block "A" as recorded in Plat Book 75, pages 15 and 16 in the Recorder's Office of Hamilton County, Ohio; thence S 79°39'50" E three hundred and forty two and thirty four hundredths (342.34) feet to a point, which is the southeast corner of lot number four (4) of the aforementioned Gerhardt's 3rd Subdivision Block "A", thence S 0°28'30" W two hundred and sixty five (265.00) feet to a point, thence S 89°48'30" E two hundred and seventy seven and ninety hundredths (277.90) feet to a point in the west line of William Miller as recorded in Deed Book 2479, page 61 of the Hamilton County Ohio Records, thence S 0°28'30" W two hundred and seven and seventy-nine hundredths (207.49) feet to a point, thence N 89°09'10" W five hundred and twenty five and seventy-nine hundredths (525.79) feet to a point in the west line of lot number six (6) of the aforementioned Gerhardt's 3rd Subdivision Block "A", S 0°33'50" E sixty (60) feet to the southwest corner of said lot number six (6); thence S 54°10'50" E seven hundred and seventy three and sixty eight hundredths (773.68) feet to a point, thence N 59°45'00" E two hundred and ninety five and eighty three hundredths (295.83) feet to an angle point in the westerly line of lot number twelve (12) of the aforementioned Gerhardt's 3rd Subdivision Block "A", thence S 54°21'10" E three hundred and fifty nine and fifty one hundredths (359.51) feet to the most southerly corner of lot number fourteen (14) of Gerhardt's 3rd Subdivision Block "A", thence N 39°28'50" E seventy three and

ninety hundreds (73.90) feet to a point in the west line of Bridgetown Road. Thence S 9°00'10" E forty eight and forty hundredths (48.40) feet along the west line of Bridgetown Road to a point, thence S 13°09'10" E fifty two and eighty two hundreds (52.82) feet to a point, thence S 19°45'10" E, fifteen and fifty hundredths (15.50) feet to a point in the east line of Section Three (3) thence S 0°15'40" W four hundred and seventy eight and fifty eight hundredths (478.58) feet along the east line of section three to the northeast corner of a lot conveyed to Norman W. Kline et al by deed, as recorded in Deed Book 2465, page 518 in the Recorder's Office Hamilton County, Ohio.

Thence N 89°44'20" W, four hundred (400.00) feet to a point; thence S 0°15'40" W, one hundred eight and ninety hundredths (108.90) feet to a point; thence S 89°44'20" E four hundred (400.00) feet to the east line of Section Three, thence S 0°15'40" W thirteen hundred and fifty-nine and ninety-three hundredths (1359.93) feet along the east line of Section Three to a field stone which is the northwest corner of the property conveyed by Deed recorded in Deed Book 1828, page 90, in the Recorder's Office Hamilton County, Ohio, said field stone also being the southeast corner of the tract herein described, thence N 88°43'30" W twenty three hundred and fifty and fifty-three hundredths (2350.53) feet to the place of beginning. Containing 131.627 acres of land. Being part of the same premises conveyed to Gerhardt Development Co., Inc. by Deed recorded in Deed Book 2795, page 472 (referred to as Parcel One (1) in said Deed) in the Recorder's Office of Hamilton County, Ohio.

Subject to all local highways, 40 feet from the center line of Bridgetown Road. Subject to an easement to the Cincinnati Gas & Electric Company as described in Deed Book 1890, page 234 of the Hamilton County, Ohio, Records; and subject to an easement to the Union Gas & Electric Company as described in Deed Book 1350, page 296 of the Hamilton County, Ohio records.

THIS IS NOT A SURVEY. LOCATIONS SHOWN ARE APPROXIMATE. THE ACTUAL CENTERLINE LOCATION OF THE UTILITY LINE IS THE CENTERLINE OF THE EASEMENT.



HAMILTON COUNTY, OHIO

SITE NAME: MIAMI TOWNSHIP SECTION 3 T-1, F.R.-2, MIAMI PURCHASE

	DR. AM	EXHIBIT MAP OF: EASEMENT
	CK. MT	EXHIBIT MAP FOR: CITY OF CINCINNATI
	DATE 02/05/2020	LOCATION 7215 BRIDGETOWN RD. CINCINNATI, OH
EXHIBIT 'A'		EMAX #34099960

November 9, 2020

TO: Mayor and Members of City Council **202002089**
FROM: Paula Boggs Muething, City Manager
SUBJECT: Report - Saving our Brothers and Sisters Project

REFERENCE DOCUMENT #202001902

The Budget and Finance Committee at its session on October 26, 2020, referred the following Motion for a report:

MOTION, submitted by Councilmember Kearney, WE MOVE to allocate a total of \$70,000 in city funding to implement the Saving Our Brothers and Sisters (SOBS) Project - a partnership and commitment between Truth & Destiny Covenant Ministries UCC (Pastor Lesley E. Jones), House of Hope Fellowship Church (Pastor Nick Burnett), R.E.A.L. Truth, Inc (Rufus Johnson), and B.E.A.F. Project (Candance Tubbs) to address gun violence.

This program was requested to be funded as part of the Alternative Policing Strategies funding approved in the FY2021 Budget. There are resources available for this program and by approving this report, the Administration will work with the organization to draft an agreement to implement the program.

cc: Christopher A. Bigham, Assistant City Manager

October 28, 2020

To: Mayor and Members of City Council

From: Paula Boggs Muething, City Manager

202002056

Subject: Ordinance – Oakley Pedestrian Tunnel Project

Attached is an emergency Ordinance captioned:

AUTHORIZING the establishment of new capital improvement program project account no. 980x164x211642, “Oakley Pedestrian Tunnel,” for the purpose of providing resources to facilitate the design and construction of a pedestrian tunnel in the Oakley neighborhood; **AUTHORIZING** the transfer and appropriation of \$265,000 from the unappropriated surplus of Oakley District Equivalent Fund 499 to the newly established capital improvement program project account no. 980x164x211642, “Oakley Pedestrian Tunnel,” to provide resources for the design of a pedestrian tunnel under the railroad that separates the former Kenner Factory site and the Castfab/Oakley Station site; and **DECLARING** that expenditures from capital improvement program project account no. 980x164x211642, “Oakley Pedestrian Tunnel,” are for a public purpose because the project will foster local improvements and investment and increase neighborhood vitality.

Approval of this Ordinance authorizes the City Manager to establish a new capital improvement program project account no. 980x164x211642, “Oakley Pedestrian Tunnel,” for the purpose of providing resources to facilitate the design and construction of a pedestrian tunnel in the Oakley neighborhood. Approval of this Ordinance also authorizes the transfer and appropriation of \$265,000 from the unappropriated surplus of Oakley District Equivalent Fund 499 to the newly established capital improvement program project account no. 980x164x211642, “Oakley Pedestrian Tunnel,” to provide resources for the design of a pedestrian tunnel under the railroad that separates the former Kenner Factory site and the Castfab/Oakley Station site. Lastly, this Ordinance declares that expenditures from capital improvement program project account no. 980x164x211642, “Oakley Pedestrian Tunnel,” are for a public purpose because the project will foster local improvements and investment and increase neighborhood vitality.

It is anticipated that state and federal grants will be needed in the future to assist in covering the costs of construction, which is currently estimated at \$6.5 million to \$7.0 million.

This Ordinance is in accordance with the “Live” goal to “Become more walkable” as described on pages 156-159 of Plan Cincinnati (2012).

The Administration recommends passage of this Ordinance.

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



Attachment

EMERGENCY

KKF

- 2020

AUTHORIZING the establishment of new capital improvement program project account no. 980x164x211642, “Oakley Pedestrian Tunnel,” for the purpose of providing resources to facilitate the design and construction of a pedestrian tunnel in the Oakley neighborhood; **AUTHORIZING** the transfer and appropriation of \$265,000 from the unappropriated surplus of Oakley District Equivalent Fund 499 to the newly established capital improvement program project account no. 980x164x211642, “Oakley Pedestrian Tunnel,” to provide resources for the design of a pedestrian tunnel under the railroad that separates the former Kenner Factory site and the Castfab/Oakley Station site; and **DECLARING** that expenditures from capital improvement program project account no. 980x164x211642, “Oakley Pedestrian Tunnel,” are for a public purpose because the project will foster local improvements and investment and increase neighborhood vitality.

WHEREAS, pedestrian access and walkability are important components of a thriving neighborhood and foster economic development; and

WHEREAS, development of a pedestrian tunnel in the Oakley neighborhood will connect the former Kenner Factory site and the Castfab/Oakley Station site which are otherwise divided by a railroad; and

WHEREAS, it is anticipated that state and federal grants will be needed in the future to assist in covering the costs of construction, which is currently estimated at \$6.5 million to \$7.0 million; and

WHEREAS, the Oakley Pedestrian Tunnel capital improvement project is in accordance with the “Live” strategy to “Become more walkable” as described on pages 156-159 of Plan Cincinnati (2012); now, therefore,

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

Section 1. That new capital improvement program project account no. 980x164x211642, “Oakley Pedestrian Tunnel,” is hereby established for the purpose of providing resources for the design and construction of a pedestrian tunnel under a railroad that separates the former Kenner Factory site and the Castfab/Oakley Station site in the Oakley neighborhood.

Section 2. That the transfer and appropriation of the sum of \$265,000 from the unappropriated surplus of Oakley District Equivalent Fund 499 to the newly established capital

improvement program project account no. 980x164x211642, "Oakley Pedestrian Tunnel," to provide resources for the design of a pedestrian tunnel under the railroad that separates the former Kenner Factory site and the Castfab/Oakley Station site in the Oakley neighborhood, is hereby authorized.

Section 3. That expenditures from capital improvement program project account no. 980x164x211642, "Oakley Pedestrian Tunnel," are hereby declared to serve a public purpose because the projects will foster local improvements and investment and increase neighborhood vitality.

Section 4. That the proper City officials are authorized to do all things necessary and proper to carry out the terms of Sections 1 through 3 hereof.

Section 5. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to ensure that the developer can close on financing and immediately begin construction as required by a development agreement.

Passed: _____, 2020

John Cranley, Mayor

Attest: _____
Clerk

November 9, 2020

To: Mayor and Members of City Council **202002116**
From: Paula Boggs Muething, City Manager
Subject: **CRA TAX EXEMPTION AGREEMENT FOR THE ARTS
APARTMENTS AT MUSIC HALL**

Attached is an Emergency Ordinance captioned as follows:

APPROVING AND AUTHORIZING the City Manager to execute a *Community Reinvestment Area Tax Exemption Agreement* with BH New Arts, LP, thereby authorizing a 15-year tax exemption for 100% of the value of improvements made to real property located at 845 Ezzard Charles Drive in the West End neighborhood of Cincinnati, in connection with the remodeling of 21 buildings into approximately 170,300 square feet of residential space, consisting of 248 affordable units which will be rented to individuals earning at or below 60% of the Area Median Income, at a total remodeling cost of approximately \$11,118,302.

BACKGROUND/CURRENT CONDITIONS

The Arts Apartments at Music Hall is located at 845 Ezzard Charles Drive in the West End neighborhood. The project consists of the renovation of 21 multi-family buildings spread over a seven-acre campus. The buildings contain a total of 248 residential units, of which 83 are currently restricted as affordable due to a Project-based Section 8 contract. The project is currently 92% occupied, but all current residents will return to their original units once repairs are complete. In October 2019, the project was awarded a loan of \$990,000 in CDBG funds through the Department of Community and Economic Development's Notice of Funding Availability (NOFA) program. Additionally, the project was awarded Low Income Housing Tax Credits (LIHTC) by the Ohio Housing Finance Agency. In August 2020, a CRA Tax Exemption application was submitted for the project.

DEVELOPER INFORMATION

The developer, BH New Arts, LP is a subsidiary of Birge and Held, a national real estate firm headquartered in Indianapolis. The firm focuses on multifamily and

commercial real estate in the Midwest and Southeast, managing over 9,000 units and 35 properties. The Arts Apartments represents the firm's first property within the City of Cincinnati. Additionally, the developer has partnered with the local affordable housing nonprofit Over-the-Rhine Community Housing on this project.

PROJECT DESCRIPTION

The project will invest \$11.1 million into multiple interior and exterior updates to improve all residential units and upgrade the appearance of the property. Each building will receive new roofing, windows, paint, and exterior siding treatments. All 248 units will receive new HVAC, flooring, and hardware as well as new plumbing and kitchen fixtures.

Of the 248 total units, there will be 93 one-bedroom, 125 two-bedroom, and 30 three-bedroom units. Currently, 83 units offer affordable rents under a Project-based Section 8 subsidy contract. This project will preserve the existing affordability by extending the contract for an additional 20 years and expand affordability to the remaining 165 units through LIHTC program requirements. All of the 248 units will be affordable to low-income households and all households will pay no more than 30% of their monthly income on housing costs. Project rents will range from \$615 to \$966 depending on unit size and rental subsidy. Area Median Income (AMI) targets for the project will be as follows:

- 25 units at 15% AMI
- 25 units at 30% AMI
- 50 units at 50% AMI
- 148 units at 60% AMI

Interior renovations will be phased so that tenants will be relocated to a nearby hotel for a maximum of five days while repairs are completed on their units. Upon completion of repairs, all residents will be returned to their original units.

During the term of the exemption, the City will realize \$2.92 in new income taxes for every \$1 of real estate taxes foregone by the City. The project will retain 6 full-time jobs and support the creation of 25 temporary construction jobs with total annual payrolls of \$395,260 and \$832,000, respectively.

This Ordinance achieves Plan Cincinnati's Live Goal 3 (pages 164-178) by providing a full spectrum of housing options and improving housing quality and affordability. Additionally, the project accomplishes Plan Cincinnati's Live Goal 2 (pages 156-163) of creating a more livable community by supporting and stabilizing a deteriorating property that is critical to the strength and success of the West End neighborhood.

PROPOSED INCENTIVE

DCED is recommending a net 67%, 15-year CRA Tax Exemption. Pursuant to the Commercial CRA scorecard, this project qualifies for a 12-year, 52% CRA tax

abatement. The standard scorecard abatement level does not close the project’s financing gap created by maintaining such deeply-affordable rents for the duration of the LIHTC compliance period.

Council has the authority to award an exemption at any level and for any period up to 15 years. Therefore, Council may, in its discretion, approve the award of the DCED-recommended term based on the following project merits:

- Aligning the CRA term with the 15-year LIHTC period will preserve the project financial viability, and
- The project intrinsically accomplishes the goals of the VTICA as described in Ordinance 275-2017 by achieving the following objectives:
 - The project directly supports “affordable housing initiatives” by preserving 83 affordable housing units and adding 165 affordable units to the rapidly developing West End neighborhood.
 - The project contributes to “furthering urban redevelopment” in the West End neighborhood by improving 248 residential units in 21 buildings.

Based on these considerations of project need and public benefit provided to the City, DCED recommends the maximum term of a net 67%, 15-year CRA Tax Exemption.

SUMMARY	
Incentive Value	
Annual Net Abatement (Savings to Developer)	\$138,330
Total Term Net Abatement (Savings to Developer)	\$2,074,957
City's Portion of Property Taxes Forgone	\$399,696
Public Benefit	
CPS PILOT	
Annual CPS Pilot	\$68,133
Total Term CPS PILOT	\$1,021,994
Income Tax (Max)	\$146,347
Retained Permanent Jobs	6
Retained Affordable Housing Units	83
New Affordable Housing Units	165
Total Affordable Housing Units	248
Total Public Benefit (CPS PILOT/VTICA PILOT/Income Tax)	\$1,168,341
Total Public Benefit ROI	\$0.56
City's ROI	\$2.92

RECOMMENDATION

The Administration recommends approval of this Emergency Ordinance. This Ordinance is an emergency in nature so that the developer can adhere to a strict construction timeline, which will allow the project to secure the necessary capital to maintain its financing commitments.

Attachment: A. Property location and photographs

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

Attachment A: Location and Photographs



Property Location, 845 Ezzard Charles Drive



EMERGENCY

City of Cincinnati

TJL

AWB

An Ordinance No. _____ - 2020

APPROVING AND AUTHORIZING the City Manager to execute a *Community Reinvestment Area Tax Exemption Agreement* with BH New Arts, LP, thereby authorizing a 15-year tax exemption for 100% of the value of improvements made to real property located at 845 Ezzard Charles Drive in the West End neighborhood of Cincinnati, in connection with the remodeling of 21 buildings into approximately 170,300 square feet of residential space, consisting of 248 affordable units which will be rented to individuals earning at or below 60% of the Area Median Income, at a total remodeling cost of approximately \$11,118,302.

WHEREAS, to encourage the development of real property and the acquisition of personal property, the Council of the City of Cincinnati by Ordinance No. 274-2017 passed on September 27, 2017, designated the area within the corporate boundaries of the City of Cincinnati as a “Community Reinvestment Area” pursuant to Ohio Revised Code Sections 3735.65 through 3735.70 (the “Statute”); and

WHEREAS, Ordinance No. 275-2017 passed by this Council on September 27, 2017, as amended by Ordinance No. 339-2018, passed by this Council on October 31, 2018 (as amended, the “Commercial Policy Ordinance”), sets forth certain additional policies, conditions, and limitations regarding newly constructed or remodeled commercial and residential structures in the Community Reinvestment Area; and

WHEREAS, effective October 23, 2017, the Director of Development of the State of Ohio determined that the area within the corporate boundaries of the City of Cincinnati contains the characteristics set forth in the Statute and confirmed such area as a Community Reinvestment Area under the Statute; and

WHEREAS, BH New Arts, LP (the “Company”) desires to remodel 21 buildings into approximately 170,300 square feet of residential space, consisting of 248 affordable units which will be rented to individuals earning at or below 60% of the Area Median Income on real property at 845 Ezzard Charles Drive located within the corporate boundaries of the City of Cincinnati, (the “Improvements”), provided that the appropriate development incentives are available to support the economic viability of the Improvements; and

WHEREAS, to provide an appropriate development incentive for the Improvements, the City Manager has recommended a *Community Reinvestment Area Tax Exemption Agreement*, in substantially the form of Attachment A to this ordinance, to authorize a real property tax exemption for the Improvements in accordance with the Statute; and

WHEREAS, the property is located within the Cincinnati City School District of the City of Cincinnati; and

WHEREAS, the Board of Education of the Cincinnati City School District (the “Board of Education”), pursuant to that certain *Tax Incentive Agreement* effective as of April 28, 2020 (as may be amended, the “Board of Education Agreement”), has approved exemptions of up to 100% of Community Reinvestment Area projects, waived advance notice and the right to review such projects, and waived sharing or allocation of municipal income taxes in connection with such projects; and

WHEREAS, pursuant to the Board of Education Agreement, the Company has entered into (or will enter into) an agreement with the Board of Education requiring the Company to pay the Board of Education amounts equal to 33% of the exempt real property taxes; and

WHEREAS, the Improvements do not involve relocation of part or all of the Company’s operations from another county or municipal corporation in Ohio or, if there is relocation, notice has been given per Ohio Revised Code Section 3735.673; now, therefore,

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

Section 1. That Council approves a Community Reinvestment Area Tax Exemption Agreement with BH New Arts, LP (the “Agreement”), thereby authorizing a 15-year tax exemption for 100% of the assessed value of improvements to be made to real property located at 845 Ezzard Charles Drive in Cincinnati, as calculated by the Hamilton County Auditor, in connection with the remodeling of 21 buildings into approximately 170,300 square feet of residential space, consisting of 248 affordable units which will be rented to individuals earning at or below 60% of the Area Median Income, at a total remodeling cost of approximately \$11,118,302.

Section 2. That Council authorizes the City Manager:

- (i) to execute the Agreement on behalf of the City in substantially the form of Attachment A to this ordinance; and
- (ii) to forward on behalf of Council a copy of the Agreement, within fifteen (15) days after execution, to the Director of the Ohio Development Services Agency in accordance with Ohio Revised Code Section 3735.671(F); and
- (iii) to submit on behalf of Council annual reports on the Agreement to the Director of the Ohio Development Services Agency and to the Board of Education of the

Cincinnati City School District of the City of Cincinnati, in accordance with Ohio Revised Code Section 3735.672; and

- (iv) to take all necessary and proper actions to fulfill the City's obligations under the Agreement.

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 allow the remodeling described in this ordinance and the corresponding revitalization of the City of Cincinnati and the benefits to the City's economic welfare to begin at the earliest possible time.

Passed: _____, 2020

John Cranley, Mayor

Attest: _____
Clerk

Attachment A to Ordinance

Community Reinvestment Area Tax Exemption Agreement
(LEED or Living Building Challenge)

SEE ATTACHED

Community Reinvestment Area Tax Exemption Agreement

This Community Reinvestment Area Tax Exemption Agreement (this "Agreement") is made and entered into as of the Effective Date (as defined on the signature page hereof) by and between the CITY OF CINCINNATI, an Ohio municipal corporation (the "City"), and BH New Arts, LP, an Indiana limited partnership qualified to do business in the State of Ohio (the "Company").

Recitals:

- A. The City and the Company are parties to a *CDBG Program Funding Agreement*, effective as of October 14, 2019, as amended by that *First Amendment to CDBG Program Funding Agreement*, dated _____, 2020 (the "Funding Agreement"). Pursuant to the Funding Agreement, the City agreed to provide the Company with financial support for the Project (as defined below).
- B. The City, through the adoption of Ordinance No. 274-2017 on September 27, 2017, designated the entire City of Cincinnati as a Community Reinvestment Area to encourage the development of real property and the acquisition of personal property in that area, pursuant to Ohio Revised Code Sections 3735.65 through 3735.70 (the "Statute").
- C. In accordance with the Statute, the Ohio Director of Development has forwarded to the City the Director's determination dated October 23, 2017, stating that the findings contained in Ordinance No. 274-2017 are valid and that the entire City is a Community Reinvestment Area under the Statute. By such determination, the Director of Development of the State of Ohio determined that the area within the corporate boundaries of the City of Cincinnati contains the characteristics set forth in the Statute and confirmed such area as a Community Reinvestment Area under the Statute.
- D. The Council of the City of Cincinnati has also passed Ordinance No. 275-2017 as of September 27, 2017, as amended by Ordinance No. 339-2018 passed on October 31, 2018 (the "Commercial Policy Ordinance"), which sets forth certain additional policies, conditions and limitations regarding newly constructed or remodeled commercial and residential structures in the Community Reinvestment Area.
- E. The Company is the sole owner of certain real property within the City, located at 845 Ezzard Charles Drive, Cincinnati, Ohio 45203 (the "Property"), as further described in Exhibit A (Legal Description of Property) hereto. Notwithstanding the foregoing, the Property shall not include any residential condominiums being developed in connection with the Project (as defined below) (the "Excluded Property"), and the Company acknowledges and agrees that the City's Community Reinvestment Area program entails separate applications by the owner of any residential condominium units included within the Project. For the avoidance of doubt, the Excluded Property shall not be exempt under this Agreement; however, this provision shall not be deemed to prohibit any owners from time to time of any Excluded Property from separately applying for a tax abatement in accordance with applicable law.
- F. The Company has proposed to remodel 21 buildings located on the Property, within the boundaries of the City of Cincinnati, as more fully described in Section 1 herein (the "Project"), provided that the appropriate development incentives are available to support the economic viability of the Project.
- G. The Statute provides that if any part of a project is to be used for commercial or industrial purposes, including projects containing four or more dwelling units, in order to be eligible for tax exemption the City and the Company must enter into an agreement pursuant to Ohio Revised Code Section 3735.671 prior to commencement of construction or remodeling.
- H. The City, having appropriate authority under the Statute for this type of project, agrees (as provided herein and subject to all conditions herein) to provide the Company with the tax exemption incentives stated herein, available under the Statute, for development of the Project.

- I. The Company has submitted to the City an application for this tax exemption agreement (the "Application"), a copy of which is attached hereto as Exhibit B, has remitted with the Application (i) the City application fee of One Thousand Two Hundred Fifty Dollars (\$1,250) made payable to the City and (ii) in accordance with Ohio Revised Code Section 3735.672(C), the state application fee of Seven Hundred Fifty Dollars (\$750) made payable to the Ohio Development Services Agency ("ODSA"), to be forwarded to the ODSA with an executed copy of this Agreement.
- J. The Director of the City's Department of Community and Economic Development has recommended approval of the Application on the basis that the Company is qualified by financial responsibility and business experience to create and preserve employment opportunities and improve the economic climate of the City.
- K. The Board of Education of the Cincinnati City School District (the "Board of Education"), pursuant to that certain *Tax Incentive Agreement* effective as of April 28, 2020, has approved exemptions of up to one hundred percent (100%) of Community Reinvestment Area projects, waived advance notice and right to review such projects, and waived sharing or allocation of municipal income taxes in connection with such projects.
- L. The Company has entered into (or will enter into) an agreement with the Board of Education requiring the Company to pay the Board of Education amounts equal to thirty-three percent (33%) of the full amount of exempt real property taxes that would have been paid to Hamilton County if this Agreement were not in effect (the "Board of Education Agreement").
- M. The Company represents and warrants to the City that the Company and its major tenants, if any, do not intend to relocate part or all of their operations to the City from another county or municipal corporation in the State of Ohio (the "State").
- N. The Company represents that within the past five (5) years neither the Company, nor any related member of the Company nor any entity to which the Company is a successor has discontinued operations at a project site in the State during the term of a property tax exemption agreement (under Ohio Revised Code Section 3735.671, 5709.62, 5709.63 or 5709.632) applicable to that site, and the Company acknowledges that misrepresentation hereunder will result in voiding of this Agreement.
- O. The Company represents and warrants to the City that the Company is not subject to an Enterprise Zone Agreement with the City of Cincinnati for the Property or the Project.
- P. This Agreement has been authorized by Ordinance No. _____-2020, passed by Cincinnati City Council on _____, 2020.
- Q. In determining to recommend and authorize this Agreement, the Department of Community and Economic Development and City Council, respectively, have acted in material reliance on the Company's representations in the Application and herein regarding the Project including, but not limited to, representations relating to the number of jobs to be created and/or retained by the Company, the Board of Education Agreement, and the Project's effect in promoting the general welfare of the people of Cincinnati by, for example, encouraging the development of real property located in the Community Reinvestment Area and thereby promoting economic growth and vitality in Cincinnati.

NOW, THEREFORE, pursuant to Ohio Revised Code Section 3735.67(A) and in conformity with the format required under Ohio Revised Code Section 3735.671, in consideration of the mutual covenants contained herein and the benefit to be derived by the parties from the execution hereof, the parties agree as follows:

Section 1. Project. Upon issuance of the necessary zoning and building approvals, the Company agrees to remodel the 21 buildings on the Property into approximately 170,300 square feet of residential space, consisting of 248 affordable units which will be rented to individuals earning at or below 60% of the Area Median Income (the "Improvements"), at an estimated aggregate cost of \$11,118,302 to commence after the execution of this Agreement and to be completed no later than April 30, 2022; *provided*, however, that the Director of the Department of Community and Economic Development (the "Housing Officer") may, in her discretion, extend such deadline for a period of up to 12 months by written notice if, in the Director's judgment, the Company is proceeding in good faith towards completion. The remodeling shall be in compliance with applicable building code requirements and zoning regulations. In addition to the foregoing, (A) the Project shall comply with the Americans with Disabilities Act, together with any and all regulations or other binding directives promulgated pursuant thereto (collectively, the "ADA"), and (B) if (i) any building(s) within the Project is subject to the accessibility requirements of the ADA (e.g., by constituting a "place of public accommodation" or another category of structure to which the ADA is applicable) and (ii) such building(s) is not already required to meet the Contractual Minimum Accessibility Requirements (as defined below) pursuant to the ADA, applicable building code requirements, or by any other legal requirement, then the Company shall cause such building(s) to comply with the Contractual Minimum Accessibility Requirements in addition to any requirements pursuant to the ADA and the applicable building code or legal requirement. As used herein, "**Contractual Minimum Accessibility Requirements**" means that a building shall, at a minimum, include (1) at least one point of entry (as used in the ADA), accessible from a public right of way, with respect to which all architectural barriers (as used in the ADA) to entry have been eliminated, and (2) if such accessible point of entry is not a building's primary point of entry, conspicuous signage directing persons to such accessible point of entry.

Section 2. Real Property Tax Exemption. Subject to the satisfaction of the conditions set forth in this Agreement, the City approves exemption from real property taxation, pursuant to and to the fullest extent authorized by the Statute, of one hundred percent (100%) of the amount by which the Improvements increase the assessed value of the Property as determined by the Hamilton County Auditor, for a period of 15 years, provided that the Company shall have entered into the Board of Education Agreement. Within 120 days after completion of the Project (unless otherwise extended in writing by the City's Housing Officer), the Company must file the appropriate application for tax exemption with the City's Housing Officer. The Company is solely responsible to take this action. Upon receipt of the application for tax exemption, the City will proceed with the exemption authorized by this Agreement. In accordance with Ohio Revised Code Section 3735.67, the exemption is conditioned on verification by the Housing Officer of (A) the completion of remodeling, (B) the cost of remodeling, (C) the facts asserted in the application for exemption and (D) if a remodeled structure is a structure of historical or architectural significance as designated by the City, state or federal government, that the appropriateness of the remodeling has been certified in writing by the appropriate agency. If the required verification is made, the Housing Officer will forward the exemption application to the Hamilton County Auditor with the necessary certification by the Housing Officer. Subject to the conditions set forth in this Agreement, the exemption commences the first tax year for which the Improvements would first be taxable were the Improvements not exempted from taxation. The dates provided in this paragraph refer to tax years in which the subject property is assessed, as opposed to years in which taxes are billed. No exemption shall commence after tax year 2022 nor extend beyond the earlier of (i) tax year 2036 or (ii) the end of the 15th year of exemption.

Section 3. Use; Maintenance; Inspections. The Company shall use the Property solely for the purposes described in Section 1 hereof and shall properly maintain and repair the Property throughout the period of tax exemption authorized herein. The Company authorizes the Housing Officer, or the Housing Officer's designees, to enter upon the Property as reasonably required to perform property inspections in accordance with Ohio Revised Code Section 3735.68.

Section 4. Compliance with Board of Education Agreement; Compliance with Funding Agreement. As a condition of the tax exemption authorized under this Agreement, the Company agrees to (a) enter into and comply with its obligation under the Board of Education Agreement and (b) comply with the terms and conditions of the Funding Agreement.

Section 5. Duty of Company to Pay Taxes. As required by Ohio Revised Code Section 3735.671(C)(2), the Company shall pay such real property taxes as are not exempted under this Agreement and are charged against the Property and shall file all tax reports and returns as required by law. If the Company fails to pay such taxes or file such returns and reports, exemptions from taxation granted or authorized under this Agreement are rescinded beginning with the year for which such taxes are charged or such reports or returns are required to be filed and continuing thereafter.

Section 6. Company Certifications Regarding Non-Delinquency of Tax Obligations. As required by Ohio Revised Code Section 3735.671(C)(3), the Company certifies that at the time this Agreement is executed, the Company does not owe any delinquent real or tangible personal property taxes to any taxing authority of the State, and does not owe delinquent taxes for which the Company is liable under Ohio Revised Code Chapters 5733, 5735, 5739, 5741, 5743, 5747 or 5753, or if such delinquent taxes are owed, the Company currently is paying the delinquent taxes pursuant to an undertaking enforceable by the State or an agent or instrumentality thereof, has filed a petition in bankruptcy under 101, et seq., or such a petition has been filed against the Company. For the purposes of this certification, delinquent taxes are taxes that remain unpaid on the latest day prescribed for payment without penalty under the chapter of the Ohio Revised Code governing payment of those taxes.

Section 7. Covenant of Satisfaction of Tax and Other Obligations. In accordance with Ohio Revised Code Section 9.66, (A) the Company affirmatively covenants that it does not owe: (i) any delinquent taxes to the State or to a political subdivision of the State; (ii) any moneys to the State or a State agency for the administration or enforcement of any environmental laws of the State; or (iii) any other moneys to the State, a State agency or a political subdivision of the State that are past due, regardless of whether the amounts owed are being contested in a court of law or not; (B) the Company authorizes the City and/or the State to inspect the personal financial statements of the Company, including tax records and other similar information not ordinarily open to public inspection; and (C) the Company authorizes the Ohio Environmental Protection Agency and the Ohio Department of Taxation to release information to the City and or other State departments in connection with the above statements. As provided by statute, a knowingly false statement under this section may be prosecuted as a first degree misdemeanor under Ohio Revised Code Section 2921.13, may render the Company ineligible for any future economic development assistance from the State or any political subdivision of the State, and will result in the City requiring the Company's repayment of any assistance provided by the City in connection with the Project.

Section 8. City Cooperation. As required by Ohio Revised Code Section 3735.671(C)(4), upon specific request from the Company, the City shall perform such acts as are reasonably necessary or appropriate to effect, claim, reserve and maintain exemptions from taxation granted under this Agreement including, without limitation, joining in the execution of all documentation and providing any necessary certificates required in connection with such exemptions.

Section 9. Continuation of Exemptions. As provided in Ohio Revised Code Section 3735.671(C)(5), if for any reason the City revokes the designation of the City of Cincinnati as a Community Reinvestment Area, entitlements granted under this Agreement shall continue for the number of years specified under this Agreement, unless the Company materially fails to fulfill its obligations under this Agreement and the City terminates or modifies the exemptions from taxation authorized pursuant to this Agreement.

Section 10. City Not Liable. The Company acknowledges that the exemption authorized in this Agreement is subject to approval and implementation by the appropriate state and/or county taxing authorities. The Company acknowledges that the City does not give any guarantee or assurance that the exemption approved in this Agreement will be so approved, and the Company agrees that in no event shall the Company seek to hold the City liable in any way in the event such exemption is not granted or implemented.

Section 11. Small Business Enterprise Program.¹

A. Compliance with Small Business Enterprise Program. The policy of the City is that a fair share of contracts be awarded to Small Business Enterprises (as such term is defined in Cincinnati Municipal Code ("CMC") Section 323-1-S, "SBEs"). Pursuant to CMC Section 323-11, the City's annual goal for SBE participation shall be thirty percent (30%) of the City's total dollars spent for construction (as such term is defined in CMC Section 323-1-C4), supplies (as such term is defined in CMC Section 323-1-S5), services (as such term is defined in CMC Section 323-1-S) and professional services (as such term is defined in CMC Section 323-1-P2). Accordingly, the Company shall use its best efforts and take affirmative steps to achieve the City's goal of voluntarily meeting thirty percent (30%) SBE participation. A list of SBEs may be obtained from the City's Department of Economic Inclusion. The Company may refer interested firms to the City's Department of Economic Inclusion for review and possible certification as an SBE. The Company shall comply with the provisions of CMC Chapter 323, including without limitation taking at least the following affirmative steps:

- (i) Including qualified SBEs on solicitation lists.
- (ii) Assuring that SBEs are solicited whenever they are potential sources. The Company must advertise, on at least two separate occasions, both in local minority publications and in other local newspapers of general circulation, invitations to SBEs to provide services, to supply materials, or to bid on construction contracts, as applicable.
- (iii) When economically feasible, dividing total requirements into small tasks or quantities so as to permit maximum SBE participation.
- (iv) If any subcontracts are to be let, the Company shall require the prime contractor (if different from the Company) to take the above affirmative steps.
- (v) Prior to the commencement of work under any subcontracts, the Company shall provide to the City a list of such subcontractors, including information as to the dollar amount of the subcontracts and such other information as may be requested by the City. The Company shall update the report monthly.
- (vi) The Company shall periodically document its best efforts and affirmative steps to meet the above SBE participation goals by submitting such information as may be requested from time to time by the City.

B. Remedies for Noncompliance with Small Business Enterprise Program. Failure of the Company or its contractors and subcontractors to take the affirmative steps specified above, to provide fair and equal opportunity to SBEs, or to provide technical assistance to SBEs as may be necessary to reach SBE participation as set out in CMC Chapter 323 may be construed by the City as failure of the Company to use its best efforts, and, in addition to other remedies under this Agreement, may be a cause for the City to file suit in Common Pleas Court to enforce specific performance of the terms of this Section. The provisions of CMC Section 323-99 are hereby incorporated by reference into this Agreement.

Section 12. Jobs. The Company represents that, as of the date of the execution of this Agreement, the remodeling of the Project shall provide for (a) 6 full-time equivalent employees at the Property with a total annual payroll of \$395,260 (the "Retained Jobs"), and (b) no other existing employment in the City of Cincinnati or at other locations in the State.

Section 13. Job Creation and Retention.

A. Jobs to be Retained by Company. The Company agrees to use its best efforts to cause the Retained Jobs to be retained in connection with the Project.

B. Jobs to be Created by Company. The Company agrees to use its best efforts to create or cause to be created (i) 15 full-time temporary construction jobs, and (ii) 10 part-time

¹ Note: this section will be revised prior to execution due to programmatic changes being implemented by the Department of Community and Economic Development as a result of recent legislation passed by City Council.

temporary construction jobs at the Property in connection with the Project. In the case of the construction jobs, the job creation and retention period shall be concurrent with remodeling, and in the case of the other jobs described herein, the job creation period shall begin upon completion of remodeling and shall end three (3) years thereafter.

C. Company's Estimated Payroll Increase. The increase in the number of employees employed at the Project will result in approximately (i) \$499,200 of additional annual payroll with respect to the full-time temporary construction jobs, and (ii) \$332,800 of additional annual payroll prior to the completion of the Project with respect to the part-time temporary construction jobs.

D. Community Reinvestment Area Employment. The Company shall (i) adopt hiring practices to ensure that at least twenty-five percent (25%) of the new employees shall be residents of the City of Cincinnati and (ii) give preference to residents of the City relative to residents of the State who do not reside in the City when hiring new employees under this Agreement.

E. Posting Available Employment Opportunities. To the extent allowable by law, the Company shall use its best efforts to post available employment opportunities within the Company's organization or the organization of any subcontractor working with the Company with the Ohio Means Jobs Center, 1916 Central Parkway, Cincinnati, Ohio 45214-2305, through its Employer Services Unit Manager at 513-746-7200.

Section 14. Equal Employment Opportunity. This Agreement is subject to the City's Equal Employment Opportunity Program contained in CMC Chapter 325. The Equal Employment Opportunity Clause in CMC Section 325-9 is incorporated by reference in this Agreement. The term "Company" is substituted for "Contractor" throughout CMC Section 325-9 in the context of this Agreement.

Section 15. Compliance with Immigration and Nationality Act. In the performance of its obligations under this Agreement, the Company agrees to comply with the provisions of the Immigration and Nationality Act codified at 8 U.S.C. §§ 1324a(a)(1)(A) and (a)(2). Any noncompliance with such provisions shall be solely determined by either the federal agencies authorized to enforce the Immigration and Nationality Act or the U.S. Attorney General, in accordance with Executive Order 12989 of the U.S. President dated February 13, 1996, and as amended by Executive Order 13465 of the U.S. President dated June 6, 2008.

Section 16. Default. As provided in Ohio Revised Code Section 3735.671(C)(6), if the Company materially fails to fulfill its obligations under this Agreement (including, without limitation, its obligation to comply with the Funding Agreement), or if the City determines that the certification as to delinquent taxes required by this Agreement (Section 6 hereof) or the covenant of satisfaction of tax and other obligations (Section 7 hereof) is fraudulent, the City may terminate or modify the exemptions from taxation granted or authorized under this Agreement and may require the repayment by the Company of the amount of taxes that would have been payable had the Improvements not been exempted from taxation pursuant to this Agreement. A modification of exemption may be in the form of reduction in the number of years that eligible property is exempt and/or a reduction in the exemption percentage. The City shall provide written notice to the Company prior to finding the Company in default under this section. The notice shall provide the Company with not less than thirty (30) days to cure the default prior to City termination or modification of the exemptions under this Agreement. The City may extend the cure period as reasonably necessary under the circumstances. In the event of such termination or modification, the City is authorized to so notify the appropriate taxing authorities in order to effect the termination or modification. If repayment of previously exempt taxes is required by the City under this Section, such amount shall be paid as directed by the City within thirty (30) days of written demand. The City may secure repayment of such taxes by a lien on the Property in the amount required to be repaid. Such a lien shall attach, and may be perfected, collected, and enforced, in the same manner as a mortgage lien on real property, and shall otherwise have the same force and effect as a mortgage lien on real property. Amounts due and not paid when due under this Section 16 shall bear interest at the rate specified in Ohio Revised Code Section 1343.03(A) (as in effect on the date of the City's payment demand).

Section 17. Annual Review and Report. As required by Ohio Revised Code Sections 3735.671(C)(7) and 5709.85, the Company shall provide to the City's Tax Incentive Review Council (or to the City Manager if so requested by the City) any information reasonably required by the Council or the City Manager to evaluate the Company's compliance with this Agreement, including returns filed pursuant to Ohio Revised Code Section 5711.02 if requested by the Council or City Manager. The performance of the Company's obligations stated in this Agreement shall be subject to annual review by the City's Tax Incentive Review Council (the "Annual Review and Report"). The Company shall submit information for the Annual Review and Report to the City no later than March 1 of each year.

Section 18. Revocation.

A. Generally. Pursuant to Ohio Revised Code Section 3735.68, the housing officer shall make annual inspections of the properties within the community reinvestment area upon which are located structures or remodeling for which an exemption has been granted under Ohio Revised Code Section 3735.67. If the housing officer finds that the property has not been properly maintained or repaired due to the neglect of the Company, the housing officer may revoke the exemption at any time after the first year of exemption. If the Company has materially failed to fulfill its obligations under this Agreement, or if the owner is determined to have violated division (E) of that section (see Section 18(B) of this Agreement), City Council, subject to the terms of the agreement, may revoke the exemption at any time after the first year of exemption. The housing officer or City Council shall notify the county auditor and the Company that the tax exemption no longer applies. If the housing officer or legislative authority revokes a tax exemption, the housing officer shall send a report of the revocation to the community reinvestment area housing council and to the tax incentive review council established pursuant to section 3735.69 or 5709.85 of the Revised Code, containing a statement of the findings as to the maintenance and repair of the property, failure to fulfill obligations under the written agreement, or violation of division (E) of Ohio Revised Code Section 3735.671, and the reason for revoking the exemption.

B. Prior Statutory Violations. The Company represents and warrants to the City that it is not prohibited by Ohio Revised Code Section 3735.671(E) from entering into this Agreement. As required by Ohio Revised Code Section 3735.671(C)(9), exemptions from taxation granted or authorized under this Agreement shall be revoked if it is determined that the Company, any successor to the Company or any related member (as those terms are defined in division (E) of Ohio Revised Code Section 3735.671) has violated the prohibition against entering into this Agreement under division (E) of Ohio Revised Code Section 3735.671 or under Ohio Revised Code Sections 5709.62 or 5709.63 prior to the time prescribed by that division or either of those sections.

Section 19. False Statements; Penalties; Material Representations.

A. Generally. As required in connection with Ohio Revised Code Section 9.66(C), the Company affirmatively covenants that it has made no false statements to the State or the City in the process of obtaining approval for this Agreement. If any representative of the Company has knowingly made a false statement to the State or the City to obtain approval for this Agreement, or if the Company fails to provide any information expressly required under the Application, the Company shall be required to immediately return all benefits received under this Agreement (by payment of the amount of taxes exempted hereunder, paid as directed by the City within thirty (30) days of written demand) and the Company shall be ineligible for any future economic development assistance from the State, any State agency or any political subdivision of the State pursuant to Ohio Revised Code Section 9.66(C)(1). Amounts due and not paid under this Section 19 shall bear interest at the rate of twelve percent (12%) per year. Any person who provides a false statement to secure economic development assistance (as defined in Ohio Revised Code Section 9.66) may be guilty of falsification, a misdemeanor of the first degree, pursuant to Ohio Revised Code Section 2921.13(F)(1), which is punishable by fine of not more than One Thousand Dollars (\$1,000) and/or a term of imprisonment of not more than six (6) months.

B. Material Representations. The Parties acknowledge and agree that a material failure by the Company to comply with its representations concerning the Board of Education Agreement shall constitute an event of default for purposes of Section 16 (*Default*) and the basis for revocation under Section 18 (*Revocation*). Nothing in this Section 19.B shall operate to limit the City's enforcement authority under this Agreement including, without limitation, Section 16, Section 18, and Section 19.A.

Section 20. Conflict of Interest. The Company covenants that, to the Company's knowledge, no employee of the City has any personal interest, direct or indirect, in any matters pertaining to the Project, and the Company agrees to take appropriate steps to prevent any employee of the City from obtaining any such interest throughout the term of this Agreement.

Section 21. Annual Fee. As authorized by Ohio Revised Code Section 3735.671(D), the Company shall pay an annual fee of Five Hundred Dollars (\$500) or one percent (1%) of the annual taxes exempted under this Agreement, whichever is greater, but not to exceed Two Thousand, Five Hundred Dollars (\$2,500) per annum. This fee is due with submission of the information for Annual Review and Report by March 1 of each year.

Section 22. Discontinued Operations. As provided in Ohio Revised Code Section 3735.671(E), if, prior to the expiration of the term of this Agreement, the Company discontinues operations at the Project so that the Property is no longer being used for the purposes described in Section 1 hereof, then the Company, its successors, and any related member shall not enter into an agreement under Ohio Revised Code Sections 3735.671, 5709.62, 5709.63 or 5709.632, and no legislative authority shall enter into such an agreement with the Company, its successors or any related member prior to the expiration of five (5) years after the discontinuation of operations. As used in this Section 22, "successors" and "related member" shall have the meanings set forth in Ohio Revised Code Section 3735.671(E).

Section 23. Notices. Unless otherwise specified herein, each party shall address written notices, demands and communications in connection with this Agreement to the other party as follows (or to such other address as is communicated in accordance with this Section):

To the City:

City of Cincinnati
Attention: Director of the Department of Community and Economic Development
Centennial Plaza Two, Suite 700
805 Central Avenue
Cincinnati, Ohio 45202

To the Company:

BH New Arts, LP
Attention: Tallal Shakarchi
8902 N. Meridian St., Ste 205
Indianapolis, IN 46260

With a copy to:

Ice Miller LLP
Attention: Tyler Kalachnik, Esq.
One American Square, Suite 2900
Indianapolis, IN 46282

If the Company sends a notice to the City alleging that the City is in default under this Agreement, the Company shall simultaneously send a copy of such notice to: City Solicitor, City of Cincinnati, 801 Plum Street, Room 214, Cincinnati, OH 45202.

Section 24. Acknowledgment of City Participation. The Company agrees to acknowledge the support of the City on construction signs, project and exhibition signage, and any publicity such as that appearing on the internet, television, cable television, radio, or in the press or any other printed media. In identifying the City as a Project partner, the Company shall use either the phrase "Project Assistance by the City of Cincinnati" or a City of Cincinnati logotype or other form of acknowledgment that has been approved in advance in writing by the City.

Section 25. Entire Agreement. This Agreement and the Exhibits attached hereto constitute the entire agreement between the City and the Company with respect to the subject matter herein, superseding any prior or contemporaneous agreement with respect thereto.

Section 26. Governing Law. This Agreement is entered into and is to be performed in the State. The City and the Company agree that the law of the State of Ohio shall govern the rights, obligations, duties and liabilities of the parties to this Agreement and shall govern the interpretation of this Agreement.

Section 27. Waiver. The City's waiver of any breach by the Company of any provision of this Agreement shall not constitute or operate as a waiver by the City of any other breach of such provision or of any other provisions, nor shall any failure or delay by the City to enforce any provision hereof operate as a waiver of such provision or of any other provision.

Section 28. Severability. This Agreement shall be severable; if any part or parts of this Agreement shall for any reason be held invalid or unenforceable by a court of competent jurisdiction, all remaining parts shall remain binding and in full force and effect.

Section 29. Amendment. This Agreement may be modified or amended only by a written agreement duly executed by the parties hereto or their representatives.

Section 30. Non-Assignment. As required by Ohio Revised Code Section 3735.671(C)(8), this Agreement is not transferable or assignable by the Company without the express written approval of the City Manager of the City. If the Company has entered into a Board of Education Agreement in connection with the Property, the City shall not approve the assignment of this Agreement unless the assignee has assumed the Company's remaining obligations under the Board of Education Agreement. Failure to assign or otherwise perform the Company's obligations under the Board of Education Agreement upon transfer of the Property during the term of the tax abatement authorized by this Agreement shall be basis for revocation of the tax exemption under Section 18.

Section 31. Recording. At its election, the City may record this Agreement at the City's expense in the Hamilton County Recorder's Office.

Section 32. Legislative Action Required. As provided in Ohio Revised Code Section 3735.671(C)(10), the Company and the City acknowledge that this Agreement must be approved by formal action of the City Council of the City as a condition for this Agreement to take effect. Notwithstanding anything to the contrary herein, this Agreement shall take effect after the later of the date of such approval or the final date of execution of this Agreement by all parties.

Section 33. Additional Representations and Warranties of Company. The Company represents and warrants that (a) it is duly organized and existing and it has full power and authority to take, and has taken, all action necessary to execute and deliver this Agreement and any other documents required or permitted to be executed or delivered by it in connection with this Agreement, and to fulfill its obligations hereunder; (b) no notices to, or consents, authorizations or approvals of, any person are required (other than any already given or obtained) for its due execution, delivery and performance of this

Agreement; and (c) this Agreement has been duly executed and delivered by it and constitutes the legal, valid and binding obligation of the Company.

Section 34. Certification as to Non-Debarment. The Company represents that neither it nor any of its principals is presently debarred by any federal, state, or local government agency. In completing the Project, the Company shall not solicit bids from any contractors or subcontractors who are identified as being debarred by any federal, state, or local government agency. If the Company or any of its principals becomes debarred by any federal, state, or local government agency during the term of this Agreement, the company shall be considered in default under this Agreement.

Section 35. Appeals. Pursuant to Ohio Revised Code Section 3735.70, a person aggrieved under the Statute or this Agreement may appeal to the community reinvestment area housing council, which shall have the authority to overrule any decision of a housing officer. Appeals may be taken from a decision of the council to the court of common pleas of the county where the area is located.

Section 36. Wage Enforcement.

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

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

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

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

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

(d) If this Agreement is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this Agreement shall include in its contracts with all Contractors language that requires the Contractors to provide the authorizations set forth in subsection (c) above and that further requires each Contractor to include in its contracts with Subcontractors those same obligations for each Subcontractor and each lower tier subcontractor.

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

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

Section 37. Legal Requirements. In completing and operating the Project, the Company shall comply with all applicable statutes, ordinances, regulations, and rules of the government of the United States, State of Ohio, County of Hamilton, and City of Cincinnati.

Section 38. Counterparts and Electronic Signatures. This Agreement may be executed by the parties hereto in two or more counterparts and each executed counterpart shall be considered an original but all of which together shall constitute one and the same instrument. This Agreement 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.

Remainder of this page intentionally left blank. Signature page follows.

Executed by the parties on the dates indicated below, effective as of the later of such dates (the "Effective Date").

CITY OF CINCINNATI,
an Ohio municipal corporation

BH NEW ARTS, LP
an Indiana limited partnership

By: BH New Arts GP, LLC, an Indiana limited liability company

By: BH Manager, LLC, an Indiana limited liability company

By: _____
Paula Boggs Muething, City Manager

By: _____

Date: _____, 2020

Printed Name: _____

Title: _____

Date: _____, 2020

Authorized by resolution dated _____

Approved as to Form:

Assistant City Solicitor

Certified Date: _____

Fund/Code: _____

Amount: _____

By: _____
Karen Alder, City Finance Director

Exhibit A to CRA Agreement

LEGAL DESCRIPTION OF PROPERTY

Situated in the State of Ohio, County of Hamilton, City of Cincinnati, being part of Section 24, Township 4, Fractional Range 1, Symmes Purchase, part of Lot 8 of Richmond-1 Redevelopment Area Subdivision as recorded in Plat Book 94, Pages 81-86, and being 7.175 acres out of a 8.214 acre tract conveyed to NEW ARTS, LLC, an Indiana limited liability company, of record in Official Record 13988, Page 1295 of the Hamilton County Recorder's Office and being more particularly described as follows:

BEGINNING at a 5/8" iron pin found at the intersection of the southerly right-of-way of Ezzard Charles Drive and the easterly limited access right-of-way of Interstate Route 75, said iron pin bearing South 70°00'58" East a distance of 344.94 feet from Hamilton County CAGIS Monument #7008;

Thence along the said southerly right-of-way of Ezzard Charles Drive the following three (3) courses and distances:

- 1) North 89°22'48" East a distance of 209.37 feet to a 5/8" iron pin found;
- 2) South 84°32'39" East a distance of 50.00 feet to an iron pin set;
- 3) South 84°21'39" East a distance of 258.96 feet to a 5/8" iron pin found at the northwesterly corner of a parcel conveyed to Young Men's Christian Association of Greater Cincinnati of record in Deed Book 4332, page 46;

Thence along the westerly and southerly property lines of the said Young Men's Christian Association of Greater Cincinnati the following four (4) courses and distances:

- 1) South 5°48'31" West a distance of 152.00 feet to a 5/8" iron pin found with a cap reading "Bock and Clark";
- 2) South 84°21'39" East a distance of 92.29 feet an iron pin set;
- 3) South 5°48'31" West a distance of 299.92 feet (passing a 5/8" iron pin found at 143.62 feet) to a 1/4" iron pin found;
- 4) South 84°27'59" East a distance of 39.71 feet to an iron pin set at the northwesterly corner of Clark Street (50' R/W);

Thence along the westerly right-of-way of Clark Street, South 5°51'31" West a distance of 50.00 feet to an iron pin set in the northerly property line of a parcel conveyed to the City of Cincinnati of record in Official Record 7082, Page 1750;

Thence along the northerly property line of the said City of Cincinnati, North 84°27'59" West a distance of 295.41 feet to a 5/8" iron pin found;

Thence along the westerly property line of the said City of Cincinnati, South 6°08'11" West a distance of 114.55 feet to an iron pin set;

Thence crossing thru the said 8.214 acre tract, South 78°29'37" West a distance of 228.93 feet to an iron pin set on the said easterly limited access right-of-way of Interstate Route 75;

Thence along the easterly limited access right-of-way of Interstate Route 75 the following twelve (12) courses and distances:

- 1) North 11°30'19" West a distance of 85.80 feet to a 5/8" iron pin found (bent);

- 2) North 9°00'29" West a distance of 103.38 feet to a 5/8" iron pin found (bent);
- 3) North 6°08'11" East a distance of 50.00 feet to an iron pin set;
- 4) North 84°19'39" West a distance of 15.23 feet to a 5/8" iron pin found;
- 5) North 5°37'21" East a distance of 109.79 feet to a 5/8" iron pin found;
- 6) North 84°25'29" West a distance of 29.47 feet to a 5/8" iron pin found;
- 7) North 5°26'19" West a distance of 50.94 feet to an iron pin set;
- 8) North 5°52'41" East a distance of 87.00 feet to a 5/8" iron pin found;
- 9) North 84°25'29" West a distance of 20.00 feet to a 5/8" iron pin found;
- 10) North 5°52'41" East a distance of 108.69 feet to an iron pin set;
- 11) North 84°30'49" West a distance of 8.00 feet to a 5/8" iron pin found;
- 12) North 5°52'41" East a distance of 74.03 feet to the POINT OF BEGINNING and containing 7.175 acres of land, more or less.

Exhibit B to CRA Agreement
APPLICATION FOR TAX EXEMPTION

TO BE ATTACHED

Community Reinvestment Area Tax Exemption Agreement

This Community Reinvestment Area Tax Exemption Agreement (this "Agreement") is made and entered into as of the Effective Date (as defined on the signature page hereof) by and between the CITY OF CINCINNATI, an Ohio municipal corporation (the "City"), and BH New Arts, LP, an Indiana limited partnership qualified to do business in the State of Ohio (the "Company").

Recitals:

- A. The City and the Company are parties to a *CDBG Program Funding Agreement*, effective as of October 14, 2019, as amended by that *First Amendment to CDBG Program Funding Agreement*, dated _____, 2020 (the "Funding Agreement"). Pursuant to the Funding Agreement, the City agreed to provide the Company with financial support for the Project (as defined below).
- B. The City, through the adoption of Ordinance No. 274-2017 on September 27, 2017, designated the entire City of Cincinnati as a Community Reinvestment Area to encourage the development of real property and the acquisition of personal property in that area, pursuant to Ohio Revised Code Sections 3735.65 through 3735.70 (the "Statute").
- C. In accordance with the Statute, the Ohio Director of Development has forwarded to the City the Director's determination dated October 23, 2017, stating that the findings contained in Ordinance No. 274-2017 are valid and that the entire City is a Community Reinvestment Area under the Statute. By such determination, the Director of Development of the State of Ohio determined that the area within the corporate boundaries of the City of Cincinnati contains the characteristics set forth in the Statute and confirmed such area as a Community Reinvestment Area under the Statute.
- D. The Council of the City of Cincinnati has also passed Ordinance No. 275-2017 as of September 27, 2017, as amended by Ordinance No. 339-2018 passed on October 31, 2018 (the "Commercial Policy Ordinance"), which sets forth certain additional policies, conditions and limitations regarding newly constructed or remodeled commercial and residential structures in the Community Reinvestment Area.
- E. The Company is the sole owner of certain real property within the City, located at 845 Ezzard Charles Drive, Cincinnati, Ohio 45203 (the "Property"), as further described in Exhibit A (Legal Description of Property) hereto. Notwithstanding the foregoing, the Property shall not include any residential condominiums being developed in connection with the Project (as defined below) (the "Excluded Property"), and the Company acknowledges and agrees that the City's Community Reinvestment Area program entails separate applications by the owner of any residential condominium units included within the Project. For the avoidance of doubt, the Excluded Property shall not be exempt under this Agreement; however, this provision shall not be deemed to prohibit any owners from time to time of any Excluded Property from separately applying for a tax abatement in accordance with applicable law.
- F. The Company has proposed to remodel 21 buildings located on the Property, within the boundaries of the City of Cincinnati, as more fully described in Section 1 herein (the "Project"), provided that the appropriate development incentives are available to support the economic viability of the Project.
- G. The Statute provides that if any part of a project is to be used for commercial or industrial purposes, including projects containing four or more dwelling units, in order to be eligible for tax exemption the City and the Company must enter into an agreement pursuant to Ohio Revised Code Section 3735.671 prior to commencement of construction or remodeling.
- H. The City, having appropriate authority under the Statute for this type of project, agrees (as provided herein and subject to all conditions herein) to provide the Company with the tax exemption incentives stated herein, available under the Statute, for development of the Project.

- I. The Company has submitted to the City an application for this tax exemption agreement (the "Application"), a copy of which is attached hereto as Exhibit B, has remitted with the Application (i) the City application fee of One Thousand Two Hundred Fifty Dollars (\$1,250) made payable to the City and (ii) in accordance with Ohio Revised Code Section 3735.672(C), the state application fee of Seven Hundred Fifty Dollars (\$750) made payable to the Ohio Development Services Agency ("ODSA"), to be forwarded to the ODSA with an executed copy of this Agreement.
- J. The Director of the City's Department of Community and Economic Development has recommended approval of the Application on the basis that the Company is qualified by financial responsibility and business experience to create and preserve employment opportunities and improve the economic climate of the City.
- K. The Board of Education of the Cincinnati City School District (the "Board of Education"), pursuant to that certain *Tax Incentive Agreement* effective as of April 28, 2020, has approved exemptions of up to one hundred percent (100%) of Community Reinvestment Area projects, waived advance notice and right to review such projects, and waived sharing or allocation of municipal income taxes in connection with such projects.
- L. The Company has entered into (or will enter into) an agreement with the Board of Education requiring the Company to pay the Board of Education amounts equal to thirty-three percent (33%) of the full amount of exempt real property taxes that would have been paid to Hamilton County if this Agreement were not in effect (the "Board of Education Agreement").
- M. The Company represents and warrants to the City that the Company and its major tenants, if any, do not intend to relocate part or all of their operations to the City from another county or municipal corporation in the State of Ohio (the "State").
- N. The Company represents that within the past five (5) years neither the Company, nor any related member of the Company nor any entity to which the Company is a successor has discontinued operations at a project site in the State during the term of a property tax exemption agreement (under Ohio Revised Code Section 3735.671, 5709.62, 5709.63 or 5709.632) applicable to that site, and the Company acknowledges that misrepresentation hereunder will result in voiding of this Agreement.
- O. The Company represents and warrants to the City that the Company is not subject to an Enterprise Zone Agreement with the City of Cincinnati for the Property or the Project.
- P. This Agreement has been authorized by Ordinance No. _____-2020, passed by Cincinnati City Council on _____, 2020.
- Q. In determining to recommend and authorize this Agreement, the Department of Community and Economic Development and City Council, respectively, have acted in material reliance on the Company's representations in the Application and herein regarding the Project including, but not limited to, representations relating to the number of jobs to be created and/or retained by the Company, the Board of Education Agreement, and the Project's effect in promoting the general welfare of the people of Cincinnati by, for example, encouraging the development of real property located in the Community Reinvestment Area and thereby promoting economic growth and vitality in Cincinnati.

NOW, THEREFORE, pursuant to Ohio Revised Code Section 3735.67(A) and in conformity with the format required under Ohio Revised Code Section 3735.671, in consideration of the mutual covenants contained herein and the benefit to be derived by the parties from the execution hereof, the parties agree as follows:

Section 1. Project. Upon issuance of the necessary zoning and building approvals, the Company agrees to remodel the 21 buildings on the Property into approximately 170,300 square feet of residential space, consisting of 248 affordable units which will be rented to individuals earning at or below 60% of the Area Median Income (the "Improvements"), at an estimated aggregate cost of \$11,118,302 to commence after the execution of this Agreement and to be completed no later than April 30, 2022; *provided*, however, that the Director of the Department of Community and Economic Development (the "Housing Officer") may, in her discretion, extend such deadline for a period of up to 12 months by written notice if, in the Director's judgment, the Company is proceeding in good faith towards completion. The remodeling shall be in compliance with applicable building code requirements and zoning regulations. In addition to the foregoing, (A) the Project shall comply with the Americans with Disabilities Act, together with any and all regulations or other binding directives promulgated pursuant thereto (collectively, the "**ADA**"), and (B) if (i) any building(s) within the Project is subject to the accessibility requirements of the ADA (e.g., by constituting a "place of public accommodation" or another category of structure to which the ADA is applicable) and (ii) such building(s) is not already required to meet the Contractual Minimum Accessibility Requirements (as defined below) pursuant to the ADA, applicable building code requirements, or by any other legal requirement, then the Company shall cause such building(s) to comply with the Contractual Minimum Accessibility Requirements in addition to any requirements pursuant to the ADA and the applicable building code or legal requirement. As used herein, "**Contractual Minimum Accessibility Requirements**" means that a building shall, at a minimum, include (1) at least one point of entry (as used in the ADA), accessible from a public right of way, with respect to which all architectural barriers (as used in the ADA) to entry have been eliminated, and (2) if such accessible point of entry is not a building's primary point of entry, conspicuous signage directing persons to such accessible point of entry.

Section 2. Real Property Tax Exemption. Subject to the satisfaction of the conditions set forth in this Agreement, the City approves exemption from real property taxation, pursuant to and to the fullest extent authorized by the Statute, of one hundred percent (100%) of the amount by which the Improvements increase the assessed value of the Property as determined by the Hamilton County Auditor, for a period of 15 years, provided that the Company shall have entered into the Board of Education Agreement. Within 120 days after completion of the Project (unless otherwise extended in writing by the City's Housing Officer), the Company must file the appropriate application for tax exemption with the City's Housing Officer. The Company is solely responsible to take this action. Upon receipt of the application for tax exemption, the City will proceed with the exemption authorized by this Agreement. In accordance with Ohio Revised Code Section 3735.67, the exemption is conditioned on verification by the Housing Officer of (A) the completion of remodeling, (B) the cost of remodeling, (C) the facts asserted in the application for exemption and (D) if a remodeled structure is a structure of historical or architectural significance as designated by the City, state or federal government, that the appropriateness of the remodeling has been certified in writing by the appropriate agency. If the required verification is made, the Housing Officer will forward the exemption application to the Hamilton County Auditor with the necessary certification by the Housing Officer. Subject to the conditions set forth in this Agreement, the exemption commences the first tax year for which the Improvements would first be taxable were the Improvements not exempted from taxation. The dates provided in this paragraph refer to tax years in which the subject property is assessed, as opposed to years in which taxes are billed. No exemption shall commence after tax year 2022 nor extend beyond the earlier of (i) tax year 2036 or (ii) the end of the 15th year of exemption.

Section 3. Use; Maintenance; Inspections. The Company shall use the Property solely for the purposes described in Section 1 hereof and shall properly maintain and repair the Property throughout the period of tax exemption authorized herein. The Company authorizes the Housing Officer, or the Housing Officer's designees, to enter upon the Property as reasonably required to perform property inspections in accordance with Ohio Revised Code Section 3735.68.

Section 4. Compliance with Board of Education Agreement; Compliance with Funding Agreement. As a condition of the tax exemption authorized under this Agreement, the Company agrees to (a) enter into and comply with its obligation under the Board of Education Agreement and (b) comply with the terms and conditions of the Funding Agreement.

Section 5. Duty of Company to Pay Taxes. As required by Ohio Revised Code Section 3735.671(C)(2), the Company shall pay such real property taxes as are not exempted under this Agreement and are charged against the Property and shall file all tax reports and returns as required by law. If the Company fails to pay such taxes or file such returns and reports, exemptions from taxation granted or authorized under this Agreement are rescinded beginning with the year for which such taxes are charged or such reports or returns are required to be filed and continuing thereafter.

Section 6. Company Certifications Regarding Non-Delinquency of Tax Obligations. As required by Ohio Revised Code Section 3735.671(C)(3), the Company certifies that at the time this Agreement is executed, the Company does not owe any delinquent real or tangible personal property taxes to any taxing authority of the State, and does not owe delinquent taxes for which the Company is liable under Ohio Revised Code Chapters 5733, 5735, 5739, 5741, 5743, 5747 or 5753, or if such delinquent taxes are owed, the Company currently is paying the delinquent taxes pursuant to an undertaking enforceable by the State or an agent or instrumentality thereof, has filed a petition in bankruptcy under 101, et seq., or such a petition has been filed against the Company. For the purposes of this certification, delinquent taxes are taxes that remain unpaid on the latest day prescribed for payment without penalty under the chapter of the Ohio Revised Code governing payment of those taxes.

Section 7. Covenant of Satisfaction of Tax and Other Obligations. In accordance with Ohio Revised Code Section 9.66, (A) the Company affirmatively covenants that it does not owe: (i) any delinquent taxes to the State or to a political subdivision of the State; (ii) any moneys to the State or a State agency for the administration or enforcement of any environmental laws of the State; or (iii) any other moneys to the State, a State agency or a political subdivision of the State that are past due, regardless of whether the amounts owed are being contested in a court of law or not; (B) the Company authorizes the City and/or the State to inspect the personal financial statements of the Company, including tax records and other similar information not ordinarily open to public inspection; and (C) the Company authorizes the Ohio Environmental Protection Agency and the Ohio Department of Taxation to release information to the City and or other State departments in connection with the above statements. As provided by statute, a knowingly false statement under this section may be prosecuted as a first degree misdemeanor under Ohio Revised Code Section 2921.13, may render the Company ineligible for any future economic development assistance from the State or any political subdivision of the State, and will result in the City requiring the Company's repayment of any assistance provided by the City in connection with the Project.

Section 8. City Cooperation. As required by Ohio Revised Code Section 3735.671(C)(4), upon specific request from the Company, the City shall perform such acts as are reasonably necessary or appropriate to effect, claim, reserve and maintain exemptions from taxation granted under this Agreement including, without limitation, joining in the execution of all documentation and providing any necessary certificates required in connection with such exemptions.

Section 9. Continuation of Exemptions. As provided in Ohio Revised Code Section 3735.671(C)(5), if for any reason the City revokes the designation of the City of Cincinnati as a Community Reinvestment Area, entitlements granted under this Agreement shall continue for the number of years specified under this Agreement, unless the Company materially fails to fulfill its obligations under this Agreement and the City terminates or modifies the exemptions from taxation authorized pursuant to this Agreement.

Section 10. City Not Liable. The Company acknowledges that the exemption authorized in this Agreement is subject to approval and implementation by the appropriate state and/or county taxing authorities. The Company acknowledges that the City does not give any guarantee or assurance that the exemption approved in this Agreement will be so approved, and the Company agrees that in no event shall the Company seek to hold the City liable in any way in the event such exemption is not granted or implemented.

Section 11. Small Business Enterprise Program.¹

A. Compliance with Small Business Enterprise Program. The policy of the City is that a fair share of contracts be awarded to Small Business Enterprises (as such term is defined in Cincinnati Municipal Code (“CMC”) Section 323-1-S, “SBEs”). Pursuant to CMC Section 323-11, the City’s annual goal for SBE participation shall be thirty percent (30%) of the City’s total dollars spent for construction (as such term is defined in CMC Section 323-1-C4), supplies (as such term is defined in CMC Section 323-1-S5), services (as such term is defined in CMC Section 323-1-S) and professional services (as such term is defined in CMC Section 323-1-P2). Accordingly, the Company shall use its best efforts and take affirmative steps to achieve the City’s goal of voluntarily meeting thirty percent (30%) SBE participation. A list of SBEs may be obtained from the City’s Department of Economic Inclusion. The Company may refer interested firms to the City’s Department of Economic Inclusion for review and possible certification as an SBE. The Company shall comply with the provisions of CMC Chapter 323, including without limitation taking at least the following affirmative steps:

- (i) Including qualified SBEs on solicitation lists.
- (ii) Assuring that SBEs are solicited whenever they are potential sources. The Company must advertise, on at least two separate occasions, both in local minority publications and in other local newspapers of general circulation, invitations to SBEs to provide services, to supply materials, or to bid on construction contracts, as applicable.
- (iii) When economically feasible, dividing total requirements into small tasks or quantities so as to permit maximum SBE participation.
- (iv) If any subcontracts are to be let, the Company shall require the prime contractor (if different from the Company) to take the above affirmative steps.
- (v) Prior to the commencement of work under any subcontracts, the Company shall provide to the City a list of such subcontractors, including information as to the dollar amount of the subcontracts and such other information as may be requested by the City. The Company shall update the report monthly.
- (vi) The Company shall periodically document its best efforts and affirmative steps to meet the above SBE participation goals by submitting such information as may be requested from time to time by the City.

B. Remedies for Noncompliance with Small Business Enterprise Program. Failure of the Company or its contractors and subcontractors to take the affirmative steps specified above, to provide fair and equal opportunity to SBEs, or to provide technical assistance to SBEs as may be necessary to reach SBE participation as set out in CMC Chapter 323 may be construed by the City as failure of the Company to use its best efforts, and, in addition to other remedies under this Agreement, may be a cause for the City to file suit in Common Pleas Court to enforce specific performance of the terms of this Section. The provisions of CMC Section 323-99 are hereby incorporated by reference into this Agreement.

Section 12. Jobs. The Company represents that, as of the date of the execution of this Agreement, the remodeling of the Project shall provide for (a) 6 full-time equivalent employees at the Property with a total annual payroll of \$395,260 (the “Retained Jobs”), and (b) no other existing employment in the City of Cincinnati or at other locations in the State.

Section 13. Job Creation and Retention.

A. Jobs to be Retained by Company. The Company agrees to use its best efforts to cause the Retained Jobs to be retained in connection with the Project.

B. Jobs to be Created by Company. The Company agrees to use its best efforts to create or cause to be created (i) 15 full-time temporary construction jobs, and (ii) 10 part-time

¹ Note: this section will be revised prior to execution due to programmatic changes being implemented by the Department of Community and Economic Development as a result of recent legislation passed by City Council.

temporary construction jobs at the Property in connection with the Project. In the case of the construction jobs, the job creation and retention period shall be concurrent with remodeling, and in the case of the other jobs described herein, the job creation period shall begin upon completion of remodeling and shall end three (3) years thereafter.

C. Company's Estimated Payroll Increase. The increase in the number of employees employed at the Project will result in approximately (i) \$499,200 of additional annual payroll with respect to the full-time temporary construction jobs, and (ii) \$332,800 of additional annual payroll prior to the completion of the Project with respect to the part-time temporary construction jobs.

D. Community Reinvestment Area Employment. The Company shall (i) adopt hiring practices to ensure that at least twenty-five percent (25%) of the new employees shall be residents of the City of Cincinnati and (ii) give preference to residents of the City relative to residents of the State who do not reside in the City when hiring new employees under this Agreement.

E. Posting Available Employment Opportunities. To the extent allowable by law, the Company shall use its best efforts to post available employment opportunities within the Company's organization or the organization of any subcontractor working with the Company with the Ohio Means Jobs Center, 1916 Central Parkway, Cincinnati, Ohio 45214-2305, through its Employer Services Unit Manager at 513-746-7200.

Section 14. Equal Employment Opportunity. This Agreement is subject to the City's Equal Employment Opportunity Program contained in CMC Chapter 325. The Equal Employment Opportunity Clause in CMC Section 325-9 is incorporated by reference in this Agreement. The term "Company" is substituted for "Contractor" throughout CMC Section 325-9 in the context of this Agreement.

Section 15. Compliance with Immigration and Nationality Act. In the performance of its obligations under this Agreement, the Company agrees to comply with the provisions of the Immigration and Nationality Act codified at 8 U.S.C. §§ 1324a(a)(1)(A) and (a)(2). Any noncompliance with such provisions shall be solely determined by either the federal agencies authorized to enforce the Immigration and Nationality Act or the U.S. Attorney General, in accordance with Executive Order 12989 of the U.S. President dated February 13, 1996, and as amended by Executive Order 13465 of the U.S. President dated June 6, 2008.

Section 16. Default. As provided in Ohio Revised Code Section 3735.671(C)(6), if the Company materially fails to fulfill its obligations under this Agreement (including, without limitation, its obligation to comply with the Funding Agreement), or if the City determines that the certification as to delinquent taxes required by this Agreement (Section 6 hereof) or the covenant of satisfaction of tax and other obligations (Section 7 hereof) is fraudulent, the City may terminate or modify the exemptions from taxation granted or authorized under this Agreement and may require the repayment by the Company of the amount of taxes that would have been payable had the Improvements not been exempted from taxation pursuant to this Agreement. A modification of exemption may be in the form of reduction in the number of years that eligible property is exempt and/or a reduction in the exemption percentage. The City shall provide written notice to the Company prior to finding the Company in default under this section. The notice shall provide the Company with not less than thirty (30) days to cure the default prior to City termination or modification of the exemptions under this Agreement. The City may extend the cure period as reasonably necessary under the circumstances. In the event of such termination or modification, the City is authorized to so notify the appropriate taxing authorities in order to effect the termination or modification. If repayment of previously exempt taxes is required by the City under this Section, such amount shall be paid as directed by the City within thirty (30) days of written demand. The City may secure repayment of such taxes by a lien on the Property in the amount required to be repaid. Such a lien shall attach, and may be perfected, collected, and enforced, in the same manner as a mortgage lien on real property, and shall otherwise have the same force and effect as a mortgage lien on real property. Amounts due and not paid when due under this Section 16 shall bear interest at the rate specified in Ohio Revised Code Section 1343.03(A) (as in effect on the date of the City's payment demand).

Section 17. Annual Review and Report. As required by Ohio Revised Code Sections 3735.671(C)(7) and 5709.85, the Company shall provide to the City's Tax Incentive Review Council (or to the City Manager if so requested by the City) any information reasonably required by the Council or the City Manager to evaluate the Company's compliance with this Agreement, including returns filed pursuant to Ohio Revised Code Section 5711.02 if requested by the Council or City Manager. The performance of the Company's obligations stated in this Agreement shall be subject to annual review by the City's Tax Incentive Review Council (the "Annual Review and Report"). The Company shall submit information for the Annual Review and Report to the City no later than March 1 of each year.

Section 18. Revocation.

A. Generally. Pursuant to Ohio Revised Code Section 3735.68, the housing officer shall make annual inspections of the properties within the community reinvestment area upon which are located structures or remodeling for which an exemption has been granted under Ohio Revised Code Section 3735.67. If the housing officer finds that the property has not been properly maintained or repaired due to the neglect of the Company, the housing officer may revoke the exemption at any time after the first year of exemption. If the Company has materially failed to fulfill its obligations under this Agreement, or if the owner is determined to have violated division (E) of that section (see Section 18(B) of this Agreement), City Council, subject to the terms of the agreement, may revoke the exemption at any time after the first year of exemption. The housing officer or City Council shall notify the county auditor and the Company that the tax exemption no longer applies. If the housing officer or legislative authority revokes a tax exemption, the housing officer shall send a report of the revocation to the community reinvestment area housing council and to the tax incentive review council established pursuant to section 3735.69 or 5709.85 of the Revised Code, containing a statement of the findings as to the maintenance and repair of the property, failure to fulfill obligations under the written agreement, or violation of division (E) of Ohio Revised Code Section 3735.671, and the reason for revoking the exemption.

B. Prior Statutory Violations. The Company represents and warrants to the City that it is not prohibited by Ohio Revised Code Section 3735.671(E) from entering into this Agreement. As required by Ohio Revised Code Section 3735.671(C)(9), exemptions from taxation granted or authorized under this Agreement shall be revoked if it is determined that the Company, any successor to the Company or any related member (as those terms are defined in division (E) of Ohio Revised Code Section 3735.671) has violated the prohibition against entering into this Agreement under division (E) of Ohio Revised Code Section 3735.671 or under Ohio Revised Code Sections 5709.62 or 5709.63 prior to the time prescribed by that division or either of those sections.

Section 19. False Statements; Penalties; Material Representations.

A. Generally. As required in connection with Ohio Revised Code Section 9.66(C), the Company affirmatively covenants that it has made no false statements to the State or the City in the process of obtaining approval for this Agreement. If any representative of the Company has knowingly made a false statement to the State or the City to obtain approval for this Agreement, or if the Company fails to provide any information expressly required under the Application, the Company shall be required to immediately return all benefits received under this Agreement (by payment of the amount of taxes exempted hereunder, paid as directed by the City within thirty (30) days of written demand) and the Company shall be ineligible for any future economic development assistance from the State, any State agency or any political subdivision of the State pursuant to Ohio Revised Code Section 9.66(C)(1). Amounts due and not paid under this Section 19 shall bear interest at the rate of twelve percent (12%) per year. Any person who provides a false statement to secure economic development assistance (as defined in Ohio Revised Code Section 9.66) may be guilty of falsification, a misdemeanor of the first degree, pursuant to Ohio Revised Code Section 2921.13(F)(1), which is punishable by fine of not more than One Thousand Dollars (\$1,000) and/or a term of imprisonment of not more than six (6) months.

B. Material Representations. The Parties acknowledge and agree that a material failure by the Company to comply with its representations concerning the Board of Education Agreement shall constitute an event of default for purposes of Section 16 (*Default*) and the basis for revocation under Section 18 (*Revocation*). Nothing in this Section 19.B shall operate to limit the City's enforcement authority under this Agreement including, without limitation, Section 16, Section 18, and Section 19.A.

Section 20. Conflict of Interest. The Company covenants that, to the Company's knowledge, no employee of the City has any personal interest, direct or indirect, in any matters pertaining to the Project, and the Company agrees to take appropriate steps to prevent any employee of the City from obtaining any such interest throughout the term of this Agreement.

Section 21. Annual Fee. As authorized by Ohio Revised Code Section 3735.671(D), the Company shall pay an annual fee of Five Hundred Dollars (\$500) or one percent (1%) of the annual taxes exempted under this Agreement, whichever is greater, but not to exceed Two Thousand, Five Hundred Dollars (\$2,500) per annum. This fee is due with submission of the information for Annual Review and Report by March 1 of each year.

Section 22. Discontinued Operations. As provided in Ohio Revised Code Section 3735.671(E), if, prior to the expiration of the term of this Agreement, the Company discontinues operations at the Project so that the Property is no longer being used for the purposes described in Section 1 hereof, then the Company, its successors, and any related member shall not enter into an agreement under Ohio Revised Code Sections 3735.671, 5709.62, 5709.63 or 5709.632, and no legislative authority shall enter into such an agreement with the Company, its successors or any related member prior to the expiration of five (5) years after the discontinuation of operations. As used in this Section 22, "successors" and "related member" shall have the meanings set forth in Ohio Revised Code Section 3735.671(E).

Section 23. Notices. Unless otherwise specified herein, each party shall address written notices, demands and communications in connection with this Agreement to the other party as follows (or to such other address as is communicated in accordance with this Section):

To the City:

City of Cincinnati
Attention: Director of the Department of Community and Economic Development
Centennial Plaza Two, Suite 700
805 Central Avenue
Cincinnati, Ohio 45202

To the Company:

BH New Arts, LP
Attention: Tallal Shakarchi
8902 N. Meridian St., Ste 205
Indianapolis, IN 46260

With a copy to:

Ice Miller LLP
Attention: Tyler Kalachnik, Esq.
One American Square, Suite 2900
Indianapolis, IN 46282

If the Company sends a notice to the City alleging that the City is in default under this Agreement, the Company shall simultaneously send a copy of such notice to: City Solicitor, City of Cincinnati, 801 Plum Street, Room 214, Cincinnati, OH 45202.

Section 24. Acknowledgment of City Participation. The Company agrees to acknowledge the support of the City on construction signs, project and exhibition signage, and any publicity such as that appearing on the internet, television, cable television, radio, or in the press or any other printed media. In identifying the City as a Project partner, the Company shall use either the phrase "Project Assistance by the City of Cincinnati" or a City of Cincinnati logotype or other form of acknowledgement that has been approved in advance in writing by the City.

Section 25. Entire Agreement. This Agreement and the Exhibits attached hereto constitute the entire agreement between the City and the Company with respect to the subject matter herein, superseding any prior or contemporaneous agreement with respect thereto.

Section 26. Governing Law. This Agreement is entered into and is to be performed in the State. The City and the Company agree that the law of the State of Ohio shall govern the rights, obligations, duties and liabilities of the parties to this Agreement and shall govern the interpretation of this Agreement.

Section 27. Waiver. The City's waiver of any breach by the Company of any provision of this Agreement shall not constitute or operate as a waiver by the City of any other breach of such provision or of any other provisions, nor shall any failure or delay by the City to enforce any provision hereof operate as a waiver of such provision or of any other provision.

Section 28. Severability. This Agreement shall be severable; if any part or parts of this Agreement shall for any reason be held invalid or unenforceable by a court of competent jurisdiction, all remaining parts shall remain binding and in full force and effect.

Section 29. Amendment. This Agreement may be modified or amended only by a written agreement duly executed by the parties hereto or their representatives.

Section 30. Non-Assignment. As required by Ohio Revised Code Section 3735.671(C)(8), this Agreement is not transferable or assignable by the Company without the express written approval of the City Manager of the City. If the Company has entered into a Board of Education Agreement in connection with the Property, the City shall not approve the assignment of this Agreement unless the assignee has assumed the Company's remaining obligations under the Board of Education Agreement. Failure to assign or otherwise perform the Company's obligations under the Board of Education Agreement upon transfer of the Property during the term of the tax abatement authorized by this Agreement shall be basis for revocation of the tax exemption under Section 18.

Section 31. Recording. At its election, the City may record this Agreement at the City's expense in the Hamilton County Recorder's Office.

Section 32. Legislative Action Required. As provided in Ohio Revised Code Section 3735.671(C)(10), the Company and the City acknowledge that this Agreement must be approved by formal action of the City Council of the City as a condition for this Agreement to take effect. Notwithstanding anything to the contrary herein, this Agreement shall take effect after the later of the date of such approval or the final date of execution of this Agreement by all parties.

Section 33. Additional Representations and Warranties of Company. The Company represents and warrants that (a) it is duly organized and existing and it has full power and authority to take, and has taken, all action necessary to execute and deliver this Agreement and any other documents required or permitted to be executed or delivered by it in connection with this Agreement, and to fulfill its obligations hereunder; (b) no notices to, or consents, authorizations or approvals of, any person are required (other than any already given or obtained) for its due execution, delivery and performance of this

Agreement; and (c) this Agreement has been duly executed and delivered by it and constitutes the legal, valid and binding obligation of the Company.

Section 34. Certification as to Non-Debarment. The Company represents that neither it nor any of its principals is presently debarred by any federal, state, or local government agency. In completing the Project, the Company shall not solicit bids from any contractors or subcontractors who are identified as being debarred by any federal, state, or local government agency. If the Company or any of its principals becomes debarred by any federal, state, or local government agency during the term of this Agreement, the company shall be considered in default under this Agreement.

Section 35. Appeals. Pursuant to Ohio Revised Code Section 3735.70, a person aggrieved under the Statute or this Agreement may appeal to the community reinvestment area housing council, which shall have the authority to overrule any decision of a housing officer. Appeals may be taken from a decision of the council to the court of common pleas of the county where the area is located.

Section 36. Wage Enforcement.

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

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

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

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

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

(d) If this Agreement is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this Agreement shall include in its contracts with all Contractors language that requires the Contractors to provide the authorizations set forth in subsection (c) above and that further requires each Contractor to include in its contracts with Subcontractors those same obligations for each Subcontractor and each lower tier subcontractor.

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

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

Section 37. Legal Requirements. In completing and operating the Project, the Company shall comply with all applicable statutes, ordinances, regulations, and rules of the government of the United States, State of Ohio, County of Hamilton, and City of Cincinnati.

Section 38. Counterparts and Electronic Signatures. This Agreement may be executed by the parties hereto in two or more counterparts and each executed counterpart shall be considered an original but all of which together shall constitute one and the same instrument. This Agreement 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.

Remainder of this page intentionally left blank. Signature page follows.

Executed by the parties on the dates indicated below, effective as of the later of such dates (the "Effective Date").

CITY OF CINCINNATI,
an Ohio municipal corporation

BH NEW ARTS, LP
an Indiana limited partnership

By: BH New Arts GP, LLC, an Indiana limited liability company

By: BH Manager, LLC, an Indiana limited liability company

By: _____
Paula Boggs Muething, City Manager

By: _____

Date: _____, 2020

Printed Name: _____

Title: _____

Date: _____, 2020

Authorized by resolution dated _____

Approved as to Form:

Assistant City Solicitor

Certified Date: _____

Fund/Code: _____

Amount: _____

By: _____
Karen Alder, City Finance Director

Exhibit A to CRA Agreement

LEGAL DESCRIPTION OF PROPERTY

Situated in the State of Ohio, County of Hamilton, City of Cincinnati, being part of Section 24, Township 4, Fractional Range 1, Symmes Purchase, part of Lot 8 of Richmond-1 Redevelopment Area Subdivision as recorded in Plat Book 94, Pages 81-86, and being 7.175 acres out of a 8.214 acre tract conveyed to NEW ARTS, LLC, an Indiana limited liability company, of record in Official Record 13988, Page 1295 of the Hamilton County Recorder's Office and being more particularly described as follows:

BEGINNING at a 5/8" iron pin found at the intersection of the southerly right-of-way of Ezzard Charles Drive and the easterly limited access right-of-way of Interstate Route 75, said iron pin bearing South 70°00'58" East a distance of 344.94 feet from Hamilton County CAGIS Monument #7008;

Thence along the said southerly right-of-way of Ezzard Charles Drive the following three (3) courses and distances:

- 1) North 89°22'48" East a distance of 209.37 feet to a 5/8" iron pin found;
- 2) South 84°32'39" East a distance of 50.00 feet to an iron pin set;
- 3) South 84°21'39" East a distance of 258.96 feet to a 5/8" iron pin found at the northwesterly corner of a parcel conveyed to Young Men's Christian Association of Greater Cincinnati of record in Deed Book 4332, page 46;

Thence along the westerly and southerly property lines of the said Young Men's Christian Association of Greater Cincinnati the following four (4) courses and distances:

- 1) South 5°48'31" West a distance of 152.00 feet to a 5/8" iron pin found with a cap reading "Bock and Clark";
- 2) South 84°21'39" East a distance of 92.29 feet an iron pin set;
- 3) South 5°48'31" West a distance of 299.92 feet (passing a 5/8" iron pin found at 143.62 feet) to a 1/4" iron pin found;
- 4) South 84°27'59" East a distance of 39.71 feet to an iron pin set at the northwesterly corner of Clark Street (50' R/W);

Thence along the westerly right-of-way of Clark Street, South 5°51'31" West a distance of 50.00 feet to an iron pin set in the northerly property line of a parcel conveyed to the City of Cincinnati of record in Official Record 7082, Page 1750;

Thence along the northerly property line of the said City of Cincinnati, North 84°27'59" West a distance of 295.41 feet to a 5/8" iron pin found;

Thence along the westerly property line of the said City of Cincinnati, South 6°08'11" West a distance of 114.55 feet to an iron pin set;

Thence crossing thru the said 8.214 acre tract, South 78°29'37" West a distance of 228.93 feet to an iron pin set on the said easterly limited access right-of-way of Interstate Route 75;

Thence along the easterly limited access right-of-way of Interstate Route 75 the following twelve (12) courses and distances:

- 1) North 11°30'19" West a distance of 85.80 feet to a 5/8" iron pin found (bent);

- 2) North 9°00'29" West a distance of 103.38 feet to a 5/8" iron pin found (bent);
- 3) North 6°08'11" East a distance of 50.00 feet to an iron pin set;
- 4) North 84°19'39" West a distance of 15.23 feet to a 5/8" iron pin found;
- 5) North 5°37'21" East a distance of 109.79 feet to a 5/8" iron pin found;
- 6) North 84°25'29" West a distance of 29.47 feet to a 5/8" iron pin found;
- 7) North 5°26'19" West a distance of 50.94 feet to an iron pin set;
- 8) North 5°52'41" East a distance of 87.00 feet to a 5/8" iron pin found;
- 9) North 84°25'29" West a distance of 20.00 feet to a 5/8" iron pin found;
- 10) North 5°52'41" East a distance of 108.69 feet to an iron pin set;
- 11) North 84°30'49" West a distance of 8.00 feet to a 5/8" iron pin found;
- 12) North 5°52'41" East a distance of 74.03 feet to the POINT OF BEGINNING and containing 7.175 acres of land, more or less.

Exhibit B to CRA Agreement
APPLICATION FOR TAX EXEMPTION

TO BE ATTACHED

Date: October 28, 2020

To: Mayor and Members of City Council **202002058**

From: Paula Boggs Muething, City Manager

Subject: EMERGENCY ORDINANCE – ACCEPTANCE OF SIDEWALK EASEMENT AT WERK ROAD AND GLENWAY AVENUE

Attached is an emergency ordinance captioned as follows:

ACCEPTING and confirming the grant of a permanent sidewalk easement by BRE Retail Residual Owner 1 LLC in favor of the City of Cincinnati, on behalf of the general pedestrian public, across certain real property located in proximity to Werk Road in the Westwood neighborhood.

BRE Retail Residual Owner 1 LLC (“Grantor”) owns property located at the corner of Glenway Avenue and Werk Road in Westwood. They are redeveloping the property and seek to make certain sidewalk improvements to connect the property to the existing public sidewalk located on Werk Road.

Grantor desires to grant a permanent sidewalk easement to the City of Cincinnati for use of Grantor’s sidewalk improvements on the property, and has prepared and executed the *Grant of Sidewalk Easement* attached to this ordinance as Attachment A.

Grantor, at no expense to the City, shall maintain the sidewalk improvements and sidewalk easement area.

The reason for the emergency is the immediate need for the City to accept the sidewalk easement without delay so that the general pedestrian public may make use of, and benefit from, the sidewalk improvements at the earliest possible date.

The Administration recommends passage of the attached emergency ordinance.

Attachment I – Attachment A, Grant of Sidewalk Easement

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

EMERGENCY

JRS

- 2020

ACCEPTING and confirming the grant of a permanent sidewalk easement by BRE Retail Residual Owner 1 LLC in favor of the City of Cincinnati, on behalf of the general pedestrian public, across certain real property located in proximity to Werk Road in the Westwood neighborhood.

WHEREAS, BRE Retail Residual Owner 1 LLC, a Delaware limited liability company (“Grantor”), owns certain real property located at the corner of Glenway Avenue and Werk Road in the Westwood neighborhood, as more particularly described in the *Grant of Sidewalk Easement* attached to this ordinance as Attachment A (the “Property”); and

WHEREAS, Grantor is redeveloping the Property and in connection with said redevelopment seeks to make certain sidewalk improvements to connect the Property to the existing public sidewalk network located within the public right-of-way known as Werk Road; and

WHEREAS, Grantor desires to grant a permanent sidewalk easement to the City of Cincinnati, on behalf of the general pedestrian public, for use of Grantor’s sidewalk improvements on the Property, and has prepared and executed the *Grant of Sidewalk Easement* attached to this ordinance as Attachment A; and

WHEREAS, the City Manager, upon consultation with the City’s Department of Transportation and Engineering, recommends that the Council accept the sidewalk easement granted under the *Grant of Sidewalk Easement* for the benefit of the general pedestrian public to facilitate and enhance pedestrian mobility in the Westwood neighborhood, and because Grantor, at no expense to the City, shall maintain the sidewalk improvements and sidewalk easement area; 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 sidewalk easement granted to the City of Cincinnati by BRE Retail Residual Owner 1 LLC, a Delaware limited liability company, on behalf of the general pedestrian public, as set forth in *Grant of Sidewalk Easement* attached to this ordinance as Attachment A.

Section 2. That the Council hereby authorizes the proper City officials to take all necessary and proper actions to carry out the terms of this ordinance, including the execution of

all necessary documents, the acceptance and confirmation of the proper conveyance instrument to the City, and the confirmation of such acceptance by the City Manager on the *Grant of Sidewalk Easement* substantially in the form attached to this ordinance as Attachment A.

Section 3. That the City Solicitor shall cause an authenticated copy of this ordinance to be filed with the Hamilton County, Ohio Auditor's Office, and recorded in the Hamilton County, Ohio Recorder's Office.

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 accept the sidewalk easement without delay so that the general pedestrian public may make use of, and benefit from, the sidewalk improvements at the earliest possible date.

Passed: _____, 2020

John Cranley, Mayor

Attest: _____
Clerk

----- space above for Recorder's Office -----

GRANT OF SIDEWALK EASEMENT

This Grant of Sidewalk Easement ("**Easement**") is made as of the Effective Date (as defined on the signature page hereof) by **BRE Retail Residual Owner 1 LLC**, a Delaware limited liability company ("**Grantor**"), in favor of the **City of Cincinnati**, an Ohio municipal corporation, having a mailing address of 801 Plum Street, Cincinnati, Ohio 45202 (the "**City**") on behalf of the general pedestrian public.

Recitals:

A. Grantor is the owner of certain real property located at the corner of Glenway Avenue and Werk Road in Cincinnati, Ohio, designated as Hamilton County Auditor's Parcel No. 212-0063-0043-00 as more particularly described on Exhibit A attached hereto and made a part hereof (the "**Property**").

B. Grantor is re-developing the Property.

C. In connection with its re-development of the Property, the City's Department of Transportation & Engineering ("**DOT**") has requested Grantor to make certain improvements to a sidewalk on the Property connecting to existing sidewalks located within the public right-of-way known as Werk Road.

D. In accordance with plans approved by DOTE, Grantor has constructed or will construct such sidewalk improvements.

E. DOTE has requested that Grantor grant to the City an easement for the new sidewalk improvements for the benefit of the general pedestrian public to permit pedestrian use of said sidewalk improvements on the Property, and Grantor is amenable to grant said easement in connection with the re-development of the Property.

NOW THEREFORE, Grantor does hereby agree as follows:

1. **Grant of Easement.** Grantor does hereby grant to the City, on behalf of the general pedestrian public, a perpetual, non-exclusive easement for pedestrian use of the sidewalk located within the portion of the Property shown on Exhibit B (*Depiction of Easement Area*) and described on Exhibit C (*Legal Description of Easement Area*) hereto (the "**Sidewalk**" and "**Easement Area**",

as applicable) to allow members of the general pedestrian public to pass on foot or in wheelchair or similar ambulatory device. Grantor shall ensure that pedestrian access through and across the Easement Area shall be available to the general pedestrian public at all times; *provided*, however, that Grantor shall have the right to restrict such access and egress for temporary periods to perform maintenance or repair of the Sidewalk or Easement Area. Grantor represents and warrants to the City that (i) it holds good and marketable fee simple title to the Easement Area and that to its actual knowledge there are no mortgages or other liens, utility or other easements, or other encumbrances of any kind that would materially adversely affect the use of the Sidewalk for pedestrian ingress/egress, and (ii) to its actual knowledge there are no underground utility lines within the Easement Area. Grantor reserves the right to use the Easement Area for all legal purposes so long as its use does not unreasonably interfere with the use of the Sidewalk for pedestrian ingress/egress. Without limitation of the foregoing, Grantor shall not permit the construction of any buildings, fences, walls, curbs or other structures or improvements of any kind within the Easement Area that would materially interfere with the use of the Sidewalk for pedestrian ingress/egress.

2. Maintenance and Repairs. Grantor, at no expense to the City, shall maintain the Sidewalk and Easement Area in a continuous state of good and safe condition and repair and in compliance with DOTE rules, regulations and standards and all applicable laws. If Grantor fails to properly maintain and repair the Sidewalk as required hereunder as determined by DOTE, and if Grantor fails to rectify such situation to the satisfaction of DOTE within 10 days after receiving written notice thereof from DOTE (or immediately if such failure has created a threat to public safety as determined by DOTE) (herein, a "default"), the City, at its option and without any obligation to do so, may immediately or at any time during the continuance of the default undertake such maintenance or repairs at Grantor's sole expense. Grantor shall pay the City within 10 days after the City's written demand an amount equal to all costs paid or incurred by the City in effecting compliance with Grantor's maintenance and repair obligations hereunder, 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 hereunder 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 at law or in equity. The City's failure to insist in any one or more cases on strict performance of any provision hereof or to exercise any right herein contained shall not constitute a waiver in the future of such right. As a material inducement to the City to accept the easement herein granted, Grantor shall and does hereby agree to defend and indemnify the City against any and all claims, causes of action, losses, costs, judgments, fines, liability and damages arising from Grantor's failure to fulfill its maintenance and repair obligations hereunder, 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.

3. Covenants Running with the Land. The provisions contained herein shall be covenants running with the land and shall bind Grantor and its successors-in-interest, and shall inure to the benefit of the City.

4. Termination. Notwithstanding anything in this instrument to the contrary, Grantor, its successors, and assigns may not terminate the pedestrian access and use rights granted herein without the prior written consent of the City.

5. Representations and Warranties. Grantor represents and warrants to the City that: (i) it is duly organized, existing and in good standing under the laws of the State of Delaware; (ii)

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it has full power and authority to enter into and perform its obligations under this Easement; (iii) this Easement has been duly and validly executed and delivered by its duly-authorized officer(s); and (iv) no consent, authorization, order or approval of, or filing or registration with, any governmental authority or other person is required for its execution and delivery of this Easement.

6. Notices. All notices given under this Easement shall be deemed given if personally delivered or mailed by U.S. registered or certified mail, postage prepaid, return receipt requested, addressed to the City at its address set forth in the introductory paragraph hereof, to the attention of the City's Department of Transportation and Engineering, and to Grantor at the following address(es), or at such other addresses as any party may designate by notice to the other parties given in the manner prescribed herein.

To Grantor: BRE Retail Residual Owner 1 LLC
c/o Brixmor Property Group
8700 W Bryn Mawr Ave, Suite 1000S
Chicago, IL 60631

7. General Provisions.

(A) Amendments. This Easement may be amended only by a written amendment signed by Grantor or its successor as owner of the Easement Area, and the City.

(B) Governing Law. This Easement 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 Easement shall be brought in the Hamilton County Court of Common Pleas, and Grantor agrees that venue in such court is proper. Grantor waives trial by jury with respect to any and all disputes arising under this Easement.

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

8. Exhibits. The following Exhibits are attached hereto:
Exhibit A – *Legal Description of the Property*
Exhibit B – *Depiction of Easement Area*
Exhibit C – *Legal Description of Easement Area*

[Signature Page Follows]

This Easement is executed on the dates of acknowledgment indicated below, effective as of the later of such dates (the "Effective Date").

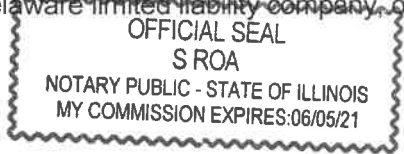
GRANTOR:

BRE Retail Residual Owner 1 LLC, a Delaware limited liability company

By: [Signature]
Printed Name: John Hendrickson
Title: VP - President - Midwest

STATE OF Illinois)
) SS:
COUNTY OF Cook)

The foregoing instrument was acknowledged before me this 14th day of October, 2020, by John Hendrickson, the VP - President - Midwest of BRE Retail Residual Owner 1 LLC, a Delaware limited liability company, on behalf of the limited liability company.



[Signature]
Notary Public
My commission expires: 06/05/21

CITY'S ACCEPTANCE OF EASEMENT

Approval of this Easement was granted by City Planning Commission at its meeting on _____, 2020. Acceptance of this Easement was authorized by Ordinance # _____ passed by City Council on _____, 2020.

City of Cincinnati,
an Ohio municipal corporation

By: _____
Paula Boggs Muething, Interim City Manager

STATE OF OHIO)
) SS:
COUNTY OF HAMILTON)

The foregoing instrument was acknowledged before me this _____ day of _____, 2020, by Paula Boggs Muething, Interim City Manager of the City of Cincinnati, an Ohio municipal corporation, on behalf of the municipal corporation.

Notary Public
My commission expires: _____

Recommended by:

John Brazina
Director, Department of Transportation & Engineering

Approved as to Form by:

Assistant City Solicitor

This instrument prepared in its unexecuted form, without benefit of title exam, by:
Daniel E. Reitz, Esq.
Graydon Head & Ritchey LLP
312 Walnut Street, Suite 1800
Cincinnati, Ohio 45202

Exhibit A

Legal Description of Property

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

And known as being part of located in Section 14, Town 2, Fractional Range 2, BTM, being part of Lots 4 and 6 of F.W. Schwartze's Estate as recorded in Plat Book 9, page 37, and part of Lot 3 of Western Woods Subdivision, Block "C" as recorded in Plat Book 95, Pages 4 and 5. of the Hamilton County, Ohio Records, and being part of the land conveyed to HK New Plan Exchange Property Owner II, LP in OR 10086, Page 3199 and being more particularly described as follows:

Beginning at a 5/8 inch iron rebar with cap inscribed "MSP" found at the intersection of the East line of said Lot 6 and the Southerly right-of-way line of Schwartze Avenue (60 feet in width), said corner being the Northwesterly corner of the land conveyed to Ronald S. & Annette Diers in D.B. 4172, Page 1404, being at the True Point of Beginning:

Thence South 5 deg. 34' 30" West, 1517.15 feet to 5/8 inch iron pin with smashed cap found on the Northerly right-of-way line of Werk Road;

Thence Westerly along said Northerly line of Werk Road, North 82 deg. 43' 28" West, 146.83 feet to a cross-notch found;

Thence continuing Westerly with said line, along the arc of a curve to the right (Radius=91.92 feet, Delta=17 deg. 53' 14"), a chord bearing and distance of North 73 deg. 46' 56" West, 28.58 feet to the Easterly right- of-way line of Glenway Avenue;

Thence Northwesterly along the Easterly right-or-way line of Glenway Avenue the following Ten (10) courses:

1) Along the arc of a curve to the left (Radius=1482.69 feet, Delta=7 deg. 25' 50"), a chord bearing and distance of North 39 deg. 46' 35" West, 192.15 feet;

2) North 43 deg. 29' 30" West, 70.88 feet;

3) Along the arc of a curve to the left (Radius=2329.33 feet, Delta=0 deg. 14' 53"), a chord bearing and distance of North 41 deg. 29' 34" West, 10.08 feet;

4) Along the arc of a curve to the left (Radius=3093.61 feet, Delta= 1 deg. 52' 30") a chord bearing and distance of North 42 deg. 33' 14" West, 101.23 feet;

5) North 43 deg. 29' 30" West, 362.77 feet to a cross-notch found;

6) Along the arc of a curve to the left (Radius=2220.25 feet, Delta=2 deg. 37' 30"), a chord bearing and distance of North 44 deg. 48' 17" West, 101.71 feet to a cross-notch found;

7) Along the arc of a curve to the left (Radius=1674.52 feet, Delta=6 deg. 53' 15"), a chord bearing and distance of North 49 deg. 33' 41" West, 201.17 feet to a cross-notch found;

8) Along the arc of a curve to the left (Radius=2220.25 feet, Delta=2 deg. 37' 30"), a chord bearing and distance of North 54 deg. 18' 55" West 101.71 feet to a cross-notch found;

9) North 55 deg. 37' 45" West, 34.71 feet to a cross-notch found;

10) North 53 deg. 24' 30" West, 411.31 feet to a 1/2 inch iron rebar found marking the Southeasterly corner of the parcel of land conveyed to General Mills Restaurant Group Inc., in D.B. 4318, Page 1603;

Thence departing said right-of-way Northerly along the Easterly line of said parcel, North 6 deg. 28' 30" East 423.37 feet to a corner of the parcel of land conveyed to Frisch's Restaurants Inc., in OR 9241, Page 4243 and OR 9187, Page 3510;

Thence Easterly along the Southerly line of said parcel, North 68 deg. 58' 00" East, 149.00 feet;

Thence Easterly along the Southerly line of said Frisch's parcel and then the Southerly line of the parcel of land conveyed of City View Investments LLC in OR 10338, Page 1223, North 56 deg. 30' 00" East, 359.38 feet to a 5/8 inch rebar with cap inscribed "MSP" found;

Thence Southerly along the Westerly line of the parcel of land conveyed to Ronald F. Koch Sr. in OR 8158, Page 2039, then the Westerly line of the parcel of land conveyed to Julio C. Abanto Tr. in OR 7967, Page 2322, and then the Westerly line of the parcel of land conveyed to Rao & Susee R. Paturi in OR 9008, Page 1441, South 37 deg. 57' 30" East, 97.51 feet to a PK nail found marking the Southwesterly corner of said Paturi parcel, witness a RR Spike found bearing North 0 deg. 14' 41" West, 0.94 feet;

Thence along a new division line the following Eighteen (18) courses:

1) South 76 deg. 43' 07" West, 181.52 feet to a 5/8 inch iron pin with cap set;

2) South 3 deg. 16' 17" West, 118.49 feet to a MAG nail set;

3) South 86 deg.43' 43" East, 73.65 feet to a MAG nail set;

4) South 3 deg. 16' 17" West, 102.33 feet;

5) South 86 deg. 42' 34" East, 15.00 feet;

6) South 3 deg. 16' 17" West, 215.52 feet to a MAG nail set;

7) South 86 deg. 44' 14" East, 20.19 feet to a MAG nail set;

8) South 3 deg. 16' 17" West, 262.63 feet to a MAG nail set;

9) South 55 deg. 35' 22" East, 216.35 feet to a MAG nail set;

- 10) South 47 deg. 58' 34" East, 138.42 feet to a MAG nail set;
- 11) Along the arc of a curve to the right (Radius=515.00 feet, Delta =8 deg. 18' 56"), a chord bearing and distance of South 43 deg. 49' 06" East, 74.68 feet to a MAG nail set;
- 12) South 39 deg. 39' 38" East, 144.14 feet to a MAG nail set;
- 13) North 3 deg. 16' 17" East, 610.42 feet to a MAG nail set;
- 14) Along the arc of a curve deflecting to the left (Radius=59.00 feet, Delta=28 deg. 13' 51"), a chord bearing and distance of South 87 deg. 31' 14" West, 28.78 feet to a MAG nail set;
- 15) Above the arc of a curve to the right (Radius=66.00 Feet, Delta=16 deg. 34' 43") a chord bearing and distance of South 81 deg. 43' 41" West, 19.11 feet to a MAG nail set;
- 16) North. 3 deg. 16' 17" East, 220.34 feet;
- 17) South 86 deg. 43' 43" East, 15.00 feet;
- 18) North 3 deg. 16' 17" East 255.52 feet to a 5/8 inch iron pin with cap set on the Southerly right-of-way line of Schwartze Avenue;

Thence Easterly along said Southerly line South 73 deg. 51' 30" East, 442.57 feet to a MAG nail found marking a point of curvature of Schwartze Avenue;

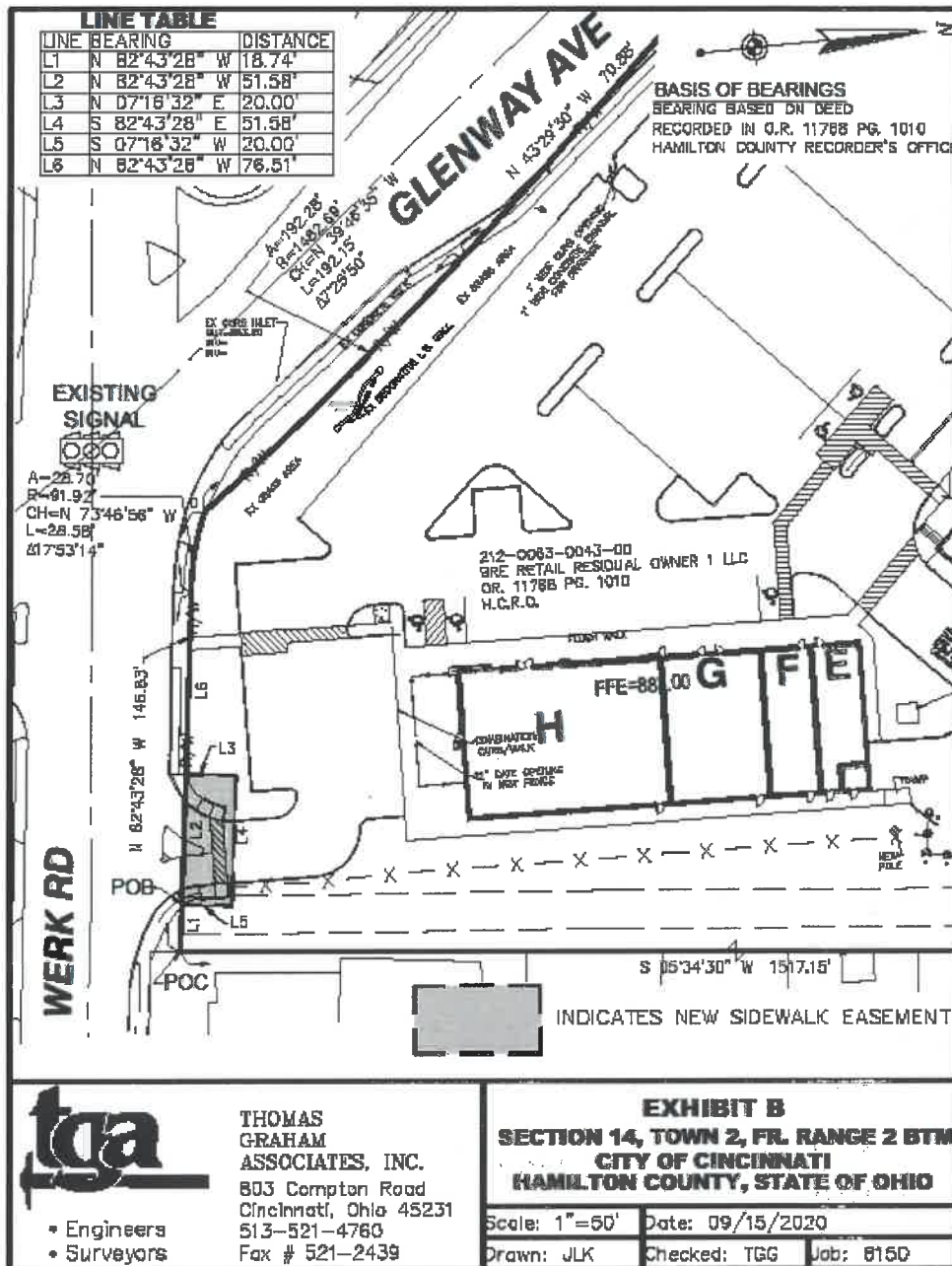
Thence along the arc of a curve to the left (Radius=330.00 feet, Delta=10 deg. 33' 58") a chord bearing and distance of South 79 deg. 08' 30" East, 60.77 feet to the point of tangency;

Thence South 84 deg. 25' 30" East, 112.26 feet to The True Point of Beginning, containing 26.5971 acres or land more or less.

PPN: 212-0063-0043 & 193 cons.

Exhibit B

Depiction of Easement Area





803 Compton Road, Suite A
Cincinnati, Ohio 45231-3819
(513) 521-4760
Fax (513) 521-2439
bobtrenkamp@tgraham.com

Exhibit C

Legal Description of Easement Area

Legal description:

Situated in Section 14, Township 2, Fractional Range 2, BTM, City of Cincinnati, Hamilton County, State of Ohio, being part of property conveyed to BRE Retail Residual Owner 1 LLC by deed recorded July 8th, 2011 in Official Record 11768, Page 1010 of the Hamilton County Recorder's Office and being more particularly described as follows:

Commencing at the Southeast corner of property conveyed to BRE Retail Residual Owner 1 LLC by deed recorded July 8th, 2011 in Official Record 11768, Page 1010 of the Hamilton County Recorder's Office and the existing North right-of-way line of Werk Road;

thence departing the said Southeast corner with the said existing North right-of-way line,

L1 **North 82° 43' 28" West, 18.74 feet** to the point of beginning of the herein described easement:

L2 thence continuing with the said existing North right-of-way line,
North 82° 43' 28" West, 51.58 feet;

L3 thence departing the existing North right-of-way line of Werk Road,
North 07° 16' 32" East, 20.00 feet;

L4 thence **South 82° 43' 28" East, 51.58 feet;**

L5 thence **South 07° 16' 32" West, 20.00 feet** to the existing North right-of-way line of Werk Road and the point of beginning.

Basis of Bearings: Official Record 11768 Page 1010
Hamilton County Recorder's Office

AUTHORITY CERTIFICATE

The undersigned does hereby certify that he/she is the duly elected, qualified and acting incumbent EVP - President - Midwest of BRE Retail Residual Owner 1 LLC, a Delaware limited liability company ("BRE"), and that he/she is authorized, empowered and approved to execute and deliver to the City of Cincinnati for the benefit of the general pedestrian public, on behalf of BRE, in his/her capacity as such officer, a certain Grant of Sidewalk Easement relating to certain real property owned by BRE and located at the corner of Glenway Avenue and Werk Road in Cincinnati, Ohio.

Dated as of October 14, 2020.

Signature: 
Printed Name: JOHN HENNRICHSEN
Title: EVP - PRESIDENT - MIDWEST

October 28, 2020

To: Mayor and Members of City Council **202002065**

From: Paula Boggs Muething, City Manager

Subject: W 8TH STREET AND GLENWAY AVENUE – REMOVAL OF PARKING
RESTRICTIONS

Reference Document #202001571

The Council at its session on September 30, 2020 referred the following item for review and report.

MOTION, (AMENDED) submitted by Councilmember Mann, I move that West Eighth Street in Price Hill be returned to a safer place for neighborhood traffic, pedestrians and children by ending parking restrictions on the curbside lane during morning and evening commuting hours from Elberon to Nebraska and Glenway Avenue from Wilder Avenue to Guerley Road. (STATEMENT ATTACHED)

The Department of Transportation and Engineering (DOTE) has reviewed the requests to allow full time parking on W. Eighth Street from Elberon Avenue to Nebraska Avenue, and on Glenway Avenue from Wilder Avenue to Guerley Road.

DOTE recently completed new traffic counts on W. Eighth at Overlook Avenue. The peak traffic volume was 570 vehicles in the westbound direction from 5:00 pm to 6:00 pm. The current conditions indicate that a single lane of traffic in both directions should be adequate on W. Eighth Street. DOTE will be issuing work orders to remove the “No Stopping Parking 7am to 9am” and “No Stopping Parking 4pm to 6pm” signs. The full-time parking lane should help to calm traffic and improve parking conditions for residents and businesses.

Glenway Avenue carries considerably more traffic than W. Eighth Street. A 2018 traffic count on Glenway Avenue at Gilsey Avenue indicated a daily traffic volume of 21,000 vehicles per day. During the most recent count, the peak traffic volume was 880 vehicles in the eastbound direction from 7:15 am to 8:15 am. DOTE will obtain new traffic counts at several intersections along Glenway Avenue in the spring of 2021. No changes to the parking restrictions on Glenway Avenue are recommended at this time until additional data and information is available to better inform recommendations.

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

November 9, 2020

To: Members of the Budget and Finance Committee 202002108
From: Paula Boggs Muething, City Manager
Subject: **Emergency Ordinance – Ohio Transit Partnership Program (OTP2) Grant for Streetcar Operations**

Attached is an Emergency Ordinance captioned:

AUTHORIZING City Manager to accept and appropriate a grant of up to \$500,000 from the Ohio Transit Partnership Program awarded by the Ohio Department of Transportation to the Streetcar Operations Fund non-personnel operating budget account no. 455x236x7200 for the purpose of providing resources for operating assistance to the streetcar system; and **AUTHORIZING** the Director of Finance to deposit the funds in Fund 455, “Streetcar Operations.”

Approval of this Emergency Ordinance will allow the City Manager to accept and appropriate a grant of up to \$500,000 from the Ohio Transit Partnership Program awarded by the Ohio Department of Transportation to the Streetcar Operations Fund non-personnel operating budget account no. 455x236x7200 for the purpose of providing resources for operating assistance to the streetcar system. This Emergency Ordinance will also authorize the Director of Finance to deposit the resources in Streetcar Operations Fund 455.

City Council authorized the City Administration, pursuant to Ordinance No. 0153-2020, to apply for financial assistance from the Ohio Department of Transportation (“ODOT”) for transit purposes under the Ohio Transit Partnership Program for state fiscal year 2021. ODOT awarded a grant in an amount up to \$500,000 to the City pursuant to be used as operating assistance for the streetcar system. There is no local match required for this grant. No new FTEs are associated with this grant.

The reason for the emergency is the immediate need to accept grant resources in a timely manner in order to support the streetcar operations for FY21.

The Administration recommends passage of this Emergency Ordinance.

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

Attachment

EMERGENCY

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- 2020

AUTHORIZING the City Manager to accept and appropriate a grant of up to \$500,000 from the Ohio Transit Partnership Program awarded by the Ohio Department of Transportation to the Streetcar Operations Fund non-personnel operating budget account no. 455x236x7200 for the purpose of providing resources for operating assistance to the streetcar system; and **AUTHORIZING** the Director of Finance to deposit the funds in Fund 455, “Streetcar Operations.”

WHEREAS, Council authorized the City Administration, pursuant to Ordinance 0153-2020, to apply for financial assistance from the Ohio Department of Transportation (“ODOT”) for transit purposes under the Ohio Transit Partnership Program for state fiscal year 2021; and

WHEREAS, ODOT has awarded a grant in an amount up to \$500,000 to the City pursuant to the Ohio Transit Partnership Program to be used as operating assistance for the streetcar system; and

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

WHEREAS, the City will provide all annual certifications and assurances to the State of Ohio required for the projects pursuant to any grants and to its status as a grantee; 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 of up to \$500,000 from the Ohio Transit Partnership Program awarded by the Ohio Department of Transportation (“ODOT”) to the Streetcar Operations Fund non-personnel operating budget account no. 455x236x7200 for the purpose of providing resources for operating assistance to the streetcar system.

Section 2. That the City Manager or her designees is authorized to execute grant and cooperative agreements with ODOT on behalf of the City of Cincinnati.

Section 3. That the Director of Finance is hereby authorized to receive and deposit the grant resources into Fund 455, “Streetcar Operations.”

Section 4. That the proper City officials are authorized to do all things necessary and proper to carry out the terms of Section 1 through 3 hereof.

Section 5. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to accept grant resources in a timely manner in order to support the streetcar operations for FY21.

Passed: _____, 2020

John Cranley, Mayor

Attest: _____

November 9, 2020

To: Members of the Budget and Finance Committee 202002109
From: Paula Boggs Muething, City Manager
Subject: **Emergency Ordinance – Hamilton County CARES Expanding Free Wi-Fi Program Grant for Community Recreation Centers**

Attached is an Emergency Ordinance captioned:

AUTHORIZING the City Manager to apply for, accept, and appropriate a grant in the amount of up to \$250,000 from the Hamilton County CARES Expanding Free Wi-Fi Program for the purpose of assisting the Cincinnati Recreation Commission (CRC) in the upgrading and new installation of public Wi-Fi offerings in the CRC community recreation centers; and **AUTHORIZING** the Finance Director to deposit the grant funds into Recreation Federal Grant Projects Fund 324.

This Emergency Ordinance authorizes the City Manager to apply for, accept, and appropriate a grant in an amount up to \$250,000 from the Hamilton County CARES Expanding Free Wi-Fi Program for the purpose of assisting the Cincinnati Recreation Commission (CRC) in the upgrading and new installation of public Wi-Fi offerings in the CRC community recreation centers.

This Emergency Ordinance also authorizes the Finance Director to deposit the grant funds into Recreation Federal Grant Projects Fund 324. There is no match requirement associated with the acceptance of this grant. There will be no new FTE associated with the acceptance of this grant.

CRC is working with the Cincinnati Public Schools (CPS) and other childcare service providers to create and provide robust virtual learning environments that are necessary to support kids and families without the necessary resources to maintain educational paths.

Please note that any resources previously allocated from COVID-19 Fund 473 for upgrading and installing new public Wi-Fi offerings in the CRC community recreation centers, that are offset by the Hamilton County CARES Expanding Free Wi-Fi Program grant resources, will be reevaluated for opportunities for re-allocation to cover the cost of other CARES related eligible expenses.

This Emergency Ordinance is in accordance with the “Collaborate” goal to “Work in synergy with the Cincinnati community,” as described on page 209 of Plan Cincinnati (2012).

The reason for the emergency is the immediate need to accept grant resources in a timely manner so the CRC can continue to provide robust virtual learning environments.

The Administration recommends passage of this Emergency Ordinance.

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

Attachment



EMERGENCY

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- 2020

AUTHORIZING the City Manager to apply for, accept, and appropriate a grant in the amount of up to \$250,000 from the Hamilton County CARES Expanding Free Wi-Fi Program for the purpose of assisting the Cincinnati Recreation Commission (CRC) in the upgrading and new installation of public Wi-Fi offerings in the CRC community recreation centers; and **AUTHORIZING** the Finance Director to deposit the grant funds into Recreation Federal Grant Projects Fund 324.

WHEREAS, there is a grant available in the amount of up to \$250,000 from the Hamilton County CARES Expanding Free Wi-Fi Program for the purpose of assisting the Cincinnati Recreation Commission (CRC) in the upgrading and new installation of public Wi-Fi offerings in the CRC community recreation centers; and

WHEREAS, CRC is working in collaboration and coordination with the Cincinnati Public Schools and other childcare service providers to create and provide robust virtual learning environments that are necessary to support kids and families without the necessary resources to maintain educational paths; and

WHEREAS, prior to the establishment of the Hamilton County CARES Expanding Free Wi-Fi Program, City Council passed Ordinance No. 0356-2020, which authorized the allocation of up to \$250,000 in CARES resources for upgrading and installing new public Wi-Fi offerings in the CRC community recreation centers; and

WHEREAS, any grant resources awarded to the City of Cincinnati from the Hamilton County CARES Expanding Free Wi-Fi Program would reduce the need for resources already allocated from COVID-19 Fund 473 for upgrading and installing new public Wi-Fi offerings in the CRC community recreation centers; and

WHEREAS, any resources previously allocated from COVID-19 Fund 473, that are offset by the Hamilton County CARES Expanding Free Wi-Fi Program grant resources, will be reevaluated for opportunities to re-allocate to cover the cost of other CARES related eligible expenses; and

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

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

WHEREAS, this ordinance is in accordance with the “Live” goal to “build a robust public life,” as described on page 149 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 \$250,000 from the Hamilton County CARES Expanding Free Wi-Fi Program for the purpose of assisting the Cincinnati Recreation Commission (CRC) in the upgrading and new installation of public Wi-Fi offerings in the CRC community recreation centers.

Section 2. That the Director of Finance is hereby authorized to deposit the grant resources into Recreation Federal Grant Projects Fund 324.

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 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 so the CRC can continue to provide robust virtual learning environments.

Passed: _____, 2020

John Cranley, Mayor

Attest: _____
Clerk

November 9, 2020

To: Members of the Budget and Finance Committee **202002113**
From: Paula Boggs Muething, City Manager
Subject: Ordinance – Columbia Parkway, Street Rehabilitation Grant

Attached is an Ordinance captioned:

ESTABLISHING new capital improvement program project account no. 980x233x212348, “Street Rehabilitation Grants,” for the purpose of providing grant resources for the repair and resurfacing of streets under the Street Rehabilitation Program, including repairs to curbs, pavements, and resurfacing the roadway; **AUTHORIZING** the City Manager to accept and appropriate resources in the amount of up to \$1,031,232.70 from Federal Highway Administration funding (CFDA 20.205), administered by the Ohio Department of Transportation, to newly created capital improvement program project account no. 980x233x212348, “Street Rehabilitation Grants,” for the purpose of providing grant resources for the Columbia Parkway Rehabilitation (HAM-50-24.39 PID 107128) project, which will rehabilitate Columbia Parkway from William H. Taft Road to Delta Avenue; and further **AUTHORIZING** the City Manager to do all things necessary to cooperate with the Director of the Ohio Department of Transportation in order to complete the HAM-50-24.39 PID 107128 Project.

Approval of this Ordinance will allow the City Manager to accept and appropriate grant resources in the amount of up to \$1,031,232.70 from Federal Highway Administration (FHWA) funding administered by the Ohio Department of Transportation (ODOT) to newly created capital improvement program project account no. 980x233x212348, “Street Rehabilitation Grants,” for the purpose of providing grant resources for the HAM-50-24.39 PID 107128 project, which will rehabilitate Columbia Parkway from William H. Taft Road to Delta Avenue.

ODOT applied for this funding on behalf of the City of Cincinnati. This grant will require local matching resources estimated in the amount of \$3,495,247.53, which will be provided from resources currently available in capital improvement program project account no. 980x233x212308, “Street Rehabilitation”. The Department of Transportation & Engineering intends to fully fund project management, community involvement, and construction inspection from existing capital improvement program resources. No new FTE are associated with this grant.

This project is in accordance with the “Connect” goal to “develop a regional transportation system that promotes economic vitality,” and the strategy to “use the City’s transportation network to help facilitate economic development opportunities,” as described on pages 139-143 of Plan Cincinnati (2012).

The Administration recommends passage of this Ordinance.

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

Attachment



ESTABLISHING new capital improvement program project account no. 980x233x212348, “Street Rehabilitation Grants,” for the purpose of providing grant resources for the repair and resurfacing of streets under the Street Rehabilitation Program, including repairs to curbs, pavements, and resurfacing the roadway; **AUTHORIZING** the City Manager to accept and appropriate resources in the amount of up to \$1,031,232.70 from Federal Highway Administration funding (CFDA 20.205), administered by the Ohio Department of Transportation, to newly created capital improvement program project account no. 980x233x212348, “Street Rehabilitation Grants,” for the purpose of providing grant resources for the Columbia Parkway Rehabilitation (HAM-50-24.39 PID 107128) project, which will rehabilitate Columbia Parkway from William H. Taft Road to Delta Avenue; and further **AUTHORIZING** the City Manager to do all things necessary to cooperate with the Director of the Ohio Department of Transportation in order to complete the HAM-50-24.39 PID 107128 Project.

WHEREAS, on behalf of the City of Cincinnati, the Ohio Department of Transportation applied for a grant in the amount of up to \$1,031,232.70 from Federal Highway Administration funding (CFDA 20.205) to support the HAM-50-24.39 PID 107128 project, which will rehabilitate Columbia Parkway from William H. Taft Road to Delta Avenue; and

WHEREAS, the City’s estimated local match in the amount of \$3,495,247.53 will be provided from resources currently available in existing capital improvement program project account no. 980x233x212308, “Street Rehabilitation”; and

WHEREAS, the Department of Transportation and Engineering intends to fully cover the cost of project management, community involvement, and construction inspection from existing capital improvement program resources; and

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

WHEREAS, the HAM-50-24.39 PID 107128 project is in accordance with the “Connect” goal to “develop a regional transportation system that promotes economic vitality,” and the strategy to “use the City’s transportation network to help facilitate economic development opportunities,” as described on pages 139-143 of Plan Cincinnati (2012); now, therefore,

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

Section 1. That Council hereby authorizes the establishment of capital improvement program project account no. 980x233x212348, “Street Rehabilitation Grants,” for the purpose of

providing grant resources for the repair and resurfacing of streets under the Street Rehabilitation Program, including repairs to curbs, pavements, and resurfacing the roadway.

Section 2. That the City Manager is hereby authorized to accept and appropriate resources in the amount of up to \$1,031,232.70 from Federal Highway Administration funding (CFDA 20.205) administered by the Ohio Department of Transportation (“ODOT”) to newly created capital improvement program project account 980x233x212348, “Street Rehabilitation Grants,” for the purpose of providing grant resources for the Columbia Parkway Rehabilitation (HAM-50-24.39 PID 107128) project, which will rehabilitate Columbia Parkway from William H. Taft Road to Delta Avenue.

Section 3. That the City Manager is hereby authorized to do all things necessary to cooperate with the Director of ODOT in order to complete the HAM-50-24.39 PID 107128 Project.

Section 4. That the City consents to the Director of ODOT moving forward to complete the above-described project and shall cooperate as necessary.

Section 5. That the proper City officials are hereby authorized to use and expend the sum of up to \$1,031,232.70 in accordance with the provisions of Sections 1 through 4 herein.

Section 6. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed: _____, 2020

John Cranley, Mayor

Attest: _____
Clerk

November 9, 2020

To: Mayor and Members of Council **202002094**
From: Paula Boggs Muething, City Manager
Subject: **Emergency Ordinance authorizing the transfer and appropriation of \$93,750 for mural installment payment**

Transmitted herewith is an Emergency Ordinance captioned as follows:

AUTHORIZING the transfer and appropriation of the sum of \$93,750 from the unappropriated surplus of Fund 151, "Bond Retirement," to Bond Retirement debt service account no. 151x134x7700 for the purpose of providing resources for the payment of debt service related to the installation of the historic Union Terminal murals at the Duke Energy Convention Center pursuant to an agreement between the City of Cincinnati and Hamilton County, by which the City and Hamilton County each agreed to bear one-half of the costs of the historic mural preservation and installation project, as provided in the Seventh and Eighth Supplements to the Cooperative Agreement between the City, the County, and the Convention Facilities Authority regarding the Duke Energy Convention Center.

This emergency ordinance authorizes the transfer and appropriation of \$93,750 from the Bond Retirement Fund to pay the City's final installment payment on the debt issued for the preservation and installation of the historic Union Terminal murals at the Duke Energy Convention Center. The Eighth Supplement to the Cooperative Agreement between the City and County, which was approved by City Council, provided that the City would pay the last installment payment using capital dollars or another appropriate funding source. However, the appropriation for this payment was inadvertently not included in the FY 2021 budget and thus requires separate approval.

This emergency ordinance is recommended for approval. An emergency ordinance is needed due to the immediate need to retire the bond anticipation note issued for the project.

c: Christopher A. Biggam, Assistant City Manager
Karen Alder, Finance Director

Attachment

EMERGENCY

City of Cincinnati

An Ordinance No. _____

JRS
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- 2020

AUTHORIZING the transfer and appropriation of the sum of \$93,750 from the unappropriated surplus of Fund 151, "Bond Retirement," to Bond Retirement debt service account no. 151x134x7700 for the purpose of providing resources for the payment of debt service related to the installation of the historic Union Terminal murals at the Duke Energy Convention Center pursuant to an agreement between the City of Cincinnati and Hamilton County, by which the City and Hamilton County each agreed to bear one-half of the costs of the historic mural preservation and installation project, as provided in the Seventh and Eighth Supplements to the Cooperative Agreement between the City, the County, and the Convention Facilities Authority regarding the Duke Energy Convention Center.

WHEREAS, City Council adopted Ordinance No. 394-2015 on December 16, 2015 to authorize the issuance of notes in the principal amount of \$750,000 for the purpose of advancing funds to pay for the preservation and installation of the historic Union Terminal murals at the Duke Energy Convention Center (the "Project"); and

WHEREAS, Hamilton County (the "County") and the City each agreed to bear one-half of the costs of the Project, paid over four equal installments of \$93,750, pursuant to a certain Seventh Supplement to Cooperative Agreement regarding the Duke Energy Convention Center, dated December, 16, 2015; and

WHEREAS, the City thereafter issued Public Building Improvements Bond Anticipation Note 16-1-GN351 on January 15, 2016 in the principal amount of \$750,000 to fund the Project; and

WHEREAS, the County has paid in full its one-half share of the costs of the Project, and the City has one remaining installment of \$93,750 remaining to satisfy its obligation related to the Project; and

WHEREAS, the Eighth Supplement to Cooperative Agreement between the City and the County, dated June 26, 2019, provided that the City would pay its last installment using capital dollars or another appropriate funding source; and

WHEREAS, the City Administration has determined that Fund 151, "Bond Retirement," is an appropriate funding source for satisfying the City's last installment payment; now, therefore,

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

Section 1. That Council hereby authorizes the appropriation of the sum of \$93,750 from the unappropriated surplus of Fund 151, "Bond Retirement," to Bond Retirement debt service account no. 151x134x7700 for the purpose of providing resources for the payment of Public Building Improvements Bond Anticipation Note 16-1-GN351.

Section 2. That the proper City officials are hereby authorized to do all things necessary and proper to carry out the provisions of this ordinance including, without limitation, the appropriations and transfers authorized herein.

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 retire Public Building Improvements Bond Anticipation Note 16-1-GN351 and thereby satisfy the City's last remaining payment obligation associated with the installation and preservation of the historic Union Terminal murals at the Duke Energy Convention Center.

Passed: _____, 2020

John Cranley, Mayor

Attest: _____

Clerk

Date: November 9, 2020

To: Mayor and Members of City Council **202002106**
From: Paula Boggs Muething, City Manager
Subject: ORDINANCE – VACATE AND SELL PORTIONS OF BIGELOW STREET

Attached is an ordinance captioned as follows:

AUTHORIZING the City Manager to vacate and sell certain portions of an unnamed alley and the public right-of-way known as Bigelow Street in the Mt. Auburn neighborhood to Bigelow Land LLC to facilitate its construction of a multi-family development.

Bigelow Land LLC (“Petitioner”) would like to purchase from the City a 0.2148 acre tract of land known as Bigelow Street and a 0.00615 acre tract of land designated as public right-of-way and currently unnamed. The Petitioner owns adjoining property and would like to purchase this property to facilitate the construction of a multi-family development consisting of approximately 166 residential rental units and a structured parking garage.

The Petitioner has obtained the written consent of all necessary abutters to the City’s vacation and sale of the property to the Petitioner. The property is not needed for municipal purposes.

The approximate fair market value of the property is \$33,500, which the Petitioner has agreed to pay.

The City Planning Commission approved the vacation and sale at its meeting on April 17, 2020.

The Administration recommends passage of the attached ordinance.

Attachment I – Attachment A, Property Sale Agreement

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

AUTHORIZING the City Manager to vacate and sell certain portions of an unnamed alley and the public right-of-way known as Bigelow Street in the Mt. Auburn neighborhood to Bigelow Land LLC to facilitate its construction of a multi-family development.

WHEREAS, the City of Cincinnati owns (i) a 0.2148 acre tract of land designated as public right-of-way and commonly known as Bigelow Street and (ii) a 0.00615 acre tract of land designated as public right-of-way and currently unnamed, which rights of way are depicted in the *Property Sale Agreement* attached to this ordinance as Attachment A and incorporated herein by reference (the “Property”), and which rights of way are under the management and control of the City’s Department of Transportation and Engineering; and

WHEREAS, Bigelow Land LLC (“Petitioner”) owns adjoining property and desires to purchase the Property from the City to facilitate the construction of a multi-family development consisting of approximately 166 residential rental units and a structured parking garage; and

WHEREAS, Alan S. Henderson, Esq., a reputable attorney practicing in Hamilton County, Ohio, has certified that (i) Petitioner and the City are the owners of all of the property that abuts the Property and (ii) Petitioner has obtained the written consent of all necessary abutters to the City’s vacation and sale of the Property to Petitioner; and

WHEREAS, pursuant to Ohio Revised Code Section 723.04, the City may, upon petition, vacate a street or alley if it has determined that there is good cause for the vacation and that the vacation will not be detrimental to the general interest; and

WHEREAS, Section 13 of Article VIII of the Ohio Constitution provides that, to create or preserve jobs and employment opportunities and to improve the economic welfare of the people of the State, it is in the public interest and a proper public purpose for the State or its political subdivisions to sell, lease, exchange, or otherwise dispose of property within the State of Ohio for industry, commerce, distribution, and research; and

WHEREAS, pursuant to Cincinnati Municipal Code Section 331-1, the City may sell real property that is not needed for municipal purposes; and

WHEREAS, the City’s Real Estate Services Division has determined, by appraisal, that the approximate fair market value of the Property is \$33,500, which Petitioner has agreed to pay; and

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

WHEREAS, City Planning Commission, having the authority to approve the change in the use of City-owned property, approved the vacation and sale of the Property at its meeting on April 17, 2020; now, therefore,

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

Section 1. That the City Manager is hereby authorized to vacate and sell to Bigelow Land LLC (“Petitioner”) (i) a 0.2148 acre portion of the public right-of-way known as Bigelow Street, located south of Carmalt Street, and (ii) a 0.00615 acre portion of unnamed public right-of-way consisting of an alley, located west of Josephine Street, which rights of way are located in the Mt. Auburn neighborhood (the “Property”), and are more particularly described and depicted on the *Property Sale Agreement*, attached to this ordinance as Attachment A and incorporated herein by reference, in order to facilitate the construction of a multi-family development consisting of approximately 166 residential rental units and a structured parking garage (the “Project”).

Section 2. That the Property is not needed for transportation or other municipal purposes, that there is good cause to vacate and sell the Property, and that such vacation and sale will not be detrimental to the general interest.

Section 3. That the fair market value of the Property, as determined by appraisal by the City’s Real Estate Services Division, is approximately \$33,500, which Petitioner has agreed to pay.

Section 4. That eliminating competitive bidding in connection with the City’s sale of the Property is in the best interest of the City because the sale of the Property to Petitioner will facilitate the Project, provide economic benefits to the City through the retention and creation of jobs, enhance the availability of adequate housing in the City, and stimulate economic growth in the Mt. Auburn neighborhood.

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

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

Section 7. That, pursuant to Ohio Revised Code Section 723.041, any affected public utility shall be deemed to have a permanent easement in the Property for the purpose of maintaining, operating, renewing, reconstructing, and removing its utility facilities and for purposes of access to said facilities.

Section 8. That the City Manager and other City officials are hereby authorized to take all necessary and proper actions to carry out the provisions of this ordinance, including, without limitation, executing a *Property Sale Agreement* substantially in the form as Attachment A, and any and all other ancillary agreements, deeds, plats, and other associated documents.

Section 9. That the City Solicitor shall cause an authenticated copy of this ordinance to be duly recorded in the land records of Hamilton County, Ohio.

Section 10. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed: _____, 2020

John Cranley, Mayor

Attest: _____
Clerk

Contract No. _____

Property: sale of portion of Bigelow Street
and unnamed alley

PROPERTY SALE AGREEMENT

This Property Sale Agreement (“**Agreement**”) is made and entered into on the Effective Date (as defined on the signature page hereof) by and between the **CITY OF CINCINNATI**, an Ohio municipal corporation, the address of which for purposes of this Agreement is 801 Plum Street, Cincinnati, OH 45202 (the “**City**”), and **BIGELOW LAND LLC**, an Ohio limited liability company, the address of which is 2718 Short Vine Street, Cincinnati, OH 45219 (“**Developer**”).

Recitals:

A. The City owns (i) a 0.2148 acre tract of land designated as public right-of-way known as Bigelow Street, located south of Carmalt Street, (the “**Bigelow Street ROW Property**”), and (ii) a 0.00615 acre tract of land designated as public right-of-way, an unnamed alley, located west of Josephine Street (the “**Unnamed Alley ROW Property**”) located in the Mt. Auburn neighborhood of Cincinnati, (collectively, the “**Sale Property**”). The Sale Property is under the management and control of the City’s Department of Transportation and Engineering (“**DOT**”) and is more particularly depicted and described in Exhibit A (Quitclaim Deed) hereto.

B. Developer owns property that abuts the Sale Property, as depicted on Exhibit B (Site Map – Developer’s Property) hereto (“**Developer’s Property**”), which consists of a collection of improved and vacant land.

C. Developer desires to purchase the Sale Property from the City to consolidate it with Developer’s Property to facilitate the construction of an approximately 167,428 square-foot residential complex, consisting of approximately 166 residential rental units and a structured parking garage at an approximate cost of \$33,456,242 (the “**Project**”).

D. Alan S. Henderson, Esq., a reputable attorney practicing in Hamilton County, Ohio, has provided an Attorney’s Certificate of Title dated July 27, 2020 certifying that (i) (a) Developer and the City are the owners of all of the property that abuts the Bigelow Street ROW Property; (b) Developer and the City are the owners of all of the property that abuts the Unnamed Alley ROW Property; and (ii) the written consent of all necessary abutters to the City’s vacation and sale of the Sale Property to Developer, a copy of which is attached as Exhibit C (Attorney’s Certificate of Title) hereto.

E. Pursuant to Chapter 723 of the Ohio Revised Code, the legislative authority of a municipal corporation may convey the fee simple estate or other interest in land used for streets and alleys if it has determined that the property is not needed for municipal purposes.

F. The City has determined that the Sale Property is not needed for transportation or any other municipal purpose and that the sale of the Sale Property will not be detrimental to the public interest.

G. The City’s Real Estate Services Division has determined, by a professional appraisal, that the fair market value of the Sale Property is \$33,500, which price Developer is willing to pay (the “**Purchase Price**”).

H. The City has determined that eliminating competitive bidding in connection with the City’s sale of the Sale Property is justified because the City has determined that selling the Sale Property to

Developer to facilitate the Project will provide economic benefits to the City through the retention and creation of jobs and enhance the availability of adequate housing in the City that will stimulate economic growth in the Mt. Auburn neighborhood.

I. Section 13 of Article VIII of the Ohio Constitution provides that, to create or preserve jobs and employment opportunities and to improve the economic welfare of the people of the State, it is a public interest and proper public purpose for the State or its political subdivisions to sell, lease, exchange, or otherwise dispose of property within the State of Ohio for industry, commerce, distribution and research.

J. City Planning Commission, having the authority to approve the change in the use of City-owned property, approved the sale of the Sale Property to Developer at its meeting on April 17, 2020.

K. Execution of this Agreement was authorized by Cincinnati City Council by Ordinance No. _____-2020, passed on _____, 2020.

NOW, THEREFORE, the parties agree as follows:

1. **Purchase Price.** Subject to the terms and conditions set forth herein, the City hereby agrees to sell the Sale Property to Developer, and Developer hereby agrees to purchase the Sale Property from the City for the Purchase Price. Developer acknowledges that it is familiar with the condition of the Sale Property and, at Closing (as defined below), the City shall convey the Sale Property to Developer in "as is" condition. The City makes no representations or warranties to Developer with respect to the condition of the Sale Property and, from and after the Closing, the City shall have no liability of any kind to Developer for any defects, adverse environmental condition, or any other matters affecting the Sale Property.

2. **Closing.**

(A) **Conditions.** The closing on the City's sale of the Sale Property to Developer (the "**Closing**") shall not occur unless and until the following conditions have been satisfied (the "**Conditions**"); *provided, however,* that if the City, in its sole discretion, determines that one or more of the Conditions would be more appropriately handled at Closing or post-Closing, the City may, if appropriate, include such Conditions in the City's Quitclaim Deed to Developer or handle such Conditions post-Closing. Developer shall perform all work and investigations and shall obtain and prepare all necessary documents pertaining to the satisfaction of the Conditions, at no cost to the City.

- (i) **Title & Survey:** Developer's approval of title to the Sale Property and, if obtained by Developer, an ALTA property survey of the Sale Property;
- (ii) **Inspections, Utilities & Zoning/Building Code Requirements:** Developer's approval of inspections of the Sale Property, including without limitation environmental assessments and soil assessments, all matters pertaining to utility service for the Sale Property, and all zoning and building code requirements that are applicable to the Sale Property;
- (iii) **Plats and Legal Descriptions:** Developer shall have provided the City with all plats and legal descriptions as required by DOTE, the City Planning Department, and the Hamilton County Auditor and Recorder in connection with the City's vacation and sale of the Sale Property;
- (iv) **Abutters' Interests:** Developer shall have provided the City with an attorney's certificate of title certifying that Developer and the City are the sole abutters to the Sale Property.

(B) Right to Terminate. If either party determines, after exercising reasonable good faith efforts, that any of the Conditions are not or cannot be satisfied within a reasonable period of time, such party shall have the right to terminate this Agreement by giving written notice thereof to the other party, whereupon this Agreement and all rights and obligations of the parties hereunder shall terminate. If all of the Conditions have not been satisfied to the satisfaction of both parties or waived in writing and for that reason the Closing has not occurred within **90 days** after the Effective Date, this Agreement and all rights and obligations of the parties hereunder shall automatically terminate.

(C) Closing Date. Provided the Conditions have been satisfied, the Closing shall take place approximately **120 days** after the Effective Date, or on such earlier or later date as the parties may agree upon.

(D) Closing Costs and Closing Documents. At the Closing, (i) Developer shall pay the Purchase Price in full, and (ii) the City shall convey all of its right, title and interest in and to the Sale Property to Developer by *Quitclaim Deed* in the form of Exhibit A. Developer shall pay all Hamilton County, Ohio recording fees, transfer tax, and any and all other customary closing costs associated with the Closing. There shall be no proration of real estate taxes and assessments at Closing, and from and after the Closing, Developer shall pay all real estate taxes and assessments thereafter becoming due. At Closing, the parties shall execute a settlement statement and any and all other customary closing documents that are necessary for the Closing, in such forms as are approved by the City. The City shall not however be required to execute a title affidavit at Closing or other similar documents pertaining to title, it being acknowledged by Developer that the City is selling the Property "as is." Pursuant to Section 301-20, Cincinnati Municipal Code, at Closing, Developer shall pay to the City any and all unpaid related and unrelated fines, penalties, judgments, water or other utility charges, and any and all other outstanding amounts owed by Developer to the City. The provisions of this Agreement shall survive the City's execution and delivery of the *Quitclaim Deed* and shall not be deemed to have been merged therein.

3. Notices. All notices given by the parties hereunder shall be deemed given if personally delivered, delivered by Federal Express, UPS or other recognized overnight courier, or mailed by U.S. regular or certified mail, addressed to the parties at their respective addresses set forth in the introductory paragraph of this Agreement. If Developer sends a notice to the City alleging that the City is in default under this Agreement, Developer shall simultaneously send a copy of such notice by U.S. certified mail to: City Solicitor, 801 Plum Street, Suite 214, Cincinnati, OH 45202. Notices shall be deemed given on the date of receipt.

4. Representations, Warranties, and Covenants of Developer. Developer makes the following representations, warranties and covenants to induce the City to enter into this Agreement:

(i) Developer is an Ohio limited liability company duly organized and validly existing under the laws of the State of Ohio, is authorized to transact business in the State of Ohio, has properly filed all certificates and reports required to be filed by it under the laws of the State of Ohio, and is not in violation of any laws relevant to the transactions contemplated by this Agreement.

(ii) Developer has full power and authority to execute and deliver this Agreement and to carry out the transactions provided for herein.

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

(iv) There are no actions, suits, proceedings or governmental investigations pending, or to the knowledge of Developer, threatened against or affecting Developer, at law or in equity or before or by any governmental authority.

(v) Developer shall give prompt notice in writing to the City of the occurrence or existence of any litigation, labor dispute or governmental proceedings or investigation affecting Developer that could reasonably be expected to interfere substantially with its normal operations or materially and adversely affect its financial condition or its Developer of the Property.

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

(vii) Neither Developer nor any of its affiliates owes any outstanding fines, penalties, judgments, water or other utility charges or other amounts to the City.

5. General Provisions.

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

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

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

(D) Binding Effect. This Agreement shall be binding upon and shall inure to the benefit of and be enforceable by and against the parties and their respective successors and assigns. Developer shall not assign its rights or obligations under this Agreement without the prior written consent of the City, which may be withheld in the City's sole discretion, and any attempt to do so without the City's consent shall, at the City's option, render this Agreement null and void.

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

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

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

(H) Brokers. Developer represents to the City that Developer has not dealt with any real estate brokers and agents in connection with its purchase of the Sale Property.

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

(J) Conflict of Interest. No officer, employee, or agent of the City who exercises any functions or responsibilities in connection with the planning or carrying out of the property sale shall have any personal financial interest, direct or indirect, in Developer or in the property sale, and Developer shall take appropriate steps to assure compliance.

(K) Administrative Actions. To the extent permitted by applicable laws, and unless otherwise expressly provided in this Agreement, all actions taken or to be taken by the City under this Agreement may be taken by administrative action and shall not require legislative action of the City beyond the legislative action authorizing the execution of this Agreement.

6. Coordinated Report Conditions (CR #90-2019)

(A) DOTE:

- (i) All abutting property owners must agree to the sale/vacation in writing.
- (ii) Developer must have ownership of all private property needed for the development, prior to the vacation.
- (iii) All major issues that were identified in the Coordinate Site Review Process should be approved by the corresponding department prior to vacation of the right-of-way.
- (iv) The existing utilities must be granted easements or relocated at petitioner's expense.
- (v) No Auditor's parcels shall be landlocked by this vacation/sale. If possible, potential landlocked parcels should be consolidated with parcels having legal street frontage.
- (vi) The petitioner is required, at their expense, to provide the City with an acceptable legal description for the sale area that meets the recordable standards of the Hamilton County Recorder's Office.
- (vii) 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.

(B) Buildings and Inspections: A Consolidation Plat shall immediately be recorded upon completion of sale and before additional permitting activity.

(C) Parks: All trees to be removed within the ROW will need to be identified by the Developer, assessed for their value, and the compensation of the trees deposited to Parks Fund 428.

- 7. Exhibits.** The following exhibits are attached hereto and made a part hereof:
- Exhibit A – *Quitclaim Deed*
 - Exhibit B – *Site Map – Developer’s Property*
 - Exhibit C – *Attorney’s Certificate of Title*

SIGNATURE PAGE FOLLOWS

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

BIGELOW LAND LLC,
an Ohio limited liability company

By: _____

Printed name: _____

Title: _____

Date: _____, 2020

CITY OF CINCINNATI

By: _____
Paula Boggs Muething, City Manager

Date: _____, 2020

Recommended by:

John Brazina
Director, Department of Transportation and Engineering

Recommended by:

Markiea L. Carter, Interim 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

EXHIBIT A
to Property Sale Agreement

Quitclaim Deed

SEE ATTACHED

[SPACE ABOVE FOR RECORDER'S USE]

QUITCLAIM DEED

The **CITY OF CINCINNATI**, an Ohio municipal corporation, for valuable consideration paid, hereby grants and conveys to **BIGELOW LAND LLC**, an Ohio limited liability company, the address of which is 2718 Short Vine Street, Cincinnati, OH 45219 ("**Grantee**"), all of the City's right, title and interest in and to the real property described on Exhibit A (*Legal Description*) and depicted on Exhibit B (*Sale Plat*) hereto (the "**Property**").

Property Address: (i) None: a 0.2148 acre tract of land designated as public right-of-way known as Bigelow Street; and

(ii) None: a 0.00615 acre tract of land designated as public right-of-way, an unnamed alley.

Auditor's Parcel #: (i) None (former public right-of-way)

(ii) None (former public right-of-way)

Prior instrument reference: None.

Pursuant to Cincinnati Municipal Ordinance No. ____-2020, passed by Cincinnati City Council on _____, 2020, the portion of right-of-way described on Exhibit A and depicted on Exhibit B is hereby vacated as public right-of-way by the City.

This conveyance is subject to Ohio Revised Code §723.041 so that any affected public utility shall have a permanent easement in such vacated portion of the public right-of-way for the purpose of operating, maintaining, repairing, reconstructing, and removing its utility facilities and for purposes of access to said facilities. Following the relocation of any utilities in such vacated portion of the public right-of-way to the satisfaction of the affected public utility, upon Grantee's request, the affected public utility will execute and deliver to Grantee a recordable release, for recording in the Hamilton County Recorder's Office, at Grantee's cost.

[signature page follows]

Executed on _____, 2020.

CITY OF CINCINNATI

By: _____
Paula Boggs Muething, City Manager

STATE OF OHIO)
) SS:
COUNTY OF HAMILTON)

The foregoing instrument was acknowledged before me this ____ day of _____, 2020 by Paula Boggs Muething, City Manager of the **CITY OF CINCINNATI**, an Ohio municipal corporation, on behalf of the municipal corporation. This is an acknowledgement. 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

Recommended by:

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

Approved as to Form:

Assistant City Solicitor

This instrument prepared by:
City of Cincinnati Law Department
801 Plum Street
Cincinnati, Ohio 45202

Exhibits to Quitclaim Deed:
Exhibit A – *Legal Description*
Exhibit B – *Sale Plat*

Exhibit A
to Quitclaim Deed

Legal Description

Berding Surveying



GPS Surveying • 3D Laser Scanning

Description for: Uptown
Location: Bigelow Street, 0.2148 Acre Street Sale

Situated in City of Cincinnati, Hamilton County, Ohio, and being more particularly described as follows:

BEGINNING at an existing iron pin at the intersection of the northwest corner of Lot 17 of J. Bigelow Subdivision as recorded in Plat Book 2, Page 274 of the Hamilton County Recorder's Office and the south terminus of Bigelow Street;

Thence with the west line of said Bigelow Street, North 06°28'25" East, 186.80 feet to a set iron pin;

Thence with a new division line, South 83°31'35" East, 50.00 feet to a set iron pin in the east line of aforesaid Bigelow Street;

Thence with the east line of said Bigelow Street, South 06°28'25" West, 187.39 feet to an existing iron pin in the aforesaid south terminus of said Bigelow Street;

Thence with said south terminus of Bigelow Street, North 82°51'21" West, 50.00 feet to the **POINT OF BEGINNING**.

Containing 0.2148 Acres and being subject to all legal easements and highways of record.

The above described parcel being part of the right of way of Bigelow Street.

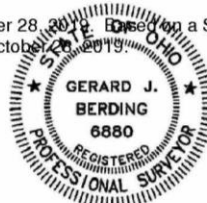
The bearings are based on State Plane Coordinate System Ohio South Zone (NAD83).

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 October 28, 2019, for use in a Street Sale Plat prepared by G.J. BERDING SURVEYING, INC. on October 28, 2019.


Gerard J. Berding, P.S. - 6880

October 28, 2019
Date



G.J. Berding Surveying, Inc.
741 Main Street • Millford, OH 45150 • 513 831 5505 tel • 513 831 6761 fax • www.berdingsurveying.com

**Description for: Uptown
Location: Unnamed Alley, 0.0062 Acre Street Sale**

Situated in City of Cincinnati, Hamilton County, Ohio, and being more particularly described as follows:

BEGINNING at an existing iron pin and cap (G J Berding Surveying) at southwest corner of Lot 18 of J. Bigelow Subdivision as recorded in Plat Book 2, Page 274 of the Hamilton County Recorder's Office

Thence in part with the south line of Lot 18 and Lot 19 of said J. Bigelow Subdivision and the north line of an unnamed alley, South 83°57'58" East, 53.59 feet to a set iron pin in the north line of said unnamed alley;

Thence with a new division line, South 06°17'54" West, 5.00 feet to an existing iron pin and cap (G J Berding Surveying) at the north east corner of lands conveyed to Bigelow Land, LLC;

Thence along the north line of Bigelow Land, LLC, North 83°57'58" West, 53.61 feet to an existing iron pin and cap (G J Berding Surveying) in the south terminus of Bigelow Street;

Thence with the east line of said Bigelow Street, North 06°28'25" East, 5.00 feet to the **POINT OF BEGINNING.**

Containing 0.0062 Acres and being subject to all legal easements and highways of record.

The above described parcel being part of the right of way of an unnamed alley of J. Bigelow Subdivision as recorded in Plat Book 2, Page 274 of the Hamilton County Recorder's Office.

The bearings are based on 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".

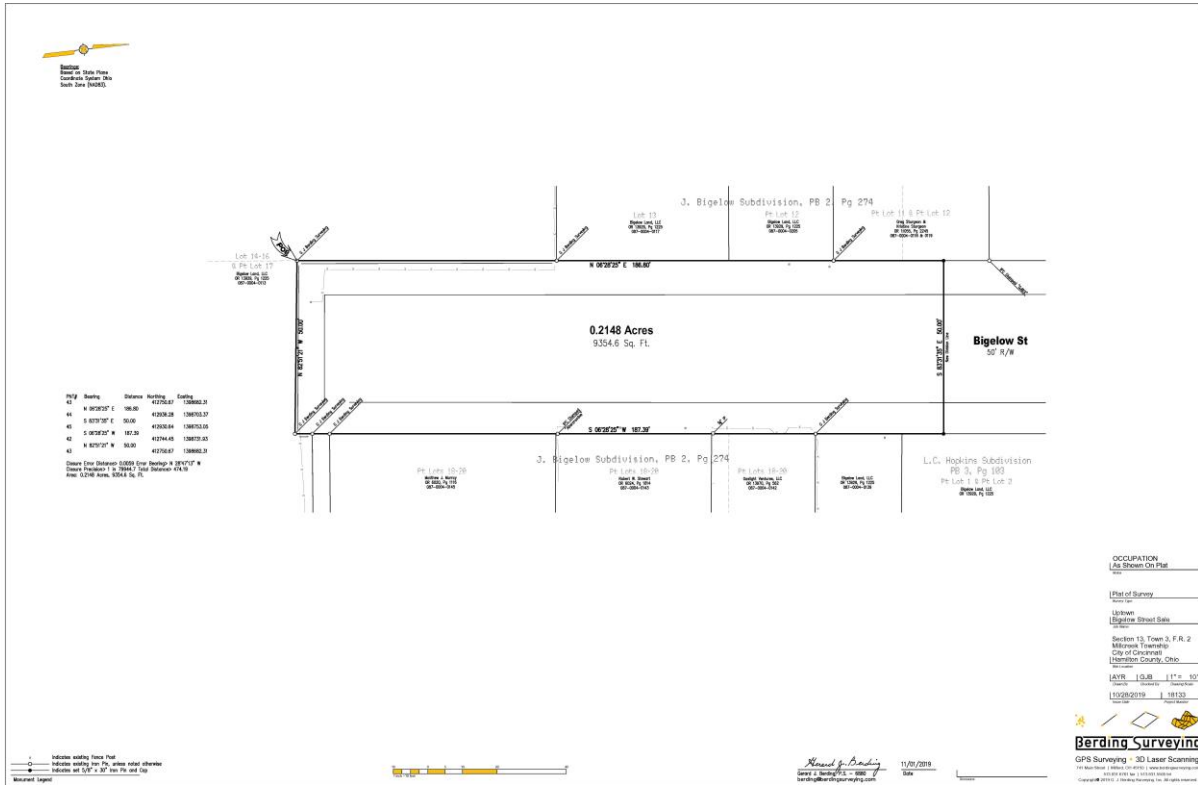
Prepared by G.J. BERDING SURVEYING, INC. on October 29, 2019. Based on a Street Sale Plat prepared by G.J. BERDING SURVEYING, INC. on October 29, 2019.

Gerard J. Berding
Gerard J. Berding, P.S. - 6880
October 29, 2019
Date



Exhibit B to Quitclaim Deed

Sale Plat



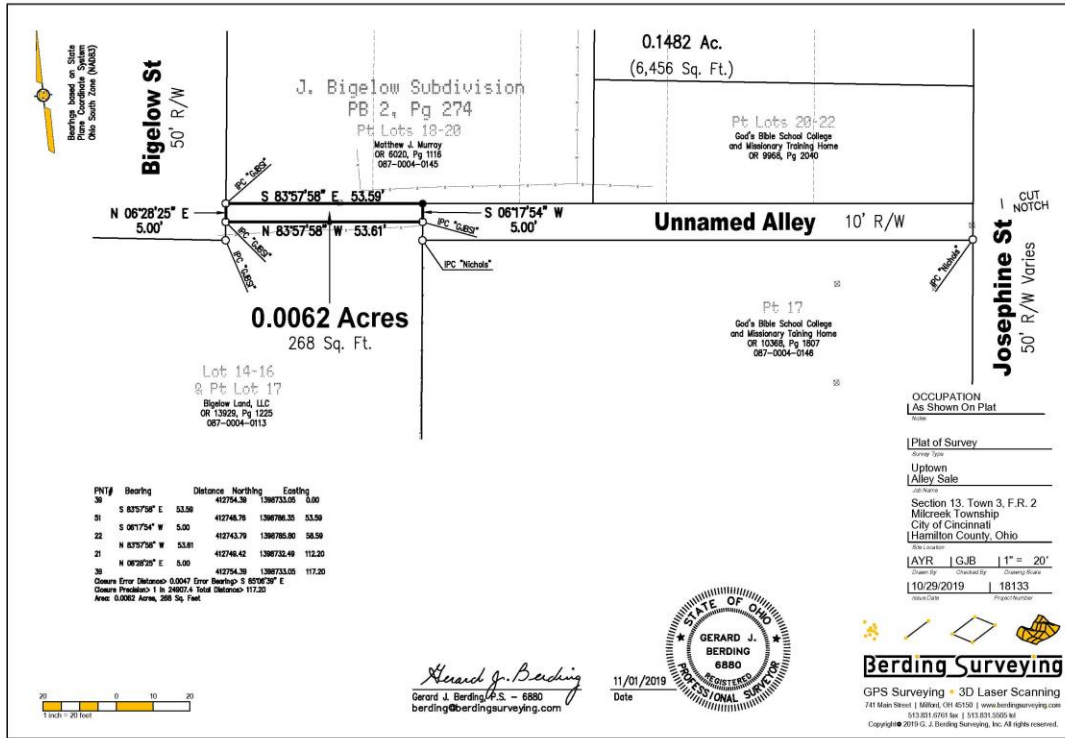


EXHIBIT B
to Property Sale Agreement

Site Map – Developer’s Property



BIGELOW RESIDENTIAL
CITY R.O.W. PURCHASE EXHIBIT

ma architects
2019.209
1/15/2019
GR

EXHIBIT C
to Property Sale Agreement
Attorney's Certificate of Title

[See Attached]

ATTORNEY'S CERTIFICATE OF TITLE

**ALL PROPERTY OWNERS ABUTTING
A PORTION OF BIGELOW ST.
RIGHT-OF-WAY
(see attached Exhibit A)**

PROPERTY OWNED

Bigelow Land LLC

See attached Schedule A

Cincinnati, Ohio July 27, 2020

I, the undersigned attorney at law, practicing in Hamilton County, Ohio hereby certify that the above listed owners are the owners of the land abutting on the street sought to be purchased as described on the attached Exhibit A.



Alan S. Henderson
Attorney at Law

Ohio Attorney Registration No. 0088393

{00499883-2}

November 9, 2020

To: Mayor and Members of City Council **202002115**
From: Paula Boggs Muething, City Manager
Subject: **JOB CREATION TAX CREDIT FOR TEAM INDUSTRIAL SERVICES INC.**

Attached is an Emergency Ordinance captioned as follows:

APPROVING AND AUTHORIZING the execution of a *Job Creation Tax Credit Agreement* with Team Industrial Services, Inc., pursuant to which the company agrees to create 150 new jobs at 2249 E. Seymour Avenue in Cincinnati's Bond Hill neighborhood and, for a period of 6 years, the City agrees to provide an income tax credit equal to 40% of City income tax revenue from such new jobs.

BACKGROUND/CURRENT CONDITIONS

This legislation pertains to a proposed payroll tax incentive for Team Industrial Services, Inc. ("Company") to bring an aerospace testing facility to 2249 Seymour Avenue in Bond Hill ("Property"), part of the former Cincinnati Gardens complex.

Following the closure of Cincinnati Gardens, the Port Authority purchased the site in 2016. In 2017, City Council approved an appropriation of \$1,023,981 for the purpose of assisting the Port Authority with its demolition and redevelopment of Cincinnati Gardens into a 19-acre, multi-phase light manufacturing park at the border of Bond Hill and Roselawn. In 2019, City Council approved a CRA tax abatement for an affiliate of Terrex and Messer to speculatively construct a 73,000 square foot light manufacturing building on the Property as a first phase of the redevelopment of the former Cincinnati Gardens site. As a result of these incentives, a \$6.5 MM manufacturing building was successfully constructed.

DEVELOPER INFORMATION

The Company is an affiliate of Team, Inc., a publicly traded company based in Sugar Land, Texas. Founded in 1973, Team, Inc. is a global provider of asset performance assurance and optimization solutions across many different industries. The company has about 200 locations in 20 countries with about 6,800 employees. Its presence in the greater Cincinnati region has been limited to a small facility in Woodlawn. Some of the Woodlawn jobs would be relocated to Cincinnati as part of the project.

PROJECT DESCRIPTION

The Company would sign a long-term tenant lease and invest approximately \$11.6 MM to build out a state-of-the-art aerospace inspection and testing facility at the Property (“Project”). The facility, which would occupy all 73,000 square feet of the building, would allow for nondestructive testing of aerospace engine components. The Project would result in 150 net new full-time equivalent jobs in the city of Cincinnati and \$9,600,000 in annual payroll, an average annual wage of \$64,000. The Company represents that its employment at the facility would be compliant with Minimum Qualifying Wage standards.

The Project is consistent with the *Plan Cincinnati* strategy to “pursue new growth and business recruitment efforts in target industries” such as aerospace (“Compete” section, page 102).

PROPOSED INCENTIVE

DCED is recommending a 6-year, 40% refundable job creation tax credit (JCTC-R) with an annual incentive cap of \$75,000.

The reason for providing a payroll tax incentive, in addition to the property tax abatement previously provided, is that the Project provides an advantageous return on investment for the City, and because the City and JobsOhio are hoping to secure this aerospace project that has competition from other sites in California and Arizona.

Estimated Total Term JCTC Value to Company:	\$350,208
Estimated Total Term CRA (City Portion) Value:	\$188,991
Estimated Total Term New Payroll Tax Revenue:	\$1,912,320
Estimated Construction Payroll Tax Revenue:	\$34,200
Incentive Leverage per dollar of City investment:	\$3.61

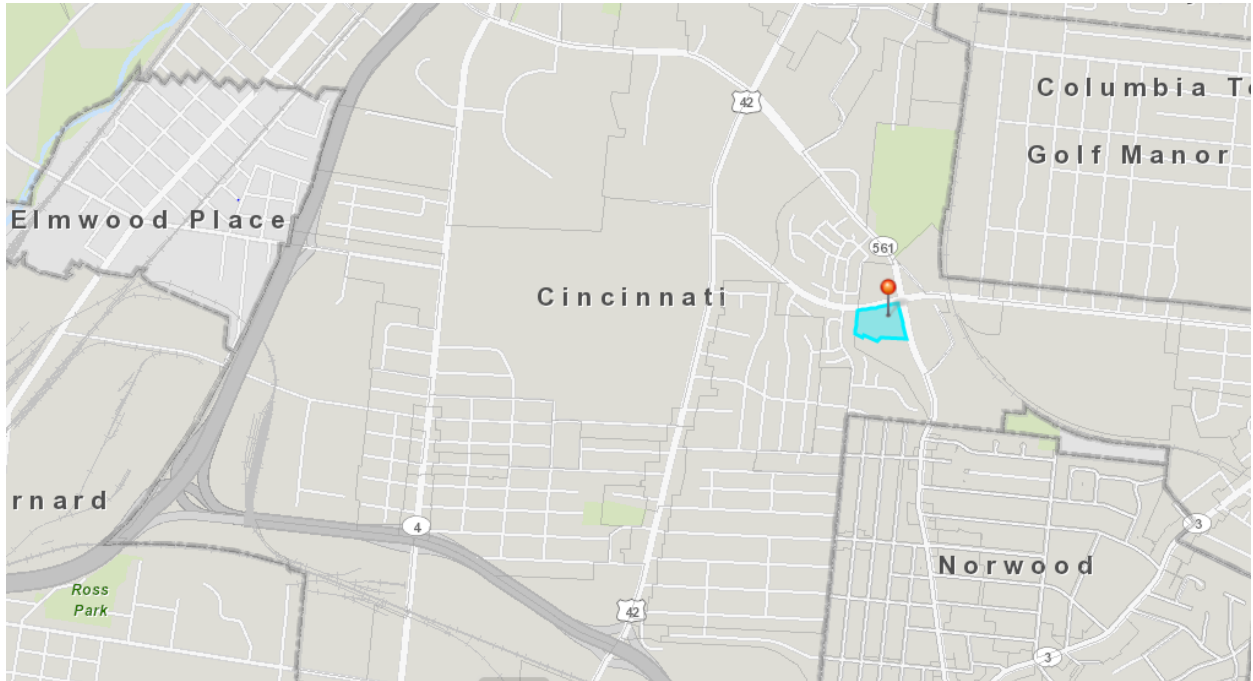
RECOMMENDATION

The Administration recommends approval of this Emergency Ordinance.

Attachment: A. Property location and photographs

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

Attachment A: Property Location and Photographs



Property Location



Building Rendering

EMERGENCY

City of Cincinnati

TJL

AWB

An Ordinance No. _____

- 2020

APPROVING AND AUTHORIZING the execution of a *Job Creation Tax Credit Agreement* with Team Industrial Services, Inc., pursuant to which the company agrees to create 150 new jobs at 2249 E. Seymour Avenue in Cincinnati's Bond Hill neighborhood and, for a period of 6 years, the City agrees to provide an income tax credit equal to 40% of City income tax revenue from such new jobs.

WHEREAS, the City seeks to increase employment opportunities and encourage the establishment of new jobs in the City of Cincinnati in order to improve the economic welfare of the City and its citizens, in furtherance of the public purposes enunciated in Article VIII, Section 13 of the Ohio Constitution; and

WHEREAS, Team Industrial Services, Inc. ("Employer") intends to expend approximately \$11,600,000 in leasehold improvements at 2249 E. Seymour Avenue (the "Project" and the "Project Site," respectively), which will result in the creation of at least 150 new jobs in Cincinnati within three years if certain income tax credit assistance is provided by the City; and

WHEREAS, the City Manager has recommended that Council authorize the execution of a *Job Creation Tax Credit Agreement* (the "Agreement") with Employer, in substantially the form attached hereto as Attachment A, which provides for an income tax credit equal to 40% of income tax revenue from new jobs created by Employer at the Project Site for a term of 6 years; and

WHEREAS, the Agreement provides that Employer will spend a minimum of \$11,600,000 to implement the Project at the Project Site; and

WHEREAS, Employer represents and has documented to the City that the income tax credit authorized by the Agreement is a major factor in Employer's decision to go forward with the Project at the Project Site; and

WHEREAS, the City income tax credit approved by this ordinance is authorized by Sections 718.15 and 718.151 of the Ohio Revised Code; now, therefore,

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

Section 1. That Council approves and authorizes the execution of a *Job Creation Tax Credit Agreement* (the "Agreement") with Team Industrial Services, Inc. ("Employer"), in substantially the form attached hereto as Attachment A, in order to assist Employer in the investment of \$11,600,000 of leasehold improvements at 2249 E. Seymour Avenue in the Bond

Hill neighborhood, which provides for an City income tax credit equal to 40% of City income tax revenue from new jobs created by Employer at the project site for a period of 6 years, and the creation of 150 new jobs in the City within three years.

Section 2. That Council authorizes the proper City officials to take all necessary and proper actions to fulfill the City's obligations under the Agreement and to enforce the Agreement.

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 to allow the project and the corresponding revitalization of the City of Cincinnati and improvement of the City's economic welfare to begin at the earliest possible time.

Passed: _____, 2020

John Cranley, Mayor

Attest: _____
Clerk

Attachment A to Ordinance

Job Creation Tax Credit Agreement

SEE ATTACHED



Contract Number _____

JOB CREATION TAX CREDIT AGREEMENT

This Job Creation Tax Credit Agreement (this "Agreement") is made and entered into as of the Effective Date (as defined on the signature page hereof) by and between the CITY OF CINCINNATI, an Ohio municipal corporation (the "City"), and TEAM INDUSTRIAL SERVICES, INC., a Texas corporation (the "Grantee").

BACKGROUND INFORMATION

- A. The City seeks to increase employment opportunities and to encourage establishment of new jobs within the corporate boundaries of the City of Cincinnati (the "City Boundaries"), in order to improve the economic welfare of the City and its citizens, in furtherance of the public purposes enunciated in Article VIII, Section 13 of the Ohio Constitution.
- B. The City has determined that the Grantee will create new jobs within the City Boundaries in connection with a project to be implemented by the Grantee at 2249 E. Seymour Avenue, Cincinnati, Ohio 45212 (the "Project Site"), consisting of the construction of leasehold improvements on the Project Site and the purchase or relocation of machinery, equipment, furniture and fixtures (the "Project").
- C. Cincinnati Municipal Code ("CMC") Chapter 311 imposes income taxes, including a tax on business net profits. The Grantee represents and has documented to the City that the credit authorized by this Agreement against the tax imposed on the Grantee's net profits under CMC Chapter 311 (the "City Income Tax Credit") is a major factor in the Grantee's decision to go forward with the Project, to offset costs of capital expenditures and/or moving.
- D. The City Income Tax Credit as provided in this Agreement is authorized by Ohio Revised Code ("ORC") Sections 718.15 and 718.151.
- E. The City and Grantee intend that Grantee will implement the Project partly as a result of Grantee cost savings resulting from a forty (40%) City income tax credit applicable to new jobs created by Grantee at the Project Site for a period of 6 years, and thereby create 150 new jobs in the City within 3 years of the Determination Date (as defined below).

STATEMENT OF THE AGREEMENT

In consideration of the foregoing and the mutual promises and covenants hereinafter set forth, the parties agree as follows:

1. PRECONDITIONS TO EFFECTIVENESS OF AGREEMENT. Notwithstanding anything to the contrary herein, this Agreement shall be of no force and effect unless and until (1) this Agreement is fully executed by both parties and (2) the Council of the City of Cincinnati passes an ordinance approving this Agreement, and the ordinance takes effect.
2. CERTAIN DEFINITIONS. As used in this Agreement:
 - (A) "Aggregate Employees" means, for any stated period, the Number of Full-Time Employee Equivalents employed either by the Grantee or by a Related Member, calculated with reference to all employees of the Grantee and all Related Members of the Grantee for which (1) the primary work location is within the City of Cincinnati and (2) the Grantee or a Related Member withholds City income taxes.
 - (B) "City Tax Credit Term" means the 6-year term of 2021 through 2026.

- (C) **"Determination Date"** means the Effective Date.
- (D) **"Employment Retention Period"** means a 12-year period commencing as of the start of the City Tax Credit Term.
- (E) **"Grantee's City-Wide Employees"** means, for any stated period, the Number of Full-Time Employee Equivalents employed by the Grantee, calculated with reference to all employees of the Grantee for which (1) the primary work location is within the City (not limited to the Project Site) and (2) the Grantee withholds City income taxes. An employee is considered to have a primary work location within the City if at least fifty-one percent (51%) of the compensation paid by the Grantee to that employee is taxed by the City with respect to work performed in the City.
- (F) **"Income Tax Revenue"** means, for any Tax Year:
- (1) Payments from the Grantee to the City in an amount equal to the aggregate amount of earnings taxes withheld on the qualifying wages (as defined in CMC Section 311-9-Q) paid by the Grantee to all Aggregate Employees whose primary work location is the Project Site; less
 - (2) Any amounts refunded by the City to Aggregate Employees whose primary work location is the Project Site (pursuant to CMC Chapter 311) relating to qualifying wages (as defined in CMC Section 311-9-Q) paid by the Grantee, as such refunds are reported by the City to the Grantee from time to time.
- (G) **"Initial Tax Year"** means the first Tax Year during which the Grantee is entitled to a City Income Tax Credit.
- (H) **"Minimum Qualifying Wage"** means an hourly wage of at least (1) \$12.50 per hour on and after July 1, 2018, (2) \$13.50 per hour on and after January 1, 2019, and (3) \$15.00 per hour on and after July 1, 2019; *provided however*, that if (i) the Grantee contributes to any health, vision and/or dental insurance plan; provides retirement benefits; or provides childcare, tuition, or training reimbursement benefits to a New Employee and (ii) the City approves in writing, in its sole and absolute discretion any such contribution, retirement, or reimbursement benefit, then the hourly cash value of any such City-approved benefit shall be added to the New Employee's base monetary hourly wage for the purposes of calculating that New Employee's hourly wage under this definition.
- (I) **"Net Number of New Employees"** means, for any Tax Year, the lesser of:
- (1) The average Number of New Employees in the final three (3) calendar months of that Tax Year; or
 - (2) The remainder computed by subtracting (a) the Baseline City-Wide Employment Level from (b) the average number of the Grantee's City-Wide Employees in the final three (3) months of that Tax Year; or
 - (3) The remainder computed by subtracting (a) the Baseline Aggregate Employment Level from (b) the average number of Aggregate Employees in the final three (3) months of that Tax Year.

Computations of an "average number" of employees, as required by this Agreement, shall be made and documented by the Grantee in a manner subject to approval by the City, such approval not to be unreasonably withheld.

- (J) **"New Employee"** means an employee of the Grantee that meets all of the following criteria during the applicable Tax Year: (i) whose primary work location is the Project Site, (ii) is first employed by the Grantee within the City Boundaries after the Determination Date, and (iii) is paid at least the Minimum Qualifying Wage by the Grantee at all times during the applicable Tax Year. An employee is considered to have a primary work location at the Project Site if at least fifty-one percent (51%) of the compensation paid by the Grantee to that employee is taxed by the City with

respect to work performed at the Project Site. "New Employees" may include employees of the Grantee employed in employment positions that were relocated to the Project Site from other operations of the Grantee (or of a Related Member) outside of the City Boundaries.

- (K) "New Income Tax Revenue" means, for any Tax Year, the lesser of:
 - (1) Income Tax Revenue in such Tax Year relating only to New Employees; or
 - (2) The amount computed by multiplying (a) the Net Number of New Employees for such Tax Year by (b) the average amount of Income Tax Revenue received by the City in such Tax Year per New Employee (which average amount is computed by dividing (x) the total Income Tax Revenue for such Tax Year relating only to New Employees by (y) the monthly average of Number of New Employees (determined on a twelve (12) month basis) employed during such Tax Year.
- (L) "Number of Full-Time Employee Equivalents" means one fortieth (1/40) of the total number of compensated hours worked in a work week by permanent employees that are paid at least the Minimum Qualifying Wage for the duration of the applicable Tax Year (whether full-time or part-time), provided that the hours included in the calculation may not exceed forty (40) per week for any individual employee.
- (M) "Number of New Employees" means, for any stated period, the Number of Full-Time Employee Equivalent^s employed in that period, calculated only with reference to hours worked by New Employees.
- (N) "Related Member" means any of the Grantee's "related members" (as defined in ORC Section 122.171(A)(7)) that has at least one employee whose primary work location is within the City Boundaries (not limited to the Project Site), including those "related members" that begin operations within the City Boundaries on or after the Effective Date.
- (O) "Tax Year" means the fiscal year used by the Grantee to compute net profits under CMC Chapter 311.

3. PROJECT; JOB CREATION AND RETENTION.

- (A) Grantee Representations. The Grantee represents that:
 - (1) The monthly average of the Number of Full-Time Employee Equivalent^s employed by the Grantee, for whom the Project Site was the primary work location, for the three (3) full calendar month period immediately prior to the Determination Date was 0.
 - (2) The monthly average of the Grantee's City-Wide Employees for the three (3) full calendar month period immediately prior to the Determination Date was 0 (the "Baseline City-Wide Employment Level").
 - (3) The monthly average of Aggregate Employees for the three (3) full calendar month period immediately prior to the Determination Date was 0 (the "Baseline Aggregate Employment Level").
 - (4) Related Members of the Grantee with any employees whose primary work location is within the City Boundaries as of the Effective Date (and the Related Members' Cincinnati addresses and Federal Tax Identification Numbers) consist of the following: NONE.
 - (5) The Grantee shall give written notice to the City of any Related Member that begins operations within the City Boundaries on or after the Effective Date.
- (B) Minimum Expenditures. The Grantee agrees to expend a minimum of \$11,600,000.00 not later than three (3) years from the Effective Date to accomplish the Project.
- (C) Minimum Number of New Employees. Within 3 years from the Determination Date, the Grantee agrees to employ a Number of New Employees at the Project Site equal to at least 150. The Grantee agrees that the aggregate annual wages of the New Employees will be equal to at least \$9,600,000.00.

- (D) Relocation of Employment Positions from Elsewhere in Ohio. The Grantee may not relocate a substantial number of employment positions from elsewhere in Ohio (i.e., outside the City) unless the Director of the Department of Community and Economic Development determines that the legislative authority of the county, township, or municipal corporation from which the employment positions would be relocated has been notified by the Grantee of the relocation.
- (E) Employment Retention by the Grantee.
- (1) During each year of the Employment Retention Period, the Grantee agrees to maintain a monthly average of Aggregate Employees (determined on a twelve (12) month basis) equal to or greater than the Baseline Aggregate Employee Level.
 - (2) During each of the first three (3) years of the City Tax Credit Term, the Grantee agrees to maintain a monthly average of the Grantee's City-Wide Employees (determined on a twelve (12) month basis) equal to or greater than the Baseline City-Wide Employee Level.
 - (3) Beginning with the fourth (4th) year of the City Tax Credit Term and continuing during each subsequent year of the Employment Retention Period, the Grantee agrees to maintain an average Net Number of New Employees (determined on a twelve (12) month basis) of at least ninety percent (90%) of the highest Net Number of New Employees reported by the Grantee in calculating the City Income Tax Credit in any prior Tax Year during the City Tax Credit Term.

The Grantee acknowledges and agrees that the obligations of the Grantee under this Agreement may be affected by decisions of the Related Members, as the City's agreement to provide the City Income Tax Credit authorized herein is conditioned on maintenance of the existing employment within the City Boundaries by both the Grantee and the Related Members. The Grantee may apply to the City Manager for waiver of this employment retention requirement (which waiver may be granted in the City Manager's sole discretion) on the grounds that the Grantee's failure to maintain the required Net Number of New Employees is excusable based on exceptional circumstances not under the control of the Grantee or of the Related Members, as described in Section 12.

- (F) City Residents; Referral Procedure for New Hires. The Grantee agrees to use its best efforts to fill at least seventy-five percent (75%) of the new jobs created in connection with the Project with employees residing within the City Boundaries (the "City Resident Hiring Goal"). In furtherance of such goal, the Grantee shall implement the following procedures:
- (1) City Representative. In its efforts to meet the City Resident Hiring Goal, the Grantee agrees to request referrals from the OhioMeansJobs Center (or such other agency as the City Manager may designate) when positions need to be filled. A representative of the personnel office of the Grantee will meet periodically with a representative of the OhioMeansJobs Center (the "City Representative") to assess the Grantee's future employment needs and to assure that qualified applicants can be recruited and trained in a timely manner.
 - (2) Initial Positions. As soon as practicable after execution of this Agreement, and no later than ninety (90) days prior to the earlier of (a) the scheduled initial occupancy of the Project or completion of renovation or expansion or (b) the date when the following employment positions will be filled, the Grantee agrees to notify the City Representative of the following: (i) the number of new employees that will be required, and the date when the positions must be filled; (ii) the training, qualifications and experience required for the individuals who will fill the positions; and (iii) the name, address and telephone number of the person responsible for hiring. For positions requiring customized training, the Grantee agrees to provide such notice as far in advance of such ninety-day period as is practicable.
 - (3) City Referrals. The City Representative shall, within thirty (30) days after receiving such notification from the Grantee, submit in writing the following: (a) the positions for which the City intends to make referrals; (b) the names and qualifications of referred applicants for each position available; and (c) the date when these applicants will be available for interview. For positions requiring customized training, however, such information may be

submitted to the Grantee up to thirty (30) days prior to the date that such positions are to be filled.

- (4) Interviews. The Grantee agrees to interview those applicants who are referred by the City Representative and shall consider for employment those applicants the Grantee finds to be qualified for an available position. If (a) the City Representative informs the Grantee that it does not intend to make referrals for a position, (b) the City Representative fails to refer applicants who are available for interview for a position in accordance with this subsection or (c) the applicants referred for a position are deemed not qualified by the Grantee, then the Grantee may hire individuals from other sources for such position, without any further obligations or restrictions hereunder as to such position.
- (5) Subsequent Positions. During the three (3) year period following the date upon which this Agreement becomes effective, if the Grantee needs to fill a vacant employment position (either from attrition or an increase in employment), the Grantee agrees to notify the City Representative for an additional referral of applicants. The Grantee, however, is under no obligation to postpone the hiring of a new employee pending receipt of referrals from the City Representative. If the position is still vacant at the time referrals are received from the City Representative, the Grantee shall interview those applicants who are referred by the City Representative and shall consider for employment those applicants the Grantee finds to be qualified for an available position.
- (6) Continuation of Referral Procedure. If the Grantee and the City agree that this referral process has been mutually beneficial, the parties shall continue the process after the three (3) year period.

4. CITY INCOME TAX CREDIT.

- (A) Credit Requirements. Subject to the terms and conditions of this Agreement, for each Tax Year during the City Tax Credit Term in which the Grantee has claimed the City Income Tax Credit on an income tax return filed directly with the City with respect to its net profits and is otherwise in full compliance with all requirements under both CMC Chapter 311 and this Agreement, the Grantee shall be allowed to apply the City Income Tax Credit stated in this Section against the tax imposed on the Grantee's net profits under CMC Chapter 311. The City Income Tax Credit shall be applied in accordance with any applicable rules and regulations (consistent with this Agreement) that may be adopted by the Board of Review (as defined in CMC Section 311-9-B1).
- (B) Amount of Credit. The amount of the City Income Tax Credit shall be the lesser of \$75,000 or forty percent (40%) of any New Income Tax Revenue in a given Tax Year. The City Income Tax Credit shall be applied against net profits tax due to the City (pursuant to CMC Chapter 311) from the Grantee for such Tax Year. The City Income Tax Credit shall be allowed only after the allowance of all other credits and deductions under CMC Chapter 311. If the City Income Tax Credit exceeds the Grantee's tax liability for such Tax Year, the City Income Tax Credit shall be fully refundable.
- (C) Related Members. The Grantee acknowledges and agrees that the City Income Tax Credit calculated under this Agreement will be reduced to the extent that reductions in the number of Aggregate Employees of both the Grantee and the Related Members affect the calculation of Net Number of New Employees.

5. COVENANT AS TO OUTSTANDING LIABILITIES; INSPECTION OF RECORDS; FALSE STATEMENTS.

In accordance with Ohio Revised Code Section 9.66, (A) the Grantee affirmatively covenants that it does not owe: (1) any delinquent taxes to the State of Ohio (the "State") or to a political subdivision of the State; (2) any moneys to the State or a State agency for the administration or enforcement of any environmental laws of the State; or (3) any other moneys to the State, a State agency or a political subdivision of the State that are past due, regardless of whether the amounts owed are being contested in a court of law or not; (B) the Grantee authorizes the City and/or the State to inspect the personal financial statements of the Grantee, including tax records and other similar information not ordinarily open to public inspection; and (C) the Grantee authorizes the Ohio Environmental Protection Agency and the Ohio Department of

Taxation to release information to the City and or other State departments in connection with the above statements. As provided by statute, a knowingly false statement under this Section may be prosecuted as a first-degree misdemeanor under Ohio Revised Code Section 2921.13, may render the Grantee ineligible for any future economic development assistance from the State or any political subdivision of the State and will result in the City requiring the Grantee's repayment of any assistance provided by the City in connection with the Project.

6. TERMINATION; REIMBURSEMENT FOR DEFAULT.

- (A) Suspension or Termination of the City Income Tax Credit. Subject to the provisions of subsections (B) and (C) below, if the City provides the Grantee with written notice of an event of default under this Agreement, and such default is not cured to the City's satisfaction within thirty (30) days of such notice, the City shall suspend or terminate the City Income Tax Credit hereunder and may, in the City's sole discretion, take such other measures as may be lawful (including suing for specific performance). Except as provided in subsections (B) or (C) below, such suspension or termination shall only affect City Income Tax Credits otherwise allowable after the date of suspension or termination.
- (B) Grantee's Failure to Comply with Job Creation and Retention Obligations. If the City provides the Grantee with written notice of an event of default under Section 3(C) or 3(D), and such default is not cured to the City's satisfaction within thirty (30) days of such notice, the City may, after giving the Grantee an opportunity to explain such default, require the Grantee to pay to the City all or a portion of the City Income Tax Credits previously claimed under this Agreement. In determining the portion of the City Income Tax Credit amounts to be repaid, the City may consider the effect of market conditions on the Grantee's Project and whether the Grantee continues to maintain other operations and employment in the City. For the avoidance of doubt, the City shall have the ability to exercise its rights under this Section with respect to each event of default under Section 3(C) or 3(D) (i.e. in the event that Grantee defaults under Section 3(C) or 3(D) in multiple Tax Years, the City may require the Grantee to pay to the City all or a portion of the City Income Tax Credits previously claimed and not repaid under this Agreement after each event of default).
- (C) Grantee's Failure to Comply with Outstanding Liability Obligations. If the City provides the Grantee with written notice of an event of default under Section 5, the City may, after giving the Grantee an opportunity to explain such default, require the Grantee to pay to the City all or any portion of the City Income Tax Credits previously claimed under this Agreement. For the avoidance of doubt, the City shall have the ability to exercise its rights under this Section with respect to each event of default under Section 5 (i.e. in the event that Grantee defaults under Section 5 in multiple Tax Years, the City may require the Grantee to pay to the City all or a portion of the City Income Tax Credits previously claimed and not repaid under this Agreement after each event of default).
- (D) Reimbursement. The Grantee hereby agrees (i) to make any payments required by the City under this Section within thirty (30) days of written demand by the City and (ii) in the event that the City refunds any Income Tax Revenue in a subsequent Tax Year for which a City Income Tax Credit was previously granted pursuant to this Agreement (the "Refund Amount"), then no later than thirty (30) days following Grantee's receipt of written notice from the City (the "City's Notice"), the Grantee will either (a) pay an amount equal to the Refund Amount to the City, as detailed in the City's Notice or (b) deliver written notice to the City that the Grantee will reduce its future City Income Tax Credits by the Refund Amount, such reduction to begin with the first City Income Tax Credit the Grantee is eligible to receive pursuant to this Agreement following the Grantee's receipt of the City's Notice. In the event that the Grantee fails to make a timely election pursuant to the foregoing sentence, then the City may, in its sole and absolute discretion, reduce the amount of any future City Income Tax Credits by the Refund Amount, charge interest on the Refund Amount, terminate this Agreement, and/or take any and all other actions available to the City pursuant to this Agreement and applicable law. Amounts due and not paid when due shall bear interest at the rate specified in ORC Section 1343.03(A) (as such rate is in effect on the date of the applicable

payment demand by the City). The Grantee hereby expressly waives the statute of limitations period contained in CMC Chapter 311 with respect to any such demand and payment.

7. **SUBMISSION OF ANNUAL REPORTS.** During the Employment Retention Period, the Grantee shall submit to the City an annual progress report documenting the Number of Full-Time Employee Equivalents at the Project Site, the number of the Grantee's City-Wide Employees, the number of Aggregate Employees, the Net Number of New Employees, the New Income Tax Revenue, the hourly wages and any related Grantee-paid benefits claimed as part of a Minimum Qualifying Wage for each New Employee for the duration of the applicable Tax Year, and any other information that the City deems relevant to this Agreement. The report shall include computations of necessary employment information for the Grantee and the Related Members for the report period, and the City may, in its discretion, require that the report be submitted in a certain format and manner (e.g., submission of a particular electronic file format, mailing a hard copy, etc.). The Grantee agrees to furnish the progress report to the City no later than the first business day of May following each year during the Employment Retention Period. The annual report, as submitted, must be certified as accurate and signed by (A) an independent certified public accountant licensed to do business in the state of Ohio (an "ICPA"), (B) the Chief Executive Officer of the Grantee and (C) the Chief Financial Officer of the Grantee; provided, however, that (1) reports for any or all of the initial two Tax Years may be submitted without certification and signature of an ICPA, so long as the Grantee's report for the third Tax Year includes an ICPA certification and signature for all Tax Years in which a City Income Tax Credit has been claimed without previous certification by an ICPA and (2) after the report for the third Tax Year, the ICPA certification and signature need not be provided more frequently than once every two years, so long as each ICPA certification and signature applies both to the current reported Tax Year and any previous Tax Year in which a City Income Tax Credit has been claimed without previous certification by an ICPA. If the report is approved by the City as demonstrating compliance with this Agreement, a certificate of verification from the City will be sent to the Grantee and the Tax Commissioner (as defined in CMC Section 311-9-T2) within thirty (30) days after receipt of the annual report. Failure to submit an annual report within the time periods specified herein will be considered a default and may result in termination of this Agreement.
8. **SMALL BUSINESS ENTERPRISE PROGRAM AND EQUAL EMPLOYMENT OPPORTUNITY PROGRAM.¹**
- (A) **Small Business Enterprise Program Policy.** The policy of the City is that a fair share of contracts be awarded to Small Business Enterprises (as such term is defined in CMC Section 323-1, "SBEs"). Pursuant to CMC Section 323-7, the City's annual goal for SBE participation shall be thirty percent (30%) of the City's total dollars spent for construction (as such term is defined in CMC Section 323-1), supplies (as such term is defined in CMC Section 323-1), services (as such term is defined in CMC Section 323-1) and professional services (as such term is defined in CMC Section 323-1). Accordingly, the Grantee shall use its best efforts and take affirmative steps to achieve the City's goal of voluntarily meeting thirty percent (30%) SBE participation. A list of SBEs may be obtained from the City's Department of Economic Inclusion. The Grantee may refer interested firms to the City's Department of Economic Inclusion for review and possible certification as an SBE. The Grantee shall comply with the provisions of CMC Chapter 323, including without limitation taking at least the following affirmative steps:
- (1) Including qualified SBEs on solicitation lists.
 - (2) Assuring that SBEs are solicited whenever they are potential sources. The Grantee must advertise, on at least two separate occasions, both in local minority publications and in other local newspapers of general circulation, invitations to SBEs to provide services, to supply materials, or to bid on construction contracts, as applicable.
 - (3) When economically feasible, dividing total requirements into small tasks or quantities so as to permit maximum SBE participation.

¹ Note: The Department of Community and Economic Development is currently reviewing alternatives for updating this provision based on recent legislative changes adopted by Council. If an alternative policy is approved by DCED prior to the execution of this Agreement, this provision will be revised accordingly.

- (4) If any subcontracts are to be let, the Grantee shall require the prime contractor (if different from the Grantee) to take the above affirmative steps.
 - (5) Prior to the commencement of work under any subcontracts, the Grantee shall provide to the City a list of such subcontractors, including information as to the dollar amount of the subcontracts and such other information as may be requested by the City. The Grantee shall update the report monthly.
 - (6) The Grantee shall periodically document its best efforts and affirmative steps to meet the above SBE participation goals by submitting such information as may be requested from time to time by the City.
- (B) Small Business Enterprise Program Remedies. Failure of the Grantee or its contractors and subcontractors to take the affirmative steps specified above, to provide fair and equal opportunity to SBEs, or to provide technical assistance to SBEs as may be necessary to reach SBE participation as set out in CMC Chapter 323 may be construed by the City as failure of the Grantee to use its best efforts, and, in addition to other remedies under this Agreement, may be a cause for the City to file suit in Common Pleas Court to enforce specific performance of the terms of this Section. The provisions of CMC Section 323-99 are hereby incorporated by reference into this Agreement.
- (C) Equal Employment Opportunity Program. This Agreement is subject to and hereby incorporates the provisions of the Equal Employment Opportunity Program set forth in CMC Chapter 325 (including, without limitation, CMC Section 325-9).
- (D) Further Information. Details concerning both the SBE Program and the Equal Employment Opportunity Program can be obtained from the City's Department of Economic Inclusion, Two Centennial Plaza, 805 Central Avenue, Suite 222, Cincinnati, Ohio 45202, (513)352-3144.
9. RECORDS, ACCESS AND MAINTENANCE. Throughout the period required by CMC Section 311-81, the Grantee agrees to establish and maintain such records as are necessary to document compliance with this Agreement (including but not limited to, financial reports, payroll records, documentation with respect to any Grantee-paid benefits claimed as part of a Minimum Qualifying Wage, intake and participant information and all other relevant information). For the three (3) year period following the end of the Employment Retention Period, the Grantee agrees to maintain records of the amounts of City Income Tax Credits claimed and allowed. The parties further agree that records with respect to any audit disallowances, litigation or dispute between the City and the Grantee shall be maintained for the time needed for the resolution of said disallowance, litigation or dispute, and that in the event of early termination of this Agreement (or if for any other reason the City shall require a review of the records related to the Project), the Grantee shall, at its own cost and expense, segregate all such records related to the Project and this Agreement (or copies thereof) from its other records of operation.
10. AUDITS AND INSPECTIONS. At any time during normal business hours upon written notice and as often as the City may deem necessary, the Grantee shall make available to the City and to appropriate State agencies or officials all records of the Grantee and the Related Members with respect to matters covered by this Agreement including, but not limited to, records of personnel and conditions of employment, and shall permit the City to audit, examine and make excerpts or transcripts from such records.
11. FORBEARANCE NOT A WAIVER. No act of forbearance or failure to insist on the prompt performance by the Grantee of its obligations under this Agreement, either express or implied, shall be construed as a waiver by the City of any of its rights hereunder.
12. ENFORCED FAILURE TO PERFORM FOR CAUSES BEYOND CONTROL OF THE GRANTEE -- RELIEF FROM REIMBURSEMENT OBLIGATION.
- (A) The Grantee shall not be required to pay the reimbursement required for default under Section 6(B) of this Agreement for any Tax Year in which such default is due to unforeseeable causes beyond the control of the Grantee and the Related Members and without fault or negligence of the

Grantee or the Related Members, restricted to: acts of the federal, state or city government; orders of courts; fires, floods, epidemics, earthquakes or similar natural disasters; quarantine restrictions; strikes; and other causes which in the opinion of the City Manager are beyond the control of the Grantee and the Related Members and without fault or negligence of the Grantee or the Related Members. Economic difficulties of the Grantee or the Related Members (including, without limitation, bankruptcy), do not constitute causes beyond the control of the Grantee or the Related Members under this subsection. If the Grantee seeks the benefit of the provisions of this subsection it shall, within sixty (60) days after the beginning of any such unforeseeable cause, notify the City thereof in writing.

(B) Notwithstanding the provisions set forth in subsection (A) above, the Grantee shall not be allowed a City Income Tax Credit hereunder (including any credit carried forward from prior tax years) in any Tax Year in which the Grantee is not in full compliance with all requirements of this Agreement.

13. **COMPLIANCE WITH IMMIGRATION AND NATIONALITY ACT.** In the performance of its obligations under this Agreement, the Grantee agrees to comply with the provisions of the Immigration and Nationality Act codified at 8 U.S.C. §§ 1324a(a)(1)(A) and (a)(2). Any noncompliance with such provisions shall be solely determined by either the federal agencies authorized to enforce the Immigration and Nationality Act or the U.S. Attorney General, in accordance with Executive Order 12989 of the U.S. President dated February 13, 1996, and as amended by Executive Order 13465 of the U.S. President dated June 6, 2008.
14. **INDEMNIFICATION.** The Grantee shall indemnify, defend and save the City, its agents and employees harmless from and against any and all losses, claims, damages, liabilities, costs or expenses (including reasonable fees, disbursements, settlement costs and other charges of counsel) imposed on, incurred by or asserted against any of them in connection with any litigation, investigation, claim or proceeding commenced or threatened related to the negotiation, preparation, execution, delivery, enforcement, performance or administration of this Agreement, any other documents related to this Agreement or any undertaking or proceeding related to any of the transactions contemplated hereby or thereby or any act, omission, event or transaction related or attendant thereto, including amounts paid in settlement, court costs and the fees and expenses of counsel, except that the Grantee shall not have any obligation under this Section to the extent that such losses, claims, damages, liabilities, costs or expenses do not result from an act or omission by the Grantee. To the extent that the undertaking to indemnify, pay and hold harmless set forth in this Section may be unenforceable because it violates any law or public policy, the Grantee shall pay the maximum portion which it is permitted to pay under applicable law to the City in satisfaction of indemnified matters under this Section. To the extent permitted by applicable law, neither the Grantee nor the City shall assert, and each of the Grantee and the City hereby waives, any claim against either the Grantee or the City, as applicable, on any theory of liability for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other documents related to this Agreement or any undertaking or transaction contemplate hereby. All amounts due under this Section shall be payable upon demand. The foregoing indemnity shall survive the termination of this Agreement.
15. **CITY IDENTIFICATION IN MARKETING MATERIALS.** The Grantee shall acknowledge the financial support of the City with respect to this Agreement in all printed materials (including but not limited to informational releases, pamphlets and brochures, construction signs, project and identification signage and stationary) and any publicity (such as but not limited to materials appearing on the Internet, television, cable television, radio or in the press or any other printed media). In identifying the City as a funding source, the Grantee shall use either the phrase "Funded by the City of Cincinnati" or a City of Cincinnati logotype or other form of acknowledgement that has been approved in advance in writing by the City. The Grantee's obligations under this Section shall be in effect throughout the term of this Agreement.
16. **CONFLICT OF INTEREST.** The Grantee agrees that no officer, employee or agent of the City who exercises any functions or responsibilities in connection with the planning and carrying out of this Agreement, nor any immediate family member, close business associate or organization which is about to employ any such person, shall have any personal financial interest, direct or indirect, in the Grantee or in this Agreement and the Grantee shall take appropriate steps to assure compliance.

17. MISCELLANEOUS.

- (A) Relocation of Project Site Within the City. During the term of the Tax Credit, the Grantee may change the location of the Project Site to another location, but only within the City of Cincinnati's corporate boundaries.
- (B) Governing Law. This Agreement shall be governed by the laws of the State as to all matters, including but not limited to matters of validity, construction, effect and performance.
- (C) Forum and Venue. All actions regarding this Agreement shall be brought in a court of competent subject matter jurisdiction in Hamilton County, Ohio.
- (D) Entire Document. This Agreement and its exhibits and any documents referred to herein constitute the complete understanding of the parties and merge and supersede any and all other discussions, agreements and understandings, either oral or written, between the parties with respect to the subject matter hereof.
- (E) Severability. If any provisions of this Agreement are declared by final non-appealable court order to be unlawful or invalid under applicable law, then such order shall not invalidate the remainder of this Agreement not found to be unlawful or invalid and shall not create any liability to the City resulting from the unlawfulness or invalidity of such provisions. Any provision so declared to be unlawful or invalid shall, if possible, be construed in a manner which will give effect to the terms of such provision to the fullest extent possible while remaining lawful and valid.
- (F) Assignment. Neither this Agreement nor any rights, duties, or obligations described herein shall be assigned or subcontracted by the Grantee without the prior express written consent of the City.
- (G) Successor in Interest. Each and all of the Grantee's obligations under this Agreement shall extend to and bind not only the Grantee, but its successors and assigns. Only in the case of assignment consented to by the City (as provided in subsection (F) above), the Grantee's benefits hereunder shall inure to the benefit of any approved assignee.
- (H) Certification as to Non-Debarment. Grantee represents that neither it nor any of its principals is presently debarred by any federal, state, or local government agency. In completing the Project, Grantee shall not solicit bids from any contractors or subcontractors who are identified as being debarred by any federal, state, or local government agency. If Grantee or any of its principals becomes debarred by any federal, state, or local government agency during the term of this Agreement, Grantee shall be considered in default under this Agreement.
- (I) Notices. All notices, consents, demands, requests and other communications given hereunder shall be in writing and shall be deemed duly given if personally delivered or sent by mail, registered or certified, to the addresses set forth hereunder, or to such other address as the other party hereto may designate in written notice transmitted in accordance with this provision.

To the City:

City of Cincinnati
801 Plum Street, Room 152
Cincinnati, Ohio 45202
Attention: City Manager

with a copy to:

City of Cincinnati
Centennial Plaza Two, Suite 700
805 Central Avenue
Cincinnati, Ohio 45202
Attention: Director, Department of Community and Economic Development

To the Grantee:

Team Industrial Services, Inc.
13131 Dairy Ashford Road
Sugarland, Texas 77478
Attention: Ray Sanders, Director of Real Estate

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

- (J) Wage Enforcement. This Agreement is or may be subject to the Wage Enforcement provisions of the Cincinnati Municipal Code. These provisions require that any person who has an agreement with the City, or a contractor or subcontractor of that person, shall report all complaints or adverse determinations of Wage Theft and Payroll Fraud (as defined in Chapter 326 of the Cincinnati Municipal Code) against the person, contractor or subcontractors to the Department of Economic Inclusion within 30 days of notification of the complaint or adverse determination. Under the Wage Enforcement provisions, the City shall have the authority, under certain circumstances, to terminate this Agreement or reduce the incentives or subsidies to be provided under this Agreement and to seek other remedies.
- (K) Legal Requirements. In completing and operating the Project, and in undertaking the matters contemplated by this Agreement, the Grantee shall comply with all applicable statutes, ordinances, regulations, and rules of the government of the United States, State of Ohio, County of Hamilton, and City of Cincinnati.
- (L) Counterparts and Electronic Signatures. This Agreement may be executed by the parties hereto in two or more counterparts and each executed counterpart shall be considered an original but all of which together shall constitute one and the same instrument. This Agreement 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.
18. FEES. Prior to the Effective Date of this Agreement, the Grantee paid to the City an initial administrative fee in connection with the City's application, underwriting, processing and documentation costs equal to \$3,000.00. The Grantee shall pay to the City, concurrently with the submission of each required annual report under Section 7, an annual monitoring, review and administration fee of \$2,000.00.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates indicated below, the latest date of which shall be the "Effective Date."

TEAM INDUSTRIAL SERVICES, INC.,
a Texas corporation

By: _____

Printed Name: _____

Title: _____

Date: _____, 2020

As authorized by corporate resolution dated _____, 2020

CITY OF CINCINNATI,
an Ohio municipal corporation

By: _____
Paula Boggs Muething, Interim City Manager

Date: _____

Approved as to Form:

Assistant City Solicitor

Certified Date: _____

Fund/Code: _____

Amount: _____

By: _____
Karen Alder, City Finance Director



Contract Number _____

JOB CREATION TAX CREDIT AGREEMENT

This Job Creation Tax Credit Agreement (this "Agreement") is made and entered into as of the Effective Date (as defined on the signature page hereof) by and between the CITY OF CINCINNATI, an Ohio municipal corporation (the "City"), and TEAM INDUSTRIAL SERVICES, INC., a Texas corporation (the "Grantee").

BACKGROUND INFORMATION

- A. The City seeks to increase employment opportunities and to encourage establishment of new jobs within the corporate boundaries of the City of Cincinnati (the "City Boundaries"), in order to improve the economic welfare of the City and its citizens, in furtherance of the public purposes enunciated in Article VIII, Section 13 of the Ohio Constitution.
- B. The City has determined that the Grantee will create new jobs within the City Boundaries in connection with a project to be implemented by the Grantee at 2249 E. Seymour Avenue, Cincinnati, Ohio 45212 (the "Project Site"), consisting of the construction of leasehold improvements on the Project Site and the purchase or relocation of machinery, equipment, furniture and fixtures (the "Project").
- C. Cincinnati Municipal Code ("CMC") Chapter 311 imposes income taxes, including a tax on business net profits. The Grantee represents and has documented to the City that the credit authorized by this Agreement against the tax imposed on the Grantee's net profits under CMC Chapter 311 (the "City Income Tax Credit") is a major factor in the Grantee's decision to go forward with the Project, to offset costs of capital expenditures and/or moving.
- D. The City Income Tax Credit as provided in this Agreement is authorized by Ohio Revised Code ("ORC") Sections 718.15 and 718.151.
- E. The City and Grantee intend that Grantee will implement the Project partly as a result of Grantee cost savings resulting from a forty (40%) City income tax credit applicable to new jobs created by Grantee at the Project Site for a period of 6 years, and thereby create 150 new jobs in the City within 3 years of the Determination Date (as defined below).

STATEMENT OF THE AGREEMENT

In consideration of the foregoing and the mutual promises and covenants hereinafter set forth, the parties agree as follows:

- 1. PRECONDITIONS TO EFFECTIVENESS OF AGREEMENT. Notwithstanding anything to the contrary herein, this Agreement shall be of no force and effect unless and until (1) this Agreement is fully executed by both parties and (2) the Council of the City of Cincinnati passes an ordinance approving this Agreement, and the ordinance takes effect.
- 2. CERTAIN DEFINITIONS. As used in this Agreement:
 - (A) "Aggregate Employees" means, for any stated period, the Number of Full-Time Employee Equivalents employed either by the Grantee or by a Related Member, calculated with reference to all employees of the Grantee and all Related Members of the Grantee for which (1) the primary work location is within the City of Cincinnati and (2) the Grantee or a Related Member withholds City income taxes.
 - (B) "City Tax Credit Term" means the 6-year term of 2021 through 2026.

- (C) “Determination Date” means the Effective Date.
- (D) “Employment Retention Period” means a 12-year period commencing as of the start of the City Tax Credit Term.
- (E) “Grantee’s City-Wide Employees” means, for any stated period, the Number of Full-Time Employee Equivalents employed by the Grantee, calculated with reference to all employees of the Grantee for which (1) the primary work location is within the City (not limited to the Project Site) and (2) the Grantee withholds City income taxes. An employee is considered to have a primary work location within the City if at least fifty-one percent (51%) of the compensation paid by the Grantee to that employee is taxed by the City with respect to work performed in the City.
- (F) “Income Tax Revenue” means, for any Tax Year:
- (1) Payments from the Grantee to the City in an amount equal to the aggregate amount of earnings taxes withheld on the qualifying wages (as defined in CMC Section 311-9-Q) paid by the Grantee to all Aggregate Employees whose primary work location is the Project Site; less
 - (2) Any amounts refunded by the City to Aggregate Employees whose primary work location is the Project Site (pursuant to CMC Chapter 311) relating to qualifying wages (as defined in CMC Section 311-9-Q) paid by the Grantee, as such refunds are reported by the City to the Grantee from time to time.
- (G) “Initial Tax Year” means the first Tax Year during which the Grantee is entitled to a City Income Tax Credit.
- (H) “Minimum Qualifying Wage” means an hourly wage of at least (1) \$12.50 per hour on and after July 1, 2018, (2) \$13.50 per hour on and after January 1, 2019, and (3) \$15.00 per hour on and after July 1, 2019; *provided however*, that if (i) the Grantee contributes to any health, vision and/or dental insurance plan; provides retirement benefits; or provides childcare, tuition, or training reimbursement benefits to a New Employee and (ii) the City approves in writing, in its sole and absolute discretion any such contribution, retirement, or reimbursement benefit, then the hourly cash value of any such City-approved benefit shall be added to the New Employee’s base monetary hourly wage for the purposes of calculating that New Employee’s hourly wage under this definition.
- (I) “Net Number of New Employees” means, for any Tax Year, the lesser of:
- (1) The average Number of New Employees in the final three (3) calendar months of that Tax Year; or
 - (2) The remainder computed by subtracting (a) the Baseline City-Wide Employment Level from (b) the average number of the Grantee’s City-Wide Employees in the final three (3) months of that Tax Year; or
 - (3) The remainder computed by subtracting (a) the Baseline Aggregate Employment Level from (b) the average number of Aggregate Employees in the final three (3) months of that Tax Year.
- Computations of an “average number” of employees, as required by this Agreement, shall be made and documented by the Grantee in a manner subject to approval by the City, such approval not to be unreasonably withheld.
- (J) “New Employee” means an employee of the Grantee that meets all of the following criteria during the applicable Tax Year: (i) whose primary work location is the Project Site, (ii) is first employed by the Grantee within the City Boundaries after the Determination Date, and (iii) is paid at least the Minimum Qualifying Wage by the Grantee at all times during the applicable Tax Year. An employee is considered to have a primary work location at the Project Site if at least fifty-one percent (51%) of the compensation paid by the Grantee to that employee is taxed by the City with

respect to work performed at the Project Site. "New Employees" may include employees of the Grantee employed in employment positions that were relocated to the Project Site from other operations of the Grantee (or of a Related Member) outside of the City Boundaries.

- (K) "New Income Tax Revenue" means, for any Tax Year, the lesser of:
- (1) Income Tax Revenue in such Tax Year relating only to New Employees; or
 - (2) The amount computed by multiplying (a) the Net Number of New Employees for such Tax Year by (b) the average amount of Income Tax Revenue received by the City in such Tax Year per New Employee (which average amount is computed by dividing (x) the total Income Tax Revenue for such Tax Year relating only to New Employees by (y) the monthly average of Number of New Employees (determined on a twelve (12) month basis) employed during such Tax Year.
- (L) "Number of Full-Time Employee Equivalents" means one fortieth (1/40) of the total number of compensated hours worked in a work week by permanent employees that are paid at least the Minimum Qualifying Wage for the duration of the applicable Tax Year (whether full-time or part-time), provided that the hours included in the calculation may not exceed forty (40) per week for any individual employee.
- (M) "Number of New Employees" means, for any stated period, the Number of Full-Time Employee Equivalents employed in that period, calculated only with reference to hours worked by New Employees.
- (N) "Related Member" means any of the Grantee's "related members" (as defined in ORC Section 122.171(A)(7)) that has at least one employee whose primary work location is within the City Boundaries (not limited to the Project Site), including those "related members" that begin operations within the City Boundaries on or after the Effective Date.
- (O) "Tax Year" means the fiscal year used by the Grantee to compute net profits under CMC Chapter 311.

3. PROJECT: JOB CREATION AND RETENTION.

- (A) Grantee Representations. The Grantee represents that:
- (1) The monthly average of the Number of Full-Time Employee Equivalents employed by the Grantee, for whom the Project Site was the primary work location, for the three (3) full calendar month period immediately prior to the Determination Date was 0.
 - (2) The monthly average of the Grantee's City-Wide Employees for the three (3) full calendar month period immediately prior to the Determination Date was 0 (the "Baseline City-Wide Employment Level").
 - (3) The monthly average of Aggregate Employees for the three (3) full calendar month period immediately prior to the Determination Date was 0 (the "Baseline Aggregate Employment Level").
 - (4) Related Members of the Grantee with any employees whose primary work location is within the City Boundaries as of the Effective Date (and the Related Members' Cincinnati addresses and Federal Tax Identification Numbers) consist of the following: NONE.
 - (5) The Grantee shall give written notice to the City of any Related Member that begins operations within the City Boundaries on or after the Effective Date.
- (B) Minimum Expenditures. The Grantee agrees to expend a minimum of \$11,600,000.00 not later than three (3) years from the Effective Date to accomplish the Project.
- (C) Minimum Number of New Employees. Within 3 years from the Determination Date, the Grantee agrees to employ a Number of New Employees at the Project Site equal to at least 150. The Grantee agrees that the aggregate annual wages of the New Employees will be equal to at least \$9,600,000.00.

- (D) Relocation of Employment Positions from Elsewhere in Ohio. The Grantee may not relocate a substantial number of employment positions from elsewhere in Ohio (i.e., outside the City) unless the Director of the Department of Community and Economic Development determines that the legislative authority of the county, township, or municipal corporation from which the employment positions would be relocated has been notified by the Grantee of the relocation.
- (E) Employment Retention by the Grantee.
- (1) During each year of the Employment Retention Period, the Grantee agrees to maintain a monthly average of Aggregate Employees (determined on a twelve (12) month basis) equal to or greater than the Baseline Aggregate Employee Level.
 - (2) During each of the first three (3) years of the City Tax Credit Term, the Grantee agrees to maintain a monthly average of the Grantee's City-Wide Employees (determined on a twelve (12) month basis) equal to or greater than the Baseline City-Wide Employee Level.
 - (3) Beginning with the fourth (4th) year of the City Tax Credit Term and continuing during each subsequent year of the Employment Retention Period, the Grantee agrees to maintain an average Net Number of New Employees (determined on a twelve (12) month basis) of at least ninety percent (90%) of the highest Net Number of New Employees reported by the Grantee in calculating the City Income Tax Credit in any prior Tax Year during the City Tax Credit Term.

The Grantee acknowledges and agrees that the obligations of the Grantee under this Agreement may be affected by decisions of the Related Members, as the City's agreement to provide the City Income Tax Credit authorized herein is conditioned on maintenance of the existing employment within the City Boundaries by both the Grantee and the Related Members. The Grantee may apply to the City Manager for waiver of this employment retention requirement (which waiver may be granted in the City Manager's sole discretion) on the grounds that the Grantee's failure to maintain the required Net Number of New Employees is excusable based on exceptional circumstances not under the control of the Grantee or of the Related Members, as described in Section 12.

- (F) City Residents; Referral Procedure for New Hires. The Grantee agrees to use its best efforts to fill at least seventy-five percent (75%) of the new jobs created in connection with the Project with employees residing within the City Boundaries (the "City Resident Hiring Goal"). In furtherance of such goal, the Grantee shall implement the following procedures:
- (1) City Representative. In its efforts to meet the City Resident Hiring Goal, the Grantee agrees to request referrals from the OhioMeansJobs Center (or such other agency as the City Manager may designate) when positions need to be filled. A representative of the personnel office of the Grantee will meet periodically with a representative of the OhioMeansJobs Center (the "City Representative") to assess the Grantee's future employment needs and to assure that qualified applicants can be recruited and trained in a timely manner.
 - (2) Initial Positions. As soon as practicable after execution of this Agreement, and no later than ninety (90) days prior to the earlier of (a) the scheduled initial occupancy of the Project or completion of renovation or expansion or (b) the date when the following employment positions will be filled, the Grantee agrees to notify the City Representative of the following: (i) the number of new employees that will be required, and the date when the positions must be filled; (ii) the training, qualifications and experience required for the individuals who will fill the positions; and (iii) the name, address and telephone number of the person responsible for hiring. For positions requiring customized training, the Grantee agrees to provide such notice as far in advance of such ninety-day period as is practicable.
 - (3) City Referrals. The City Representative shall, within thirty (30) days after receiving such notification from the Grantee, submit in writing the following: (a) the positions for which the City intends to make referrals; (b) the names and qualifications of referred applicants for each position available; and (c) the date when these applicants will be available for interview. For positions requiring customized training, however, such information may be

submitted to the Grantee up to thirty (30) days prior to the date that such positions are to be filled.

- (4) Interviews. The Grantee agrees to interview those applicants who are referred by the City Representative and shall consider for employment those applicants the Grantee finds to be qualified for an available position. If (a) the City Representative informs the Grantee that it does not intend to make referrals for a position, (b) the City Representative fails to refer applicants who are available for interview for a position in accordance with this subsection or (c) the applicants referred for a position are deemed not qualified by the Grantee, then the Grantee may hire individuals from other sources for such position, without any further obligations or restrictions hereunder as to such position.
- (5) Subsequent Positions. During the three (3) year period following the date upon which this Agreement becomes effective, if the Grantee needs to fill a vacant employment position (either from attrition or an increase in employment), the Grantee agrees to notify the City Representative for an additional referral of applicants. The Grantee, however, is under no obligation to postpone the hiring of a new employee pending receipt of referrals from the City Representative. If the position is still vacant at the time referrals are received from the City Representative, the Grantee shall interview those applicants who are referred by the City Representative and shall consider for employment those applicants the Grantee finds to be qualified for an available position.
- (6) Continuation of Referral Procedure. If the Grantee and the City agree that this referral process has been mutually beneficial, the parties shall continue the process after the three (3) year period.

4. CITY INCOME TAX CREDIT.

- (A) Credit Requirements. Subject to the terms and conditions of this Agreement, for each Tax Year during the City Tax Credit Term in which the Grantee has claimed the City Income Tax Credit on an income tax return filed directly with the City with respect to its net profits and is otherwise in full compliance with all requirements under both CMC Chapter 311 and this Agreement, the Grantee shall be allowed to apply the City Income Tax Credit stated in this Section against the tax imposed on the Grantee's net profits under CMC Chapter 311. The City Income Tax Credit shall be applied in accordance with any applicable rules and regulations (consistent with this Agreement) that may be adopted by the Board of Review (as defined in CMC Section 311-9-B1).
- (B) Amount of Credit. The amount of the City Income Tax Credit shall be the lesser of \$75,000 or forty percent (40%) of any New Income Tax Revenue in a given Tax Year. The City Income Tax Credit shall be applied against net profits tax due to the City (pursuant to CMC Chapter 311) from the Grantee for such Tax Year. The City Income Tax Credit shall be allowed only after the allowance of all other credits and deductions under CMC Chapter 311. If the City Income Tax Credit exceeds the Grantee's tax liability for such Tax Year, the City Income Tax Credit shall be fully refundable.
- (C) Related Members. The Grantee acknowledges and agrees that the City Income Tax Credit calculated under this Agreement will be reduced to the extent that reductions in the number of Aggregate Employees of both the Grantee and the Related Members affect the calculation of Net Number of New Employees.

5. COVENANT AS TO OUTSTANDING LIABILITIES; INSPECTION OF RECORDS; FALSE STATEMENTS.

In accordance with Ohio Revised Code Section 9.66, (A) the Grantee affirmatively covenants that it does not owe: (1) any delinquent taxes to the State of Ohio (the "State") or to a political subdivision of the State; (2) any moneys to the State or a State agency for the administration or enforcement of any environmental laws of the State; or (3) any other moneys to the State, a State agency or a political subdivision of the State that are past due, regardless of whether the amounts owed are being contested in a court of law or not; (B) the Grantee authorizes the City and/or the State to inspect the personal financial statements of the Grantee, including tax records and other similar information not ordinarily open to public inspection; and (C) the Grantee authorizes the Ohio Environmental Protection Agency and the Ohio Department of

Taxation to release information to the City and or other State departments in connection with the above statements. As provided by statute, a knowingly false statement under this Section may be prosecuted as a first-degree misdemeanor under Ohio Revised Code Section 2921.13, may render the Grantee ineligible for any future economic development assistance from the State or any political subdivision of the State and will result in the City requiring the Grantee's repayment of any assistance provided by the City in connection with the Project.

6. TERMINATION; REIMBURSEMENT FOR DEFAULT.

- (A) Suspension or Termination of the City Income Tax Credit. Subject to the provisions of subsections (B) and (C) below, if the City provides the Grantee with written notice of an event of default under this Agreement, and such default is not cured to the City's satisfaction within thirty (30) days of such notice, the City shall suspend or terminate the City Income Tax Credit hereunder and may, in the City's sole discretion, take such other measures as may be lawful (including suing for specific performance). Except as provided in subsections (B) or (C) below, such suspension or termination shall only affect City Income Tax Credits otherwise allowable after the date of suspension or termination.
- (B) Grantee's Failure to Comply with Job Creation and Retention Obligations. If the City provides the Grantee with written notice of an event of default under Section 3(C) or 3(D), and such default is not cured to the City's satisfaction within thirty (30) days of such notice, the City may, after giving the Grantee an opportunity to explain such default, require the Grantee to pay to the City all or a portion of the City Income Tax Credits previously claimed under this Agreement. In determining the portion of the City Income Tax Credit amounts to be repaid, the City may consider the effect of market conditions on the Grantee's Project and whether the Grantee continues to maintain other operations and employment in the City. For the avoidance of doubt, the City shall have the ability to exercise its rights under this Section with respect to each event of default under Section 3(C) or 3(D) (i.e. in the event that Grantee defaults under Section 3(C) or 3(D) in multiple Tax Years, the City may require the Grantee to pay to the City all or a portion of the City Income Tax Credits previously claimed and not repaid under this Agreement after each event of default).
- (C) Grantee's Failure to Comply with Outstanding Liability Obligations. If the City provides the Grantee with written notice of an event of default under Section 5, the City may, after giving the Grantee an opportunity to explain such default, require the Grantee to pay to the City all or any portion of the City Income Tax Credits previously claimed under this Agreement. For the avoidance of doubt, the City shall have the ability to exercise its rights under this Section with respect to each event of default under Section 5 (i.e. in the event that Grantee defaults under Section 5 in multiple Tax Years, the City may require the Grantee to pay to the City all or a portion of the City Income Tax Credits previously claimed and not repaid under this Agreement after each event of default).
- (D) Reimbursement. The Grantee hereby agrees (i) to make any payments required by the City under this Section within thirty (30) days of written demand by the City and (ii) in the event that the City refunds any Income Tax Revenue in a subsequent Tax Year for which a City Income Tax Credit was previously granted pursuant to this Agreement (the "Refund Amount"), then no later than thirty (30) days following Grantee's receipt of written notice from the City (the "City's Notice"), the Grantee will either (a) pay an amount equal to the Refund Amount to the City, as detailed in the City's Notice or (b) deliver written notice to the City that the Grantee will reduce its future City Income Tax Credits by the Refund Amount, such reduction to begin with the first City Income Tax Credit the Grantee is eligible to receive pursuant to this Agreement following the Grantee's receipt of the City's Notice. In the event that the Grantee fails to make a timely election pursuant to the foregoing sentence, then the City may, in its sole and absolute discretion, reduce the amount of any future City Income Tax Credits by the Refund Amount, charge interest on the Refund Amount, terminate this Agreement, and/or take any and all other actions available to the City pursuant to this Agreement and applicable law. Amounts due and not paid when due shall bear interest at the rate specified in ORC Section 1343.03(A) (as such rate is in effect on the date of the applicable

payment demand by the City). The Grantee hereby expressly waives the statute of limitations period contained in CMC Chapter 311 with respect to any such demand and payment.

7. SUBMISSION OF ANNUAL REPORTS. During the Employment Retention Period, the Grantee shall submit to the City an annual progress report documenting the Number of Full-Time Employee Equivalents at the Project Site, the number of the Grantee's City-Wide Employees, the number of Aggregate Employees, the Net Number of New Employees, the New Income Tax Revenue, the hourly wages and any related Grantee-paid benefits claimed as part of a Minimum Qualifying Wage for each New Employee for the duration of the applicable Tax Year, and any other information that the City deems relevant to this Agreement. The report shall include computations of necessary employment information for the Grantee and the Related Members for the report period, and the City may, in its discretion, require that the report be submitted in a certain format and manner (e.g., submission of a particular electronic file format, mailing a hard copy, etc.). The Grantee agrees to furnish the progress report to the City no later than the first business day of May following each year during the Employment Retention Period. The annual report, as submitted, must be certified as accurate and signed by (A) an independent certified public accountant licensed to do business in the state of Ohio (an "ICPA"), (B) the Chief Executive Officer of the Grantee and (C) the Chief Financial Officer of the Grantee; provided, however, that (1) reports for any or all of the initial two Tax Years may be submitted without certification and signature of an ICPA, so long as the Grantee's report for the third Tax Year includes an ICPA certification and signature for all Tax Years in which a City Income Tax Credit has been claimed without previous certification by an ICPA and (2) after the report for the third Tax Year, the ICPA certification and signature need not be provided more frequently than once every two years, so long as each ICPA certification and signature applies both to the current reported Tax Year and any previous Tax Year in which a City Income Tax Credit has been claimed without previous certification by an ICPA. If the report is approved by the City as demonstrating compliance with this Agreement, a certificate of verification from the City will be sent to the Grantee and the Tax Commissioner (as defined in CMC Section 311-9-T2) within thirty (30) days after receipt of the annual report. Failure to submit an annual report within the time periods specified herein will be considered a default and may result in termination of this Agreement.
8. SMALL BUSINESS ENTERPRISE PROGRAM AND EQUAL EMPLOYMENT OPPORTUNITY PROGRAM.¹
- (A) Small Business Enterprise Program Policy. The policy of the City is that a fair share of contracts be awarded to Small Business Enterprises (as such term is defined in CMC Section 323-1, "SBEs"). Pursuant to CMC Section 323-7, the City's annual goal for SBE participation shall be thirty percent (30%) of the City's total dollars spent for construction (as such term is defined in CMC Section 323-1), supplies (as such term is defined in CMC Section 323-1), services (as such term is defined in CMC Section 323-1) and professional services (as such term is defined in CMC Section 323-1). Accordingly, the Grantee shall use its best efforts and take affirmative steps to achieve the City's goal of voluntarily meeting thirty percent (30%) SBE participation. A list of SBEs may be obtained from the City's Department of Economic Inclusion. The Grantee may refer interested firms to the City's Department of Economic Inclusion for review and possible certification as an SBE. The Grantee shall comply with the provisions of CMC Chapter 323, including without limitation taking at least the following affirmative steps:
- (1) Including qualified SBEs on solicitation lists.
 - (2) Assuring that SBEs are solicited whenever they are potential sources. The Grantee must advertise, on at least two separate occasions, both in local minority publications and in other local newspapers of general circulation, invitations to SBEs to provide services, to supply materials, or to bid on construction contracts, as applicable.
 - (3) When economically feasible, dividing total requirements into small tasks or quantities so as to permit maximum SBE participation.

¹ Note: The Department of Community and Economic Development is currently reviewing alternatives for updating this provision based on recent legislative changes adopted by Council. If an alternative policy is approved by DCED prior to the execution of this Agreement, this provision will be revised accordingly.

- (4) If any subcontracts are to be let, the Grantee shall require the prime contractor (if different from the Grantee) to take the above affirmative steps.
 - (5) Prior to the commencement of work under any subcontracts, the Grantee shall provide to the City a list of such subcontractors, including information as to the dollar amount of the subcontracts and such other information as may be requested by the City. The Grantee shall update the report monthly.
 - (6) The Grantee shall periodically document its best efforts and affirmative steps to meet the above SBE participation goals by submitting such information as may be requested from time to time by the City.
- (B) Small Business Enterprise Program Remedies. Failure of the Grantee or its contractors and subcontractors to take the affirmative steps specified above, to provide fair and equal opportunity to SBEs, or to provide technical assistance to SBEs as may be necessary to reach SBE participation as set out in CMC Chapter 323 may be construed by the City as failure of the Grantee to use its best efforts, and, in addition to other remedies under this Agreement, may be a cause for the City to file suit in Common Pleas Court to enforce specific performance of the terms of this Section. The provisions of CMC Section 323-99 are hereby incorporated by reference into this Agreement.
- (C) Equal Employment Opportunity Program. This Agreement is subject to and hereby incorporates the provisions of the Equal Employment Opportunity Program set forth in CMC Chapter 325 (including, without limitation, CMC Section 325-9).
- (D) Further Information. Details concerning both the SBE Program and the Equal Employment Opportunity Program can be obtained from the City's Department of Economic Inclusion, Two Centennial Plaza, 805 Central Avenue, Suite 222, Cincinnati, Ohio 45202, (513)352-3144.
9. RECORDS, ACCESS AND MAINTENANCE. Throughout the period required by CMC Section 311-81, the Grantee agrees to establish and maintain such records as are necessary to document compliance with this Agreement (including but not limited to, financial reports, payroll records, documentation with respect to any Grantee-paid benefits claimed as part of a Minimum Qualifying Wage, intake and participant information and all other relevant information). For the three (3) year period following the end of the Employment Retention Period, the Grantee agrees to maintain records of the amounts of City Income Tax Credits claimed and allowed. The parties further agree that records with respect to any audit disallowances, litigation or dispute between the City and the Grantee shall be maintained for the time needed for the resolution of said disallowance, litigation or dispute, and that in the event of early termination of this Agreement (or if for any other reason the City shall require a review of the records related to the Project), the Grantee shall, at its own cost and expense, segregate all such records related to the Project and this Agreement (or copies thereof) from its other records of operation.
10. AUDITS AND INSPECTIONS. At any time during normal business hours upon written notice and as often as the City may deem necessary, the Grantee shall make available to the City and to appropriate State agencies or officials all records of the Grantee and the Related Members with respect to matters covered by this Agreement including, but not limited to, records of personnel and conditions of employment, and shall permit the City to audit, examine and make excerpts or transcripts from such records.
11. FORBEARANCE NOT A WAIVER. No act of forbearance or failure to insist on the prompt performance by the Grantee of its obligations under this Agreement, either express or implied, shall be construed as a waiver by the City of any of its rights hereunder.
12. ENFORCED FAILURE TO PERFORM FOR CAUSES BEYOND CONTROL OF THE GRANTEE -- RELIEF FROM REIMBURSEMENT OBLIGATION.
- (A) The Grantee shall not be required to pay the reimbursement required for default under Section 6(B) of this Agreement for any Tax Year in which such default is due to unforeseeable causes beyond the control of the Grantee and the Related Members and without fault or negligence of the

Grantee or the Related Members, restricted to: acts of the federal, state or city government; orders of courts; fires, floods, epidemics, earthquakes or similar natural disasters; quarantine restrictions; strikes; and other causes which in the opinion of the City Manager are beyond the control of the Grantee and the Related Members and without fault or negligence of the Grantee or the Related Members. Economic difficulties of the Grantee or the Related Members (including, without limitation, bankruptcy), do not constitute causes beyond the control of the Grantee or the Related Members under this subsection. If the Grantee seeks the benefit of the provisions of this subsection it shall, within sixty (60) days after the beginning of any such unforeseeable cause, notify the City thereof in writing.

(B) Notwithstanding the provisions set forth in subsection (A) above, the Grantee shall not be allowed a City Income Tax Credit hereunder (including any credit carried forward from prior tax years) in any Tax Year in which the Grantee is not in full compliance with all requirements of this Agreement.

13. COMPLIANCE WITH IMMIGRATION AND NATIONALITY ACT. In the performance of its obligations under this Agreement, the Grantee agrees to comply with the provisions of the Immigration and Nationality Act codified at 8 U.S.C. §§ 1324a(a)(1)(A) and (a)(2). Any noncompliance with such provisions shall be solely determined by either the federal agencies authorized to enforce the Immigration and Nationality Act or the U.S. Attorney General, in accordance with Executive Order 12989 of the U.S. President dated February 13, 1996, and as amended by Executive Order 13465 of the U.S. President dated June 6, 2008.
14. INDEMNIFICATION. The Grantee shall indemnify, defend and save the City, its agents and employees harmless from and against any and all losses, claims, damages, liabilities, costs or expenses (including reasonable fees, disbursements, settlement costs and other charges of counsel) imposed on, incurred by or asserted against any of them in connection with any litigation, investigation, claim or proceeding commenced or threatened related to the negotiation, preparation, execution, delivery, enforcement, performance or administration of this Agreement, any other documents related to this Agreement or any undertaking or proceeding related to any of the transactions contemplated hereby or thereby or any act, omission, event or transaction related or attendant thereto, including amounts paid in settlement, court costs and the fees and expenses of counsel, except that the Grantee shall not have any obligation under this Section to the extent that such losses, claims, damages, liabilities, costs or expenses do not result from an act or omission by the Grantee. To the extent that the undertaking to indemnify, pay and hold harmless set forth in this Section may be unenforceable because it violates any law or public policy, the Grantee shall pay the maximum portion which it is permitted to pay under applicable law to the City in satisfaction of indemnified matters under this Section. To the extent permitted by applicable law, neither the Grantee nor the City shall assert, and each of the Grantee and the City hereby waives, any claim against either the Grantee or the City, as applicable, on any theory of liability for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other documents related to this Agreement or any undertaking or transaction contemplate hereby. All amounts due under this Section shall be payable upon demand. The foregoing indemnity shall survive the termination of this Agreement.
15. CITY IDENTIFICATION IN MARKETING MATERIALS. The Grantee shall acknowledge the financial support of the City with respect to this Agreement in all printed materials (including but not limited to informational releases, pamphlets and brochures, construction signs, project and identification signage and stationary) and any publicity (such as but not limited to materials appearing on the Internet, television, cable television, radio or in the press or any other printed media). In identifying the City as a funding source, the Grantee shall use either the phrase "Funded by the City of Cincinnati" or a City of Cincinnati logotype or other form of acknowledgement that has been approved in advance in writing by the City. The Grantee's obligations under this Section shall be in effect throughout the term of this Agreement.
16. CONFLICT OF INTEREST. The Grantee agrees that no officer, employee or agent of the City who exercises any functions or responsibilities in connection with the planning and carrying out of this Agreement, nor any immediate family member, close business associate or organization which is about to employ any such person, shall have any personal financial interest, direct or indirect, in the Grantee or in this Agreement and the Grantee shall take appropriate steps to assure compliance.

17. MISCELLANEOUS.

- (A) Relocation of Project Site Within the City. During the term of the Tax Credit, the Grantee may change the location of the Project Site to another location, but only within the City of Cincinnati's corporate boundaries.
- (B) Governing Law. This Agreement shall be governed by the laws of the State as to all matters, including but not limited to matters of validity, construction, effect and performance.
- (C) Forum and Venue. All actions regarding this Agreement shall be brought in a court of competent subject matter jurisdiction in Hamilton County, Ohio.
- (D) Entire Document. This Agreement and its exhibits and any documents referred to herein constitute the complete understanding of the parties and merge and supersede any and all other discussions, agreements and understandings, either oral or written, between the parties with respect to the subject matter hereof.
- (E) Severability. If any provisions of this Agreement are declared by final non-appealable court order to be unlawful or invalid under applicable law, then such order shall not invalidate the remainder of this Agreement not found to be unlawful or invalid and shall not create any liability to the City resulting from the unlawfulness or invalidity of such provisions. Any provision so declared to be unlawful or invalid shall, if possible, be construed in a manner which will give effect to the terms of such provision to the fullest extent possible while remaining lawful and valid.
- (F) Assignment. Neither this Agreement nor any rights, duties, or obligations described herein shall be assigned or subcontracted by the Grantee without the prior express written consent of the City.
- (G) Successor in Interest. Each and all of the Grantee's obligations under this Agreement shall extend to and bind not only the Grantee, but its successors and assigns. Only in the case of assignment consented to by the City (as provided in subsection (F) above), the Grantee's benefits hereunder shall inure to the benefit of any approved assignee.
- (H) Certification as to Non-Debarment. Grantee represents that neither it nor any of its principals is presently debarred by any federal, state, or local government agency. In completing the Project, Grantee shall not solicit bids from any contractors or subcontractors who are identified as being debarred by any federal, state, or local government agency. If Grantee or any of its principals becomes debarred by any federal, state, or local government agency during the term of this Agreement, Grantee shall be considered in default under this Agreement.
- (I) Notices. All notices, consents, demands, requests and other communications given hereunder shall be in writing and shall be deemed duly given if personally delivered or sent by mail, registered or certified, to the addresses set forth hereunder, or to such other address as the other party hereto may designate in written notice transmitted in accordance with this provision.

To the City:

City of Cincinnati
801 Plum Street, Room 152
Cincinnati, Ohio 45202
Attention: City Manager

with a copy to:

City of Cincinnati
Centennial Plaza Two, Suite 700
805 Central Avenue
Cincinnati, Ohio 45202
Attention: Director, Department of Community and Economic Development

To the Grantee:

Team Industrial Services, Inc.
13131 Dairy Ashford Road
Sugarland, Texas 77478
Attention: Ray Sanders, Director of Real Estate

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

- (J) Wage Enforcement. This Agreement is or may be subject to the Wage Enforcement provisions of the Cincinnati Municipal Code. These provisions require that any person who has an agreement with the City, or a contractor or subcontractor of that person, shall report all complaints or adverse determinations of Wage Theft and Payroll Fraud (as defined in Chapter 326 of the Cincinnati Municipal Code) against the person, contractor or subcontractors to the Department of Economic Inclusion within 30 days of notification of the complaint or adverse determination. Under the Wage Enforcement provisions, the City shall have the authority, under certain circumstances, to terminate this Agreement or reduce the incentives or subsidies to be provided under this Agreement and to seek other remedies.
- (K) Legal Requirements. In completing and operating the Project, and in undertaking the matters contemplated by this Agreement, the Grantee shall comply with all applicable statutes, ordinances, regulations, and rules of the government of the United States, State of Ohio, County of Hamilton, and City of Cincinnati.
- (L) Counterparts and Electronic Signatures. This Agreement may be executed by the parties hereto in two or more counterparts and each executed counterpart shall be considered an original but all of which together shall constitute one and the same instrument. This Agreement 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.
18. FEES. Prior to the Effective Date of this Agreement, the Grantee paid to the City an initial administrative fee in connection with the City's application, underwriting, processing and documentation costs equal to \$3,000.00. The Grantee shall pay to the City, concurrently with the submission of each required annual report under Section 7, an annual monitoring, review and administration fee of \$2,000.00.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates indicated below, the latest date of which shall be the "Effective Date."

TEAM INDUSTRIAL SERVICES, INC.,
a Texas corporation

By: _____

Printed Name: _____

Title: _____

Date: _____, 2020

As authorized by corporate resolution dated _____, 2020

CITY OF CINCINNATI,
an Ohio municipal corporation

By: _____
Paula Boggs Muething, Interim City Manager

Date: _____

Approved as to Form:

Assistant City Solicitor

Certified Date: _____

Fund/Code: _____

Amount: _____

By: _____
Karen Alder, City Finance Director

October 14, 2020

To: Mayor and Members of City Council 202001815
From: Paula Boggs Muething, Interim City Manager
Subject: LEGISLATIVE RESOLUTION – INTENT TO APPROPRIATE FOR THE
DELTA AVENUE-WIDMAN PLACE DRAINAGE IMPROVEMENT
PROJECT


Attached is a legislative resolution captioned as follows:

DECLARING the intent to appropriate to public use property required for the construction of stormwater sewer pipes and associated appurtenances, equipment, and facilities as part of the Delta Avenue – Widman Place Drainage Improvement Project.

This resolution is to acquire property interests necessary for a drainage improvement project to address flooding problems on Empress Avenue and Delta Avenue in the Columbia Tusculum neighborhood. The City's Stormwater Management Utility will be installing approximately 1200 feet of 48" storm sewer and associated appurtenances.

The Administration recommends passage of the attached legislative resolution.

Attachment I – Exhibit A: Project Parcel
Attachment II – Exhibit B: Easement Drawing

cc: Cathy B. Bailey, Executive Director, Greater Cincinnati Water Works 

Legislative Resolution

CHM

RESOLUTION NO. _____ - 2020

DECLARING the intent to appropriate to public use property required for the construction of stormwater sewer pipes and associated appurtenances, equipment, and facilities as part of the Delta Avenue – Widman Place Drainage Improvement Project.

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

Section 1. That it is hereby deemed necessary and hereby declared to be the intent of this Council to appropriate to public use, for the purpose of constructing stormwater sewer pipes and associated appurtenances, equipment, and facilities as part of the Delta Avenue – Widman Place Drainage Improvement Project, permanent stormwater sewer easements and temporary construction easements for stormwater sewer purposes through the property described on Attachment A and depicted on Attachment B hereto (collectively, the “Property”), with the owners of record of the Property being as follows:

<u>Project Parcel</u>	<u>Owner</u>	<u>Hamilton Co. Auditor Parcel No.</u>
1-P-1; 1-T-1	Leslie Sturgill and Sandra S. Sturgill	026-0001-0098-00 (026-0001-0098-00 through -0103 cons.)
2-P-1; 2-T-1	Melanie B. Walls	026-0001-0108-00
3-P-1; 3-T-1	Brian K. Anderson and Melissa D. Anderson	026-0001-0107-00
4-P-1; 4-T-1	Brian K. Anderson and Melissa D. Anderson	026-0001-0106-00
6-P-1; 6-T-1; 6-T-2	Nicholas D. Masters	026-0001-0094-00
7-P-1; 7-P-2; 7-P-3; 7-T-1; 7-T-2	Aaron T. Sparn and Rachel M. Sparn	026-0001-0093-00
8-P-1; 8-T-1; 8-T-2	Benjamin Sullivan	026-0001-0092-00

9-P-1; 9-T-1; 9-T-2	Sarah L. Snyder	026-0001-0091-00
10-P-1; 10-T-1; 10-T-2	Kelly L. Holloran and Mauro Alvarado	026-0001-0090-00
11-P-1; 11-T-1	David Wessel	026-0001-0089-00
12-P-1; 12-T-1	Michael Foley	026-0001-0088-00
13-T-1	David T. Davis	026-0001-0087-00
14-P-1; 14-T-1; 14-T-2	Oake Properties, LTD	026-0001-0035-00

Section 2. That at any time subsequent to the effective date of this Resolution and prior to the passage of an ordinance to appropriate, the City Manager is hereby authorized, with the advice and assistance of the City Solicitor, to acquire by purchase any or all of the Property and in accordance with such acquisition to enter into special contracts for necessary services, expert or otherwise, as the City Manager deems necessary or appropriate.

Section 3. That this Resolution shall take effect and be in force from and after the earliest period allowed by law.

Passed: _____, 2020

John Cranley, Mayor

Attest: _____
Clerk

Attachment A

Delta Avenue-Widman Place Sewer Project Parcel 14

PARCEL 026-0001-0035 (541 EMPRESS AVE) SEWER EASEMENT

PERMANENT EASEMENT 1:

THAT PART OF SECTION 25, TOWN 04 EAST, RANGE 02 NORTH, SECTION 25, CITY OF CINCINNATI, HAMILTON COUNTY, OHIO, DESCRIBED AS:

COMMENCING FROM THE SOUTHERLY MOST CORNER OF THE SUBJECT PARCEL; THENCE N30°18'30"E 24.03 FEET ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF EMPRESS AVENUE (40 FEET WIDE) TO THE **POINT OF BEGINNING**; THENCE N08°39'50"E 194.20 FEET; THENCE N45°17'30"W 6.97 FEET; THENCE N18°43'30"E 22.25 FEET; THENCE S45°17'30"E 26.90 FEET; THENCE S08°39'50"W 153.98 FEET; THENCE S30°18'30"W 54.22 FEET ALONG THE SAID NORTHERLY RIGHT-OF-WAY LINE OF EMPRESS AVENUE TO THE POINT OF BEGINNING.

SAID PERMANENT EASEMENT BEING 10.00 FEET ON EITHER SIDE OF THE PROPOSED SEWER.

TEMPORARY EASEMENT 1:

THAT PART OF SECTION 25, TOWN 04 EAST, RANGE 02 NORTH, SECTION 25, CITY OF CINCINNATI, HAMILTON COUNTY, OHIO, DESCRIBED AS:

BEGINNING FROM THE SOUTHERLY MOST CORNER OF THE SUBJECT PARCEL; THENCE N08°39'30"E 37.81 FEET; THENCE N32°05'56"E 17.27 FEET; THENCE N08°39'50"E 164.33 FEET; THENCE S45°17'30"E 1.92 FEET; THENCE S08°39'50"W 194.20 FEET; THENCE S30°18'30"W 24.03 FEET ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF EMPRESS AVENUE (40 FEET WIDE) TO THE POINT OF BEGINNING.

TEMPORARY EASEMENT 2:

THAT PART OF SECTION 25, TOWN 04 EAST, RANGE 02 NORTH, SECTION 25, CITY OF CINCINNATI, HAMILTON COUNTY, OHIO, DESCRIBED AS:

COMMENCING FROM THE SOUTHWEST CORNER OF THE SUBJECT PARCEL; THENCE N30°18'30"E 78.25 FEET ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF EMPRESS AVENUE (40 FEET WIDE) TO THE **POINT OF BEGINNING**; THENCE N08°39'50"E 153.98 FEET; THENCE N45°17'30"W 26.90 FEET; THENCE N18°43'30"E 11.16 FEET; THENCE S45°14'48"E 36.88 FEET; THENCE S08°39'50"W 133.87 FEET; THENCE S30°18'30"W 27.11 FEET ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF EMPRESS AVENUE (40 FEET WIDE) TO THE POINT OF BEGINNING.

Delta Avenue-Widman Place Sewer Project Parcel 13

PARCEL 026-0001-0087 (541 HOGE ST) SEWER EASEMENT

TEMPORARY EASEMENT:

THAT PART OF SECTION 25, TOWN 04 EAST, RANGE 02 NORTH, SECTION 25, CITY OF CINCINNATI, HAMILTON COUNTY, OHIO, DESCRIBED AS:

BEGINNING FROM THE WESTERLY MOST CORNER OF THE SUBJECT PARCEL; THENCE N59°05'30"E 14.75 FEET ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF EMPRESS AVENUE (50 FEET WIDE); THENCE S34°11'40"W 12.93 FEET; THENCE N59°52'49"W 6.22 FEET TO THE POINT OF BEGINNING.

SAID TEMPORARY EASEMENT BEING 20.00 FEET ON EITHER SIDE OF THE PROPOSED SEWER, EXCEPT THAT PART BEING IN THE RIGHT-OF-WAY OF EMPRESS AVEUNE (50 FEET WIDE).

Delta Avenue-Widman Place Sewer Project Parcel 12
PARCEL 026-0001-0088 (539 HOGE ST) SEWER EASEMENT

PERMANENT EASEMENT 1:

THAT PART OF SECTION 25, TOWN 04 EAST, RANGE 02 NORTH, SECTION 25, CITY OF CINCINNATI, HAMILTON COUNTY, OHIO, DESCRIBED AS:

BEGINNING FROM THE WESTERLY MOST CORNER OF THE SUBJECT PARCEL; THENCE N59°05'30"E 19.57 FEET ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF EMPRESS AVENUE (50 FEET WIDE); THENCE S34°11'36"W 11.29 FEET; THENCE S38°34'28"W 5.92 FEET; THENCE N59°53'21"W 7.81 FEET TO THE POINT OF BEGINNING.

SAID PERMANENT EASEMENT BEING 10.00 FEET ON EITHER SIDE OF THE PROPOSED SEWER, EXCEPT THAT PART BEING IN THE RIGHT-OF-WAY OF EMPRESS AVEUNE (50 FEET WIDE).

TEMPORARY EASEMENT:

THAT PART OF SECTION 25, TOWN 04 EAST, RANGE 02 NORTH, SECTION 25, CITY OF CINCINNATI, HAMILTON COUNTY, OHIO, DESCRIBED AS:

BEGINNING FROM THE NORTHERLY MOST CORNER OF THE SUBJECT PARCEL; THENCE S59°52'49"E 6.22 FEET; THENCE S34°11'40"W 20.28 FEET; THENCE S38°34'28"W 4.82 FEET; THENCE N59°53'21"W 10.11 FEET; THENCE N38°34'28"E 5.92 FEET; THENCE N34°11'36"E 11.29 FEET; THENCE N59°05'30"E 9.01 FEET ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF EMPRESS AVENUE (50 FEET WIDE) TO THE POINT OF BEGINNING.

SAID TEMPORARY EASEMENT BEING 20.00 FEET ON EITHER SIDE OF THE PROPOSED SEWER, EXCEPT THAT PART BEING IN THE RIGHT-OF-WAY OF EMPRESS AVEUNE (50 FEET WIDE) AND ALSO EXCEPT THAT PART OF THE PERMANENT EASEMENT BEING 10.00 FEET ON EITHER SIDE OF THE PROPOSED SEWER.

Delta Avenue-Widman Place Sewer Project Parcel 11
PARCEL 026-0001-0089 (537 HOGE ST) SEWER EASEMENT

PERMANENT EASEMENT 1:

BEGINNING FROM THE WESTERLY MOST CORNER OF THE SUBJECT PARCEL; THENCE N59°05'30"E 28.58 FEET ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF EMPRESS AVENUE (50 FEET WIDE); THENCE S59°53'21"E 7.81 FEET; THENCE S38°34'28"W 25.28 FEET; THENCE N59°53'27"W 17.93 FEET TO THE POINT OF BEGINNING.

SAID PERMANENT EASEMENT BEING 10.00 FEET ON EITHER SIDE OF THE PROPOSED SEWER, EXCEPT THAT PART BEING IN THE RIGHT-OF-WAY OF EMPRESS AVEUNE (50 FEET WIDE).

TEMPORARY EASEMENT:

COMMENCING FROM THE WESTERLY MOST CORNER OF THE SUBJECT PARCEL; THENCE S59°53'27"E 17.93 FEET TO THE **POINT OF BEGINNING**; THENCE N38°34'28"E 25.28 FEET; THENCE S59°53'21"E 10.11 FEET; THENCE S38°34'28"W 25.28 FEET; THENCE N59°53'27"W 10.11 FEET TO THE POINT OF BEGINNING.

SAID TEMPORARY EASEMENT BEING 20.00 FEET ON EITHER SIDE OF THE PROPOSED SEWER, EXCEPT THAT PART BEING IN THE RIGHT-OF-WAY OF EMPRESS AVEUNE (50 FEET WIDE) AND ALSO EXCEPT THAT PART OF THE PERMANENT EASEMENT BEING 10.00 FEET ON EITHER SIDE OF THE PROPOSED SEWER.

PARCEL 026-0001-0090 (535 HOGE ST) SEWER EASEMENT

PERMANENT EASEMENT 1:

BEGINNING FROM THE NORTHERLY MOST CORNER OF THE SUBJECT PARCEL; THENCE S59°53'27"E 17.93 FEET; THENCE S38°34'28"W 25.28 FEET; THENCE N59°53'33"W 20.22 FEET; THENCE N38°34'28"E 19.57 FEET; THENCE N59°05'30"E 6.45 FEET ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF EMPRESS AVENUE (50 FEET WIDE) TO THE POINT OF BEGINNING.

SAID PERMANENT EASEMENT BEING 10.00 FEET ON EITHER SIDE OF THE PROPOSED SEWER, EXCEPT THAT PART BEING IN THE RIGHT-OF-WAY OF EMPRESS AVEUNE (50 FEET WIDE).

TEMPORARY EASEMENT 1:

BEGINNING FROM THE WESTERLY MOST CORNER OF THE SUBJECT PARCEL; THENCE N59°05'30"E 22.13 FEET ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF EMPRESS AVENUE (50 FEET WIDE); THENCE S38°34'28"W 19.57 FEET; THENCE N59°53'33"W 7.84 FEET TO THE POINT OF BEGINNING.

SAID TEMPORARY EASEMENT BEING 20.00 FEET ON EITHER SIDE OF THE PROPOSED SEWER, EXCEPT THAT PART BEING IN THE RIGHT-OF-WAY OF EMPRESS AVEUNE (50 FEET WIDE) AND ALSO EXCEPT THAT PART OF THE PERMANENT EASEMENT BEING 10.00 FEET ON EITHER SIDE OF THE PROPOSED 48 INCH SEWER.

TEMPORARY EASEMENT 2:

COMMENCING FROM THE NORTHERLY MOST CORNER OF THE SUBJECT PARCEL; THENCE S59°53'27"E 17.93 FEET TO THE **POINT OF BEGINNING**; THENCE CONTINUING S59°53'27"E 10.11 FEET; THENCE S38°34'28"W 25.28 FEET; THENCE N59°53'33"W 10.11 FEET; THENCE N38°34'28"E 25.28 FEET TO THE POINT OF BEGINNING.

SAID TEMPORARY EASEMENT BEING 20.00 FEET ON EITHER SIDE OF THE PROPOSED SEWER, EXCEPT THAT PART BEING IN THE RIGHT-OF-WAY OF EMPRESS AVEUNE (50 FEET WIDE) AND ALSO EXCEPT THAT PART OF THE PERMANENT EASEMENT BEING 10.00 FEET ON EITHER SIDE OF THE PROPOSED 48 INCH SEWER.

PARCEL 026-0001-0091 (533 HOGE ST) SEWER EASEMENT

PERMANENT EASEMENT 1:

COMMENCING FROM THE NORTHERLY MOST CORNER OF THE SUBJECT PARCEL; THENCE S59°53'33"E 7.84 FEET TO THE **POINT OF BEGINNING**; THENCE CONTINUING S59°53'33"E 20.22 FEET; THENCE S38°34'28"W 15.47 FEET; THENCE S40°39'26"E 29.48 FEET; THENCE N59°52'55"W 67.47 FEET; THENCE N59°05'30"E 8.76 FEET ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF EMPRESS AVENUE (50 FEET WIDE); THENCE S72°51'08"E 15.80 FEET; THENCE N38°34'28"E 13.95 FEET TO THE POINT OF BEGINNING.

SAID PERMANENT EASEMENT BEING 10.00 FEET ON EITHER SIDE OF THE PROPOSED SEWER, EXCEPT THAT PART BEING IN THE RIGHT-OF-WAY OF EMPRESS AVEUNE (50 FEET WIDE).

TEMPORARY EASMENT 1:

BEGINNING FROM THE NORTHERLY MOST CORNER OF THE SUBJECT PARCEL; THENCE S59°53'33"E 7.84 FEET; THENCE S38°34'28"W 13.95 FEET; THENCE N72°51'08"W 10.74 FEET; THENCE N38°34'28"E 10.72 FEET; THENCE N59°05'30"E 6.40 FEET ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF EMPRESS AVENUE (50 FEET WIDE) TO THE POINT OF BEGINNING.

SAID TEMPORARY EASEMENT BEING 20.00 FEET ON EITHER SIDE OF THE PROPOSED SEWER, EXCEPT THAT PART BEING IN THE RIGHT-OF-WAY OF EMPRESS AVEUNE (50 FEET WIDE) AND ALSO EXCEPT THAT PART OF THE PERMANENT EASEMENT BEING 10.00 FEET ON EITHER SIDE OF THE PROPOSED SEWER.

TEMPORARY EASEMENT 2:

COMMENCING FROM THE NORTHERLY MOST CORNER OF THE SUBJECT PARCEL; THENCE S59°53'33"E 28.06 FEET TO THE **POINT OF BEGINNING**; THENCE CONTINUING S59°53'33"E 10.11 FEET; THENCE S38°34'28"W 18.86 FEET; THENCE N40°39'26"W 10.18 FEET; THENCE N38°34'28"E 15.47 FEET TO THE POINT OF BEGINNING.

SAID TEMPORARY EASEMENT BEING 20.00 FEET ON EITHER SIDE OF THE PROPOSED SEWER, EXCEPT THAT PART BEING IN THE RIGHT-OF-WAY OF EMPRESS AVEUNE (50 FEET WIDE) AND ALSO EXCEPT THAT PART OF THE PERMANENT EASEMENT BEING 10.00 FEET ON EITHER SIDE OF THE PROPOSED SEWER.

PARCEL 026-0001-0092 (531 HOGE ST) SEWER EASEMENT

PERMANENT EASEMENT 1:

BEGINNING FROM THE NORTHERLY MOST CORNER OF THE SUBJECT PARCEL; THENCE S59°52'55"E 67.47 FEET; THENCE S40°39'26"E 62.44 FEET; THENCE S49°20'34"W 4.67 FEET; THENCE N59°53'42"W 46.52 FEET; THENCE N40°39'26"W 44.20 FEET; THENCE S38°34'28"W 14.72 FEET; THENCE N59°53'42"W 20.22 FEET; THENCE N38°34'28"E 15.12 FEET; THENCE N72°51'08"W 13.54 FEET; THENCE S64°39'43"W 14.47 FEET; THENCE N59°53'42"W 8.92 FEET; THENCE N59°05'30"E 28.58 FEET ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF EMPRESS AVENUE (50 FEET WIDE) TO THE POINT OF BEGINNING.

SAID PERMANENT EASEMENT BEING 10.00 FEET ON EITHER SIDE OF THE PROPOSED SEWER, EXCEPT THAT PART BEING IN THE RIGHT-OF-WAY OF EMPRESS AVEUNE (50 FEET WIDE).

TEMPORARY EASEMENT 1:

COMMENCING FROM THE WESTERLY MOST CORNER OF THE SUBJECT PARCEL; THENCE S59°53'42"E 17.99 FEET TO THE **POINT OF BEGINNING**; THENCE N38°34'28"E 12.68 FEET; THENCE S72°51'08"E 10.74 FEET; THENCE S38°34'28"W 15.12 FEET; THENCE N59°53'42"W 10.11 FEET TO THE POINT OF BEGINNING.

SAID TEMPORARY EASEMENT BEING 20.00 FEET ON EITHER SIDE OF THE PROPOSED SEWER, EXCEPT THAT PART BEING IN THE RIGHT-OF-WAY OF EMPRESS AVEUNE (50 FEET WIDE) AND ALSO EXCEPT THAT PART OF THE PERMANENT EASEMENT BEING 10.00 FEET ON EITHER SIDE OF THE PROPOSED SEWER.

TEMPORARY EASEMENT 2:

COMMENCING FROM THE WESTERLY MOST CORNER OF THE SUBJECT PARCEL; THENCE S59°53'42"E 48.32 FEET TO THE **POINT OF BEGINNING**; THENCE N38°34'28"E 14.72 FEET; THENCE S40°39'26"E 10.18 FEET; THENCE S38°34'28"W 11.33 FEET; THENCE N59°53'42"W 10.11 FEET TO THE POINT OF BEGINNING.

SAID TEMPORARY EASEMENT BEING 20.00 FEET ON EITHER SIDE OF THE PROPOSED SEWER, EXCEPT THAT PART BEING IN THE RIGHT-OF-WAY OF EMPRESS AVEUNE (50 FEET WIDE) AND ALSO EXCEPT THAT PART OF THE PERMANENT EASEMENT BEING 10.00 FEET ON EITHER SIDE OF THE PROPOSED SEWER.

PARCEL 026-0001-0093 (529 HOGE ST) SEWER EASEMENT

PERMANENT EASEMENT 1:

BEGINNING FROM THE NORTHERLY MOST CORNER OF THE SUBJECT PARCEL; THENCE S59°53'42"E 8.92 FEET; THENCE S64°39'43"W 21.90 FEET; THENCE N25°20'52"W 5.71 FEET; THENCE N59°05'30"E 16.92 FEET ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF EMPRESS AVENUE (50 FEET WIDE) TO THE POINT OF BEGINNING.

SAID PERMANENT EASEMENT BEING 10.00 FEET ON EITHER SIDE OF THE PROPOSED SEWER, EXCEPT THAT PART BEING IN THE RIGHT-OF-WAY OF EMPRESS AVEUNE (50 FEET WIDE).

PERMANENT EASEMENT 2:

COMMENCING FROM THE NORTHERLY MOST CORNER OF THE SUBJECT PARCEL; THENCE S59°53'42"E 28.10 FEET TO THE **POINT OF BEGINNING**; THENCE CONTINUING S59°53'42"E 20.22 FEET; THENCE S38°34'28"W 25.27 FEET; THENCE N59°53'46"W 20.22 FEET; THENCE N38°34'28"E 25.27 FEET TO THE POINT OF BEGINNING.

SAID PERMANENT EASEMENT BEING 10.00 FEET ON EITHER SIDE OF THE PROPOSED SEWER.

PERMANENT EASEMENT 3:

COMMENCING FROM THE NORTHERLY MOST CORNER OF THE SUBJECT PARCEL; THENCE S59°53'42"E 92.21 FEET TO THE **POINT OF BEGINNING**; THENCE CONTINUING S59°53'42"E 46.52 FEET; THENCE S49°20'34"W 15.33 FEET; THENCE N40°39'26"W 43.92 FEET TO THE POINT OF BEGINNING.

SAID PERMANENT EASEMENT BEING 10.00 FEET ON EITHER SIDE OF THE PROPOSED SEWER.

TEMPORARY EASEMENT 1:

COMMENCING FROM THE NORTHERLY MOST CORNER OF THE SUBJECT PARCEL; THENCE S59°53'42"E 17.99 FEET TO THE **POINT OF BEGINNING**; THENCE CONTINUING S59°53'42"E 10.11 FEET; THENCE S38°34'28"W 25.27 FEET; THENCE N59°53'46"W 10.11 FEET; THENCE N38°34'28"E 25.27 FEET TO THE POINT OF BEGINNING.

SAID TEMPORARY EASEMENT BEING 20.00 FEET ON EITHER SIDE OF THE PROPOSED SEWER, EXCEPT THAT PART OF THE PERMANENT EASEMENT BEING 10.00 FEET ON EITHER SIDE OF THE PROPOSED SEWER.

TEMPORARY EASEMENT 2:

COMMENCING FROM THE NORTHERLY MOST CORNER OF THE SUBJECT PARCEL; THENCE S59°53'42"E 48.32 FEET TO THE **POINT OF BEGINNING**; THENCE CONTINUING S59°53'42"E 10.11 FEET; THENCE S38°34'28"W 25.27 FEET; THENCE N59°53'46"W 10.11 FEET; THENCE N38°34'28"E 25.27 FEET TO THE POINT OF BEGINNING.

SAID TEMPORARY EASEMENT BEING 20.00 FEET ON EITHER SIDE OF THE PROPOSED SEWER, EXCEPT THAT PART OF THE PERMANENT EASEMENT BEING 10.00 FEET ON EITHER SIDE OF THE PROPOSED SEWER.

PARCEL 026-0001-0094 (527 HOGE ST) SEWER EASEMENT

PERMANENT EASEMENT 1:

COMMENCING FROM THE NORTHERLY MOST CORNER OF THE SUBJECT PARCEL; THENCE S59°53'46"E 38.22 FEET TO THE **POINT OF BEGINNING**; THENCE CONTINUING S59°53'46"E 20.22 FEET; THENCE S38°34'28"W 25.27 FEET; THENCE N59°53'50"W 20.22 FEET; THENCE N38°34'28"E 25.27 FEET TO THE POINT OF BEGINNING.

SAID PERMANENT EASEMENT BEING 10.00 FEET ON EITHER SIDE OF THE PROPOSED SEWER.

TEMPORARY EASEMENT 1:

COMMENCING FROM THE NORTHERLY MOST CORNER OF THE SUBJECT PARCEL; THENCE S59°53'46"E 28.11 FEET TO THE **POINT OF BEGINNING**; THENCE CONTINUING S59°53'46"E 10.11 FEET; THENCE S38°34'28"W 25.27 FEET; THENCE N59°53'50"W 10.11 FEET; THENCE N38°34'28"E 25.27 FEET TO THE POINT OF BEGINNING.

SAID TEMPORARY EASEMENT BEING 20.00 FEET ON EITHER SIDE OF THE PROPOSED SEWER, EXCEPT THAT PART OF THE PERMANENT EASEMENT BEING 10.00 FEET ON EITHER SIDE OF THE PROPOSED SEWER.

TEMPORARY EASEMENT 2:

COMMENCING FROM THE NORTHERLY MOST CORNER OF THE SUBJECT PARCEL; THENCE S59°53'46"E 58.44 FEET TO THE **POINT OF BEGINNING**; THENCE CONTINUING S59°53'46"E 10.11 FEET; THENCE S38°34'28"W 25.27 FEET; THENCE N59°53'50"W 10.11 FEET; THENCE N38°34'28"E 25.27 FEET TO THE POINT OF BEGINNING.

SAID TEMPORARY EASEMENT BEING 20.00 FEET ON EITHER SIDE OF THE PROPOSED SEWER, EXCEPT THAT PART OF THE PERMANENT EASEMENT BEING 10.00 FEET ON EITHER SIDE OF THE PROPOSED SEWER.

PARCEL 026-0001-0106 (519 HOGE ST) SEWER EASEMENT

PERMANENT EASEMENT 1:

BEGINNING FROM THE NORTHERLY MOST CORNER OF THE SUBJECT PARCEL; THENCE S59°53'01"E 3.30 FEET ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF WIDMAN PLACE (50 FEET WIDE); THENCE S19°26'48"W 25.44 FEET; THENCE N59°53'01"W 12.69 FEET; THENCE N40°42'45"E 25.43 FEET TO THE POINT OF BEGINNING.

SAID PERMANENT EASEMENT BEING 10.00 FEET ON EITHER SIDE OF THE PROPOSED SEWER.

TEMPORARY EASEMENT 1:

COMMENCING FROM THE NORTHERLY MOST CORNER OF THE SUBJECT PARCEL; THENCE S59°53'01"E 3.30 FEET TO THE **POINT OF BEGINNING**; THENCE CONTINUING S59°53'01"E 10.18 FEET ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF WIDMAN PLACE (50 FEET WIDE); THENCE S19°26'48"W 25.44 FEET; THENCE N59°53'01"W 10.18 FEET; THENCE N19°26'48"E 25.44 FEET TO THE POINT OF BEGINNING.

SAID TEMPORARY EASEMENT BEING 20.00 FEET ON EITHER SIDE OF THE PROPOSED SEWER, EXCEPT THAT PART OF THE PERMANENT EASEMENT BEING 10.00 FEET ON EITHER SIDE OF THE PROPOSED SEWER.

PARCEL 026-0001-0107 (517 HOGE ST) SEWER EASEMENT

PERMANENT EASEMENT 1:

BEGINNING FROM THE NORTHERLY MOST CORNER OF THE SUBJECT PARCEL; THENCE S59°53'01"E 12.69 FEET; THENCE S19°26'48"W 13.71 FEET; THENCE S46°36'09"W 12.02 FEET; THENCE N59°53'01"W 16.49 FEET; THENCE N40°42'45"E 25.43 FEET TO THE POINT OF BEGINNING.

SAID PERMANENT EASEMENT BEING 10.00 FEET ON EITHER SIDE OF THE PROPOSED SEWER.

TEMPORARY EASEMENT 1:

COMMENCING FROM THE NORTHERLY MOST CORNER OF THE SUBJECT PARCEL; THENCE S59°53'01"E 12.69 FEET TO THE **POINT OF BEGINNING**; THENCE CONTINUING S59°53'01"E 10.18 FEET; THENCE S19°26'48"W 14.24 FEET; THENCE S46°36'09"W 11.48 FEET; THENCE N59°53'01"W 10.43 FEET; THENCE N46°36'09"E 12.02; THENCE N19°26'10"E 13.70 FEET TO THE POINT OF BEGINNING.

SAID TEMPORARY EASEMENT BEING 20.00 FEET ON EITHER SIDE OF THE PROPOSED SEWER, EXCEPT THAT PART OF THE PERMANENT EASEMENT BEING 10.00 FEET ON EITHER SIDE OF THE PROPOSED SEWER.

PARCEL 026-0001-0108 (515 HOGE ST) SEWER EASEMENT

PERMANENT EASEMENT 1:

BEGINNING FROM THE NORTHERLY MOST CORNER OF THE SUBJECT PARCEL; THENCE S59°53'01"E 16.49 FEET; THENCE S46°36'09"W 61.51 FEET; THENCE S65°19'24"W 22.28 FEET; THENCE N83°56'26"W 0.75 FEET; THENCE N40°42'45"E 78.83 FEET TO THE POINT OF BEGINNING.

SAID PERMANENT EASEMENT BEING 10.00 FEET ON EITHER SIDE OF THE PROPOSED SEWER.

TEMPORARY EASEMENT 1:

COMMENCING FROM THE NORTHERLY MOST CORNER OF THE SUBJECT PARCEL; THENCE S59°53'01"E 16.49 FEET TO THE **POINT OF BEGINNING**; THENCE CONTINUING S59°53'01"E 10.43 FEET; THENCE S46°36'09"W 66.11 FEET; THENCE S65°19'24"W 7.11 FEET; THENCE N83°56'26"W 19.57 FEET; THENCE N65°19'24"E 22.28 FEET; THENCE N46°36'09"E 61.51 FEET TO THE POINT OF BEGINNING.

SAID TEMPORARY EASEMENT BEING 20.00 FEET ON EITHER SIDE OF THE PROPOSED SEWER, EXCEPT THAT PART OF THE PERMANENT EASEMENT BEING 10.00 FEET ON EITHER SIDE OF THE PROPOSED SEWER.

PARCEL 026-0001-0098 (438 DELTA AVE) SEWER EASEMENT

PERMANENT EASEMENT 1:

BEGINNING FROM THE EASTERLY MOST CORNER OF THE SUBJECT PARCEL; THENCE S40°42'45"W 129.69 FEET; THENCE N83°56'26"W 38.38 FEET; THENCE N65°19'24"E 52.62 FEET; THENCE N46°36'09"E 65.40 FEET; THENCE N19°26'48"E 38.08 FEET; THENCE S59°53'01"E 17.05 FEET ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF WIDMAN PLACE (50 FEET WIDE) TO THE POINT OF BEGINNING.

SAID PERMANENT EASEMENT BEING 10.00 FEET ON EITHER SIDE OF THE PROPOSED SEWER.

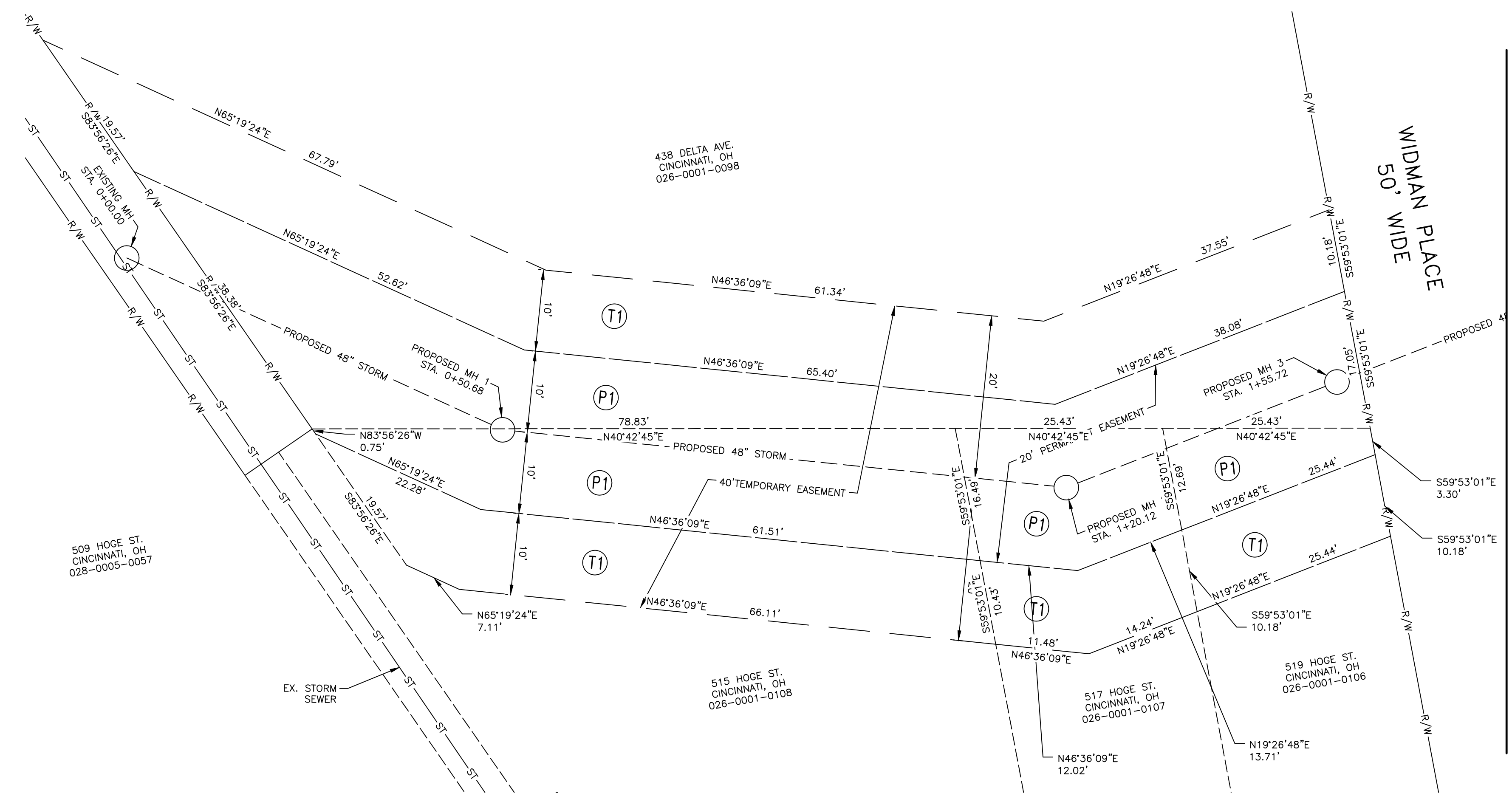
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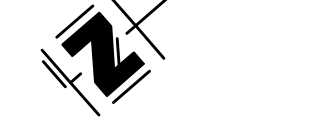
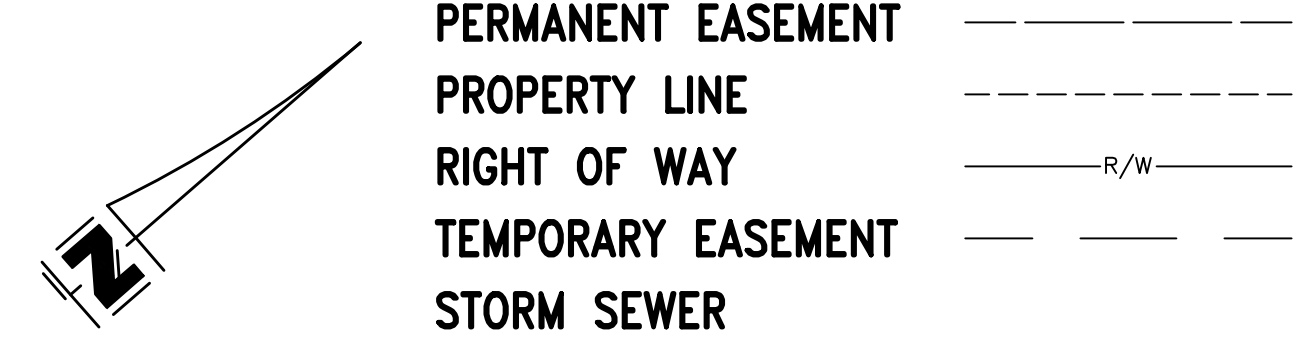
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PLOTTED BY: BARBER

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026-0001-0098	T1	1,614 SQ. FT.
026-0001-0108	P1	881 SQ. FT.
026-0001-0108	T1	785 SQ. FT.
026-0001-0107	P1	402 SQ. FT.
026-0001-0107	T1	257 SQ. FT.
026-0001-0106	P1	200 SQ. FT.
026-0001-0106	T1	254 SQ. FT.



MATCH LINE SEE SHEET 2

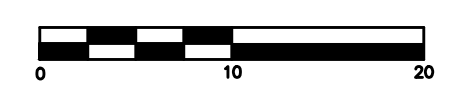


DESIGNED BY:		DATE:		REVISIONS	
BY:		DATE:		DESCRIPTION:	



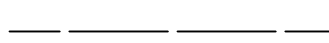

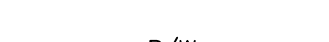


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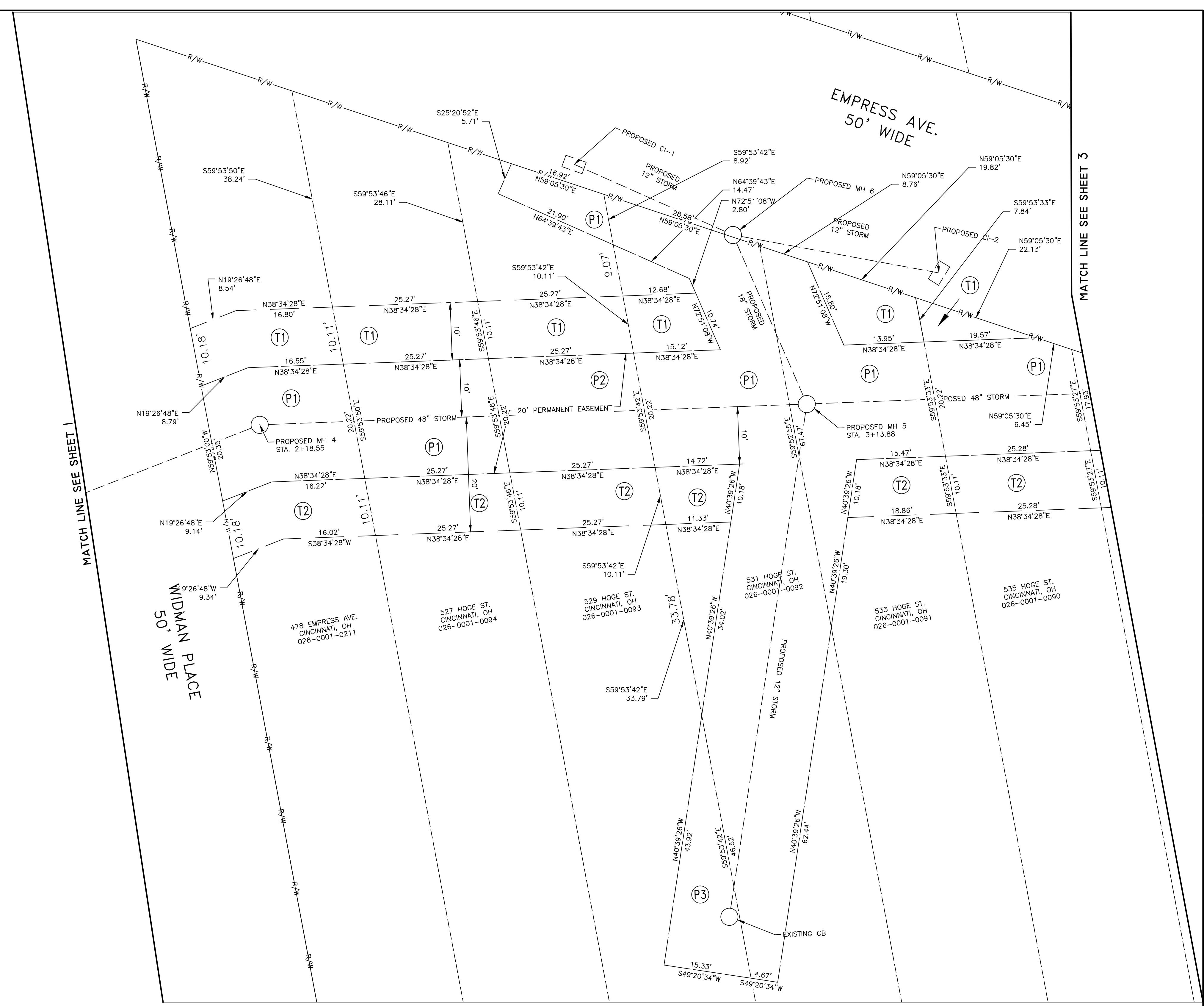
PROPOSED PROJECT NO. 184185
SCALE: HORIZ. 1"=10'



DELTA AVENUE-WIDMAN PLACE
SEWER
PERMANENT AND TEMP. EASEMENT

PARCEL NO.	DESCRIPTION	AREA
026-0001-0211	P1	507 SQ. FT.
026-0001-0211	T1	253 SQ. FT.
026-0001-0211	T2	254 SQ. FT.
026-0001-0094	P1	505 SQ. FT.
026-0001-0094	T1	253 SQ. FT.
026-0001-0094	T2	253 SQ. FT.
026-0001-0093	P1	129 SQ. FT.
026-0001-0093	P2	505 SQ. FT.
026-0001-0093	P3	337 SQ. FT.
026-0001-0093	T1	253 SQ. FT.
026-0001-0093	T2	253 SQ. FT.
026-0001-0092	P1	2193 SQ. FT.
026-0001-0092	T1	139 SQ. FT.
026-0001-0092	T2	130 SQ. FT.
026-0001-0091	P1	800 SQ. FT.
026-0001-0091	T1	171 SQ. FT.
026-0001-0091	T2	172 SQ. FT.
026-0001-0090	P1	499 SQ. FT.
026-0001-0090	T1	76 SQ. FT.
026-0001-0090	T2	253 SQ. FT.

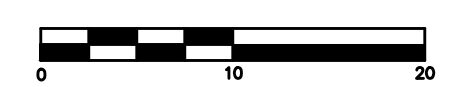
PERMANENT EASEMENT 
 PROPERTY LINE 
 RIGHT OF WAY 
 TEMPORARY EASEMENT 
 STORM SEWER 



DESIGNED BY:	REVISIONS		
	BY:	DATE:	DESCRIPTION:

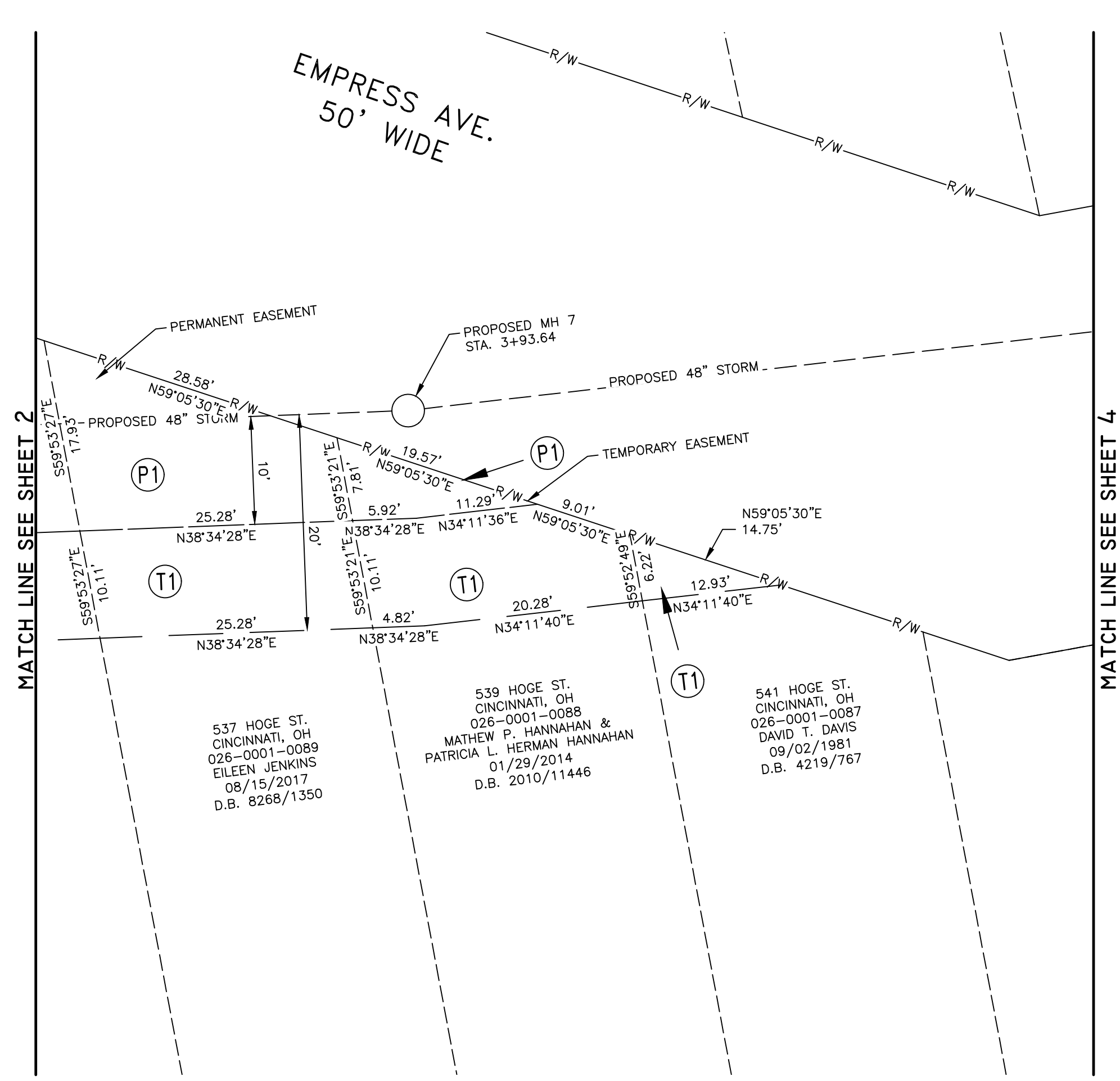


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PROPOSED PROJECT NO. 184185
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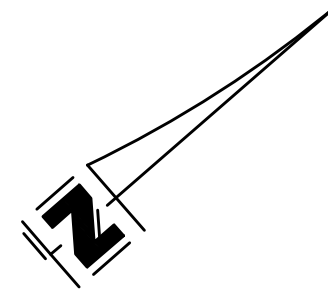
DELTA AVENUE-WIDMAN PLACE
 SEWER
 PERMANENT AND TEMP. EASEMENT
 ACC. NO. _____ SHEET 1 OF 4 184185

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 DATE: Aug 28, 2020 03:37 PM
 PLOTTED BY: BARBER



PARCEL NO.	DESCRIPTION	AREA
026-0001-0089	P1	322 SQ. FT.
026-0001-0089	T1	253 SQ. FT.
026-0001-0088	P1	69 SQ. FT.
026-0001-0088	T1	236 SQ. FT.
026-0001-0087	T1	40 SQ. FT.

PERMANENT EASEMENT
 PROPERTY LINE
 RIGHT OF WAY
 TEMPORARY EASEMENT
 STORM SEWER



PATH: C:\PW\WORK\BARBER\0946601\VSP-BASE-GCW200101H - EASEMENTS 08.28.20 (CITY REVIEW SET).DWG
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 PLOTTED BY: BARBER

DESIGNED BY:	REVISIONS		
	BY:	DATE:	DESCRIPTION:
DRAWN BY:			

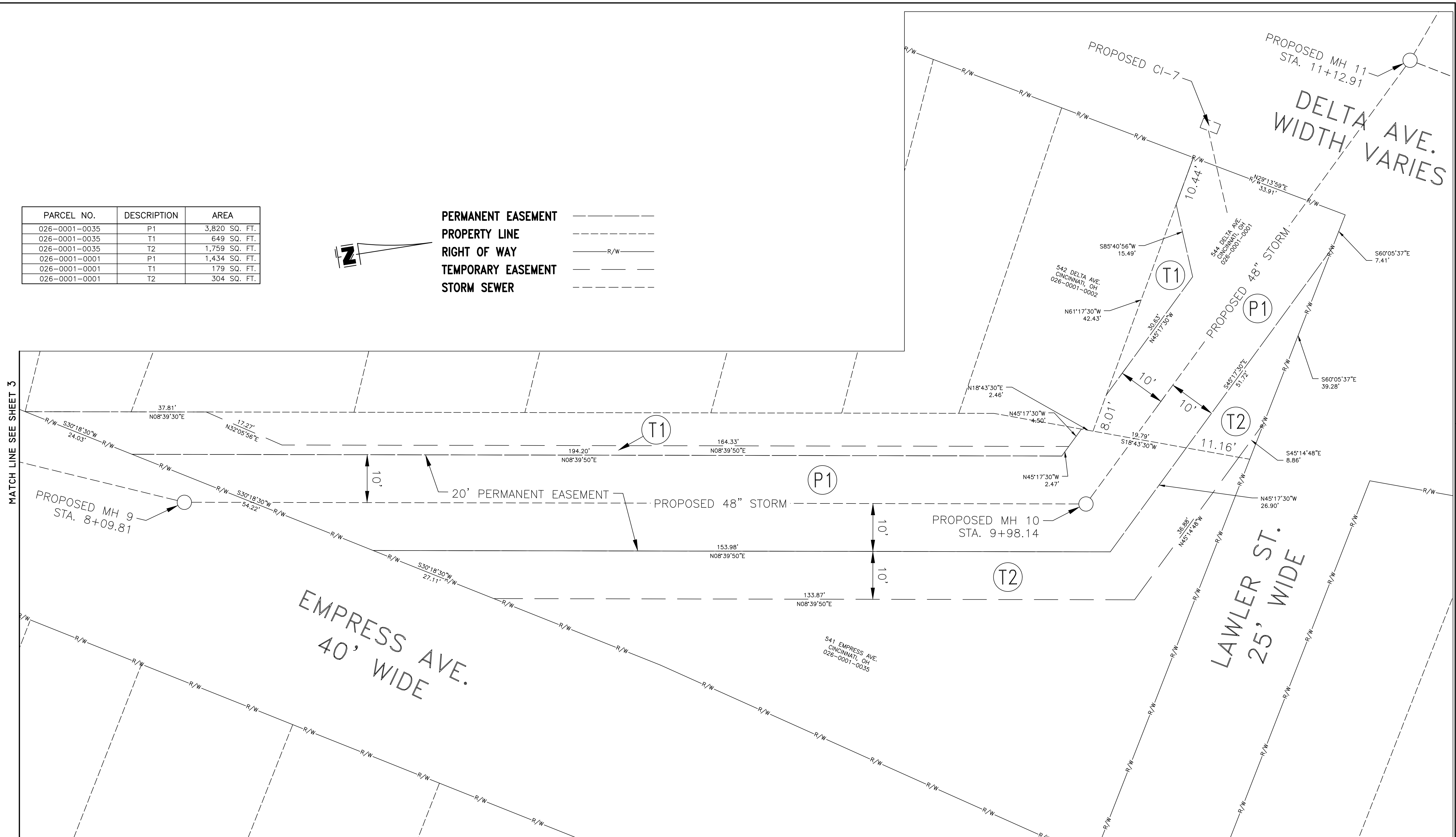
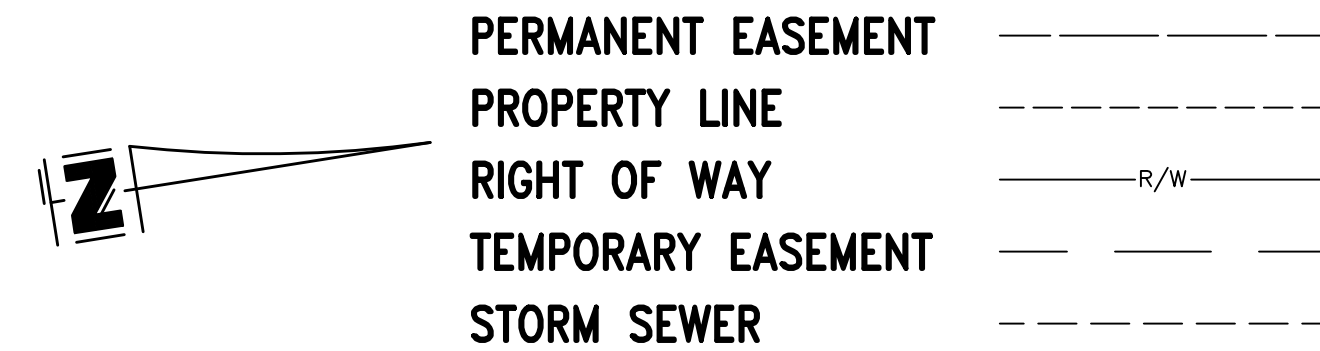


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PLAT BOOK:
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PROPOSED PROJECT NO. 184185
 SCALE: HORIZ. 1"=10'

DELTA AVENUE-WIDMAN PLACE SEWER
PERMANENT AND TEMP. EASEMENT

PARCEL NO.	DESCRIPTION	AREA
026-0001-0035	P1	3,820 SQ. FT.
026-0001-0035	T1	649 SQ. FT.
026-0001-0035	T2	1,759 SQ. FT.
026-0001-0001	P1	1,434 SQ. FT.
026-0001-0001	T1	179 SQ. FT.
026-0001-0001	T2	304 SQ. FT.



MATCH LINE SEE SHEET 3

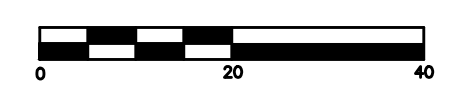
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PLAT BOOK:
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PROPOSED PROJECT NO. 184185
SCALE: HORIZ. 1"=10'

DELTA AVENUE-WIDMAN PLACE
SEWER
PERMANENT AND TEMP. EASEMENT



November 9, 2020

To: Mayor and Members of City Council 202002117
From: Paula Boggs Muething, City Manager
Subject: Emergency Ordinance – Modifying Chapter 313 Outdoor Advertising Sign Excise Tax

Transmitted herewith is an emergency ordinance captioned as follows:

MODIFYING the provisions of Chapter 313, “Outdoor Advertising Sign Excise Tax,” of Title III, “Financial, Personnel, Procurement and Real Property Procedures,” of the Cincinnati Municipal Code by **AMENDING** Section 313-1-O, “Outdoor Advertising Sign,” and Section 313-5, “Exemptions,” and by **REPEALING** Section 313-7, “Tax Not to be Separately Stated or Charged”; and further **MODIFYING** the provisions of Chapter 895, “Outdoor Advertising Signs,” of Title VIII, “Business Regulations,” of the Cincinnati Municipal Code by **AMENDING** Section 895-1-O, “Outdoor Advertising Sign,” and Section 895-2, “Applicability,” by **REPEALING** Section 895-10, “Additional Permitted Uses of Outdoor Advertising Signs,” and by **ORDAINING** new Section 895-29, “Severability,” to provide additional clarity regarding the applicability of the City’s outdoor advertising excise tax to the owners and operators of outdoor advertising signs.

This ordinance modifies Chapter 313, “Outdoor Advertising Sign Excise Tax,” and Chapter 895, “Outdoor Advertising Signs,” of the Cincinnati Municipal Code to provide additional clarity regarding the applicability of the outdoor advertising sign excise tax to the owners and operators of outdoor advertising signs, i.e. billboards. These laws are the subject of pending litigation, and the proposed changes to these laws reinforce the Council’s intent to apply the City’s outdoor advertising sign excise tax consistent with constitutional requirements and applicable law.

The City’s outdoor advertising excise tax was adopted by the Council in connection with its passage of the FY19 budget. The tax was soon challenged in the Hamilton County Court of Common Pleas by two large billboard operators, Lamar Advertising and Norton Outdoor Advertising. The trial judge issued a temporary injunction preventing the City from collecting the tax, and the trial judge later made its injunction permanent on the grounds that it violates the First Amendment.

The City appealed the trial judge’s injunction to the First District Court of Appeals. The appellate court reversed the trial judge in part and held that the City’s outdoor advertising excise tax is constitutional. But it did uphold that part of the trial judge’s injunction that held Section 313-7 of Chapter 313 to be unconstitutional. Lamar Advertising and Norton Outdoor Advertising have appealed this decision to the Ohio Supreme Court, and the matter will be briefed and argued over the coming months.

The changes to Chapters 313 and 895 clarify and confirm the Council's intent that the outdoor advertising tax apply to billboard owner and operators consistent with constitutional standards. They include refining the definition of outdoor advertising sign to comprise those signs used by their owners and operators to engage in the sign rental business without regard to the messages placed on them, and further include distinguishing signs located on government property that are governed by separate legal and constitutional requirements. The changes also include repealing Section 313-7 of Chapter 313.

The reason for the emergency is the immediate need to provide additional clarity regarding the applicability of the City's outdoor advertising excise tax to the owners and operators of outdoor advertising signs.

cc: John Juech, Assistant City Manager

EMERGENCY

City of Cincinnati

MEH

AWB

An Ordinance No. _____

- 2020

MODIFYING the provisions of Chapter 313, "Outdoor Advertising Sign Excise Tax," of Title III, "Financial, Personnel, Procurement and Real Property Procedures," of the Cincinnati Municipal Code by **AMENDING** Section 313-1-O, "Outdoor Advertising Sign," and Section 313-5, "Exemptions," and by **REPEALING** Section 313-7, "Tax Not to be Separately Stated or Charged"; and further **MODIFYING** the provisions of Chapter 895, "Outdoor Advertising Signs," of Title VIII, "Business Regulations," of the Cincinnati Municipal Code by **AMENDING** Section 895-1-O, "Outdoor Advertising Sign," and Section 895-2, "Applicability," by **REPEALING** Section 895-10, "Additional Permitted Uses of Outdoor Advertising Signs," and by **ORDAINING** new Section 895-29, "Severability," to provide additional clarity regarding the applicability of the City's outdoor advertising excise tax to the owners and operators of outdoor advertising signs.

WHEREAS, the City Council wishes to modify the provisions of Chapter 313, "Outdoor Advertising Sign Tax," and Chapter 895, "Outdoor Advertising Signs," of the Cincinnati Municipal Code to provide additional clarity regarding the applicability of the City's outdoor advertising excise tax to the owners and operators of outdoor advertising signs; and

WHEREAS, this includes Council's desire to repeal the provisions of Section 313-7, "Tax Not to be Separately Stated or Charged," of the Cincinnati Municipal Code in order to remove that section from the Cincinnati Municipal Code; now, therefore,

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

Section 1. That Section 313-1-O, "Outdoor Advertising Sign," and Section 313-5, "Exemptions," of Chapter 313, "Outdoor Advertising Sign Excise Tax," are hereby amended to read as follows:

Sec. 313-1-O. - Outdoor Advertising Sign.

"Outdoor Advertising Sign" shall mean an outdoor advertising sign as that term is defined in Cincinnati Municipal Code section 895-1-O, "Outdoor Advertising Sign," ~~and shall include an outdoor advertising sign used from time to time as a noncommercial sign or an on-site commercial sign as provided in section 895-10,~~ "Additional Permitted Uses of Outdoor Advertising Signs."

Sec. 313-5. - Exemptions.

- (a) The tax shall not apply to the installation, placement, or maintenance of the following outdoor advertising signs:

- (i) Those signs that are not offered or made available by an advertising host for use by an advertiser in exchange for rent or other consideration within the applicable tax year, and for which signs the advertising host does not receive, or accrue the right to receive, rent or other consideration from an advertiser in exchange for the use of the sign within the same tax year ~~Those signs owned, controlled, leased, licensed, or otherwise used by the United States, the State of Ohio, or the city of Cincinnati;~~
 - (ii) ~~Those signs exempt from outdoor advertising sign regulations pursuant to Cincinnati Municipal Code section 895-2, "Applicability," or Cincinnati Municipal Code Section 1427-07, "Signs Located on Public Property"; or~~
 - (iii) Those signs not exceeding 36 square feet in total sign face area.
- (b) No exemption claimed under paragraph (a)(i) of this section shall be granted except upon a claim made, under penalty of perjury, at the time a return is filed pursuant to section 313-11.

Section 2. That existing Section 313-1-O, "Outdoor Advertising Sign," and Section 313-5, "Exemptions," of Chapter 313, "Outdoor Advertising Sign Excise Tax," are hereby repealed.

Section 3. That Section 313-7, "Tax Not to be Separately Stated or Charged," of Chapter 313, "Outdoor Advertising Sign Excise Tax," is hereby repealed.

Section 4. That Section 895-1-O, "Outdoor Advertising Sign," and Section 895-2, "Applicability," of Chapter 895, "Outdoor Advertising Signs," are hereby amended to read as follows:

Sec. 895-1-O. - Outdoor Advertising Sign.

"Outdoor Advertising Sign" means either of the following: (i) a sign for which its owner or operator receives, or is entitled to receive, rent or other consideration from another person or entity in exchange for the use of the sign, including for the placement of a message on the sign; or (ii) a sign that is offered or made available by its owner or operator for use by another person or entity, including for the placement of a message on the sign, in exchange for rent or other consideration shall have the same meaning as "Off Site Sign," as that term is defined in Section 1427-03-O, "Off Site Sign," of the Cincinnati Municipal Code.

Sec. 895-2. – Applicability.

The provisions of this Chapter apply to all outdoor advertising signs except as otherwise provided by law. Signs not governed by this Chapter include:

- (a) Signs erected or displayed in the public right-of-way and authorized under Chapter 723 of the Municipal Code; and
- (b) Signs erected or displayed on Fountain Square pursuant to Rules and Regulations for the Use of Fountain Square as authorized by Chapter 713 of the Municipal Code; and
- (c) Signs approved by the City for a special event authorized under chapter 765 of the Municipal Code or other event authorized under Park Board rules; and
- (d) Signs erected or displayed on city-owned property by the City of Cincinnati or by a third-party pursuant to a contract with the city subject to reasonable, uniform, viewpoint-neutral limitations that ensure the signs do not undermine the city's interests, including its interests in aesthetics and traffic safety; and
- (e) Signs erected or displayed on property owned by a governmental entity pursuant to a contract with the city subject to reasonable limitations that ensure the signs do not undermine the city's interests, including its interests in aesthetics and traffic safety.

Section 5. That existing Section 895-1-O, “Outdoor Advertising Sign,” and Section 895-2, “Applicability,” of Chapter 895, “Outdoor Advertising Signs,” are hereby repealed.

Section 6. That Section 895-10, “Additional Permitted Uses of Outdoor Advertising Signs,” of Chapter 895, “Outdoor Advertising Signs,” is hereby repealed.

Section 7. That Section 895-29, “Severability,” of Chapter 895, “Outdoor Advertising Signs,” is hereby ordained to read as follows:

Sec. 895-29. - Severability.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this chapter or any part thereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this chapter or any part thereof. The city council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional.

Section 8. That if any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance or any part thereof is for any reason held to be unconstitutional, such

decision shall not affect the validity of the remaining portions of this ordinance or any part thereof. The city council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional.

Section 9. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to provide additional clarity regarding the applicability of the City's outdoor advertising excise tax to the owners and operators of outdoor advertising signs.

Passed: _____, 2020

John Cranley, Mayor

Attest: _____
Clerk

New language underscored. Deleted language indicated by strikethrough.



Greg Landsman
Councilmember

October 27, 2020

MOTION

WE MOVE that the Administration conduct a zoning study on the high-frequency and 24-hour transit corridors proposed by Reinventing Metro and provide a report to Council within **60 days**.

The study should focus on updating zoning rules along these corridors to provide flexibility on density and parking minimum requirements to increase neighborhood investments.

By conducting a zoning study, we can determine how to best attract new residents and help existing Cincinnatians live closer to these express routes.

Attachments: 24-hour route map and letter from partners



Jan-Michele Lemon Kearney
Councilmember

MOTION

WE MOVE for the Department of Transportation and Engineering (DOTe) to provide a report in response to Community Budget Requests from East Price Hill Improvement Association (EPHIA) pertaining to Purcell Street improvements, Mt. Hope Hill sidewalk, and enhanced crosswalks for the Warsaw Avenue business corridor.

A handwritten signature in blue ink that reads "Jan-Michele Lemon Kearney".

Councilmember Jan-Michele Lemon Kearney



202002010

David S. Mann
Councilmember

October 19, 2020

MOTION

WE MOVE that the City administration, in light of a recent fatality on Langdon Farm Road, immediately work with Pleasant Ridge Neighborhood representatives to develop a plan to remedy the documented safety issues along this heavily travelled road.

David Mann SAC
Councilmember David Mann

Statement:

The Pleasant Ridge Community Council (PRCC) has submitted lane re-striping plans for Langdon Farm Road to change the now 4-lane road to 2; this in effect is a “road diet” that has proven effective in speed calming.

The City Department of Transportation has scheduled a renovation of Langdon Farm Road for 2022 that will include some restriping and other safety improvements. However, measures, even temporary, have to be put in place now to prevent more fatalities until full renovation can take place.

CAL

01080002

TO: DIRECTOR, CALIFORNIA DEPARTMENT OF HEALTH SERVICES
FROM: [Illegible]

James M. [Illegible]
[Illegible Title]

RE: [Illegible]

[Illegible]

Date: November 6, 2020

To: Vice Mayor Christopher Smitherman
From: Andrew W. Garth, Interim City Solicitor *AWG*
Subject: **Ordinance – PTWG Residential CRA Caps and Changes to Units (C
VERSION)**

Transmitted herewith is an ordinance captioned as follows:

AMENDING Ordinance Nos. 274-2017, 275-2017, and 276-2017 to reflect certain real property tax abatement policies as proposed by members of the Property Tax Working Group, including creating additional caps on residential real property tax abatements and expanding the definition of residential properties to include structures containing four dwelling units.

AWG/KMG/(lnk)
Attachment
321300.6

City of Cincinnati

KMG/C

AWB

An Ordinance No. _____ - 2020

AMENDING Ordinance Nos. 274-2017, 275-2017, and 276-2017 to reflect certain real property tax abatement policies as proposed by members of the Property Tax Working Group, including creating additional caps on residential real property tax abatements and expanding the definition of residential properties to include structures containing four dwelling units.

WHEREAS, Ordinance No. 274-2017, passed by this Council on September 27, 2017, as amended by Ordinance No. 166-2018, passed by this Council on June 27, 2018 (as amended, the “Reauthorizing Ordinance”), designated the area within the corporate boundaries of the City of Cincinnati as a “Community Reinvestment Area” (“CRA”) pursuant to Ohio Revised Code Sections 3735.65 through 3735.70 (the “Statute”); and

WHEREAS, effective October 23, 2017, the Director of Development of the State of Ohio determined that the area within the corporate boundaries of the City of Cincinnati contains the characteristics set forth in the Statute and confirmed such area as a Community Reinvestment Area under the Statute; and

WHEREAS, Ordinance No. 275-2017, passed by this Council on September 27, 2017, as amended by Ordinance No. 339-2018, passed by this Council on October 31, 2018 (as amended, the “Commercial Policy Ordinance”), sets forth certain additional policies, conditions, and limitations regarding newly constructed or remodeled commercial structures in the CRA; and

WHEREAS, Ordinance No. 276-2017, passed by this Council on September 27, 2017 (the “Residential Policy Ordinance”), sets forth certain additional policies, conditions, and limitations regarding newly constructed or remodeled residential structures in the CRA; and

WHEREAS, Motion Nos. 201801401 and 201900467, as adopted by this Council on October 3, 2018, and April 3, 2019, respectively, established the Property Tax Working Group to (i) study trends related to real property taxes, especially the issue of rising real property taxes in areas of significant levels of development; (ii) make recommendations to Council aimed at helping to keep senior citizens in their homes and communities; (iii) report on best practices in other cities and states facing similar challenges; and (iv) review the City’s real property tax abatement program; and

WHEREAS, Motion No. 202000945, as adopted by this Council on September 2, 2020, sets forth certain short-term and long-term recommendations from the Property Tax Working Group related to the City’s CRA, including expanding the definition of residential properties to include structures containing four dwelling units; and

WHEREAS, Motion No. 202000990, as adopted by this Council on September 2, 2020, recommends amending the caps on residential real property tax abatements, as set forth in the Residential Policy Ordinance, including by adding new caps in certain circumstances; and

WHEREAS, City Council desires to amend the Reauthorizing Ordinance, the Commercial Policy Ordinance, and the Residential Policy Ordinance to (i) expand the definition of residential properties to include structures containing four dwelling units and (ii) create additional caps on residential real property tax abatements and make certain other changes, as applicable; now, therefore,

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

Section 1. That Sections 4, 5, 6, 7, and 8 of Ordinance No. 274-2017, passed by this Council on September 27, 2017, as amended by Ordinance No. 166-2018, passed by this Council on June 27, 2018 (as amended, the “Reauthorizing Ordinance”), are hereby amended as follows:

Section 4. That the Director of the City’s Department of Community and Economic Development or his or her designee is hereby designated as the housing officer (as such term is defined in Ohio Revised Code Section 3735.65(A)) for the City of Cincinnati Community Reinvestment Area.

Section 5. That except as may be otherwise provided by this Council, exemptions for remodeling or new construction of commercial (including residential apartment structures containing ~~four~~five or more dwelling units, but excluding owner-occupied residential condominium structures), industrial and mixed-use structures (collectively, “Commercial Improvements”) are conditioned upon the execution of a CRA Agreement in a form required by the City (following separate approval by ordinance of Council) prior to commencement of construction or remodeling, as provided in Ohio Revised Code Section 3735.671, specifying the term and percentage of the exemption and any additional conditions applicable to the exemption as may be required by law or agreed upon by the City and any parties thereto.

Section 6. That except as may be otherwise provided by this Council, exemptions for remodeling or new construction of one-, two-, ~~and three-, and~~ four-dwelling unit residential structures are not conditioned upon the execution of a CRA Agreement. For the purposes of this ordinance, each owner-occupied residential condominium unit is considered a separate structure containing one dwelling unit.

Section 7. That Council (a) acknowledges that written agreements with respect to Commercial Improvements involve an application fee payable by the applicant to the Ohio Development Services Agency in the amount of \$750.00 and an application fee payable by the applicant to the City of Cincinnati in the

amount of \$1,250, (b) establishes an application fee for exemptions for remodeling or new construction of one-, two-, ~~and three-, and four-~~dwelling unit residential structures in the amount of \$250, and (c) establishes an annual fee to be included as a condition of each CRA Agreement in an amount equal to one percent of the annual real property tax exemption, but which shall in no event be less than \$500 per year or more than \$2,500 per year per CRA Agreement.

Section 8. That this Council acknowledges the City's obligations under that certain ~~Agreement by and between the City and the City School District of the City of Cincinnati dated July 2, 1999, as amended~~ Tax Incentive Agreement effective as of April 28, 2020, by and between the City and the Board of Education of the Cincinnati City School District, as the same may hereinafter be amended, modified, or restated.

Section 2. That the first recital and Section 2 of Ordinance No. 275-2017, passed by this Council on September 27, 2017, as amended by Ordinance No. 339-2018, passed by this Council on October 31, 2018 (as amended, the "Commercial Policy Ordinance") are hereby amended as follows:

WHEREAS, pursuant to an ordinance passed on or before the date of this ordinance, City Council has enacted legislation to reauthorize the City of Cincinnati Community Reinvestment Area (the "CRA") pursuant to Ohio Revised Code Sections 3735.65 through 3735.70 (the "Statute"), which, upon confirmation of the findings therein by the Director of the Ohio Development Services Agency, will authorize up to the maximum real property tax exemptions for newly constructed and remodeled commercial (including residential apartment structures containing ~~four~~five or more dwelling units, but excluding owner-occupied residential condominium structures), industrial and mixed use structures (collectively, "Commercial Improvements") permitted pursuant to the Statute within the CRA; and

Section 2. That City Council hereby requests that the City Administration include a determination consistent with the point system attached hereto as Exhibit A (the "Points Determination") when transmitting a Community Reinvestment Area ("CRA") real property tax exemption ordinance to City Council pertaining to the remodeling or new construction of a commercial structure, a mixed-use structure or a residential structure containing ~~four~~five or more units (excluding owner-occupied residential condominium structures) (collectively, "Commercial Improvements") and located outside of the area depicted on Exhibit B (the area depicted on such exhibit being the "Streetcar VTICA Area"). The period and percentage of the real property tax exemption determined by the City Administration shall be in accordance with the Points Determination except as described in Section 3 below.

Section 3. That the first recital and Sections 2, 3, 4, and 6 of Ordinance No. 276-2017, passed by this Council on September 27, 2017 (the “Residential Policy Ordinance”) are hereby amended as follows:

WHEREAS, pursuant to an ordinance passed on or before the date of this ordinance, City Council has enacted legislation to reauthorize the City of Cincinnati Community Reinvestment Area (the “CRA”) pursuant to Ohio Revised Code Sections 3735.65 through 3735.70 (the “Statute”), which, upon confirmation of the findings therein by the Director of the Ohio Development Services Agency, will authorize up to the maximum real property tax exemptions for newly constructed and remodeled one-, two-, ~~and three-~~, and four-dwelling unit residential structures (including owner-occupied residential condominium structures) (collectively, “Residential Improvements”) permitted pursuant to the Statute within the CRA; and

Section 2. That City Council approves real property tax exemptions for one-, two-, ~~and three-~~, and four-dwelling unit residential structures (collectively, “Residential Improvements”) in the amounts and for the durations listed on the applicable table within Exhibit A attached hereto and fully incorporated herein, *provided that* the Residential Improvements satisfy all other requirements for a real property tax exemption under this ordinance and the ordinance establishing the City of Cincinnati Community Reinvestment Area (“CRA”) passed on or prior to the date hereof (the “Reauthorizing Ordinance”). For the purposes of this ordinance, each owner-occupied residential condominium unit is considered a separate structure containing one dwelling unit. For the avoidance of doubt, a Residential Improvement constructed pursuant to a permit for new construction or an addition constitutes new construction and not remodeling.

Section 3. That in order to be eligible for the corresponding (a) U.S. Green Building Council Leadership in Energy and Environmental Design (“LEED”) or (b) Living Building Challenge (“LBC”) Net Zero, Full, or Petal (which must comply with the requirements of “Energy Petal” of the LBC) (collectively, “LBC Qualified” and the attainment of such criteria being “LBC Qualification”) real property tax exemption, an applicant must provide the City with evidence of the certification of the completed structure to the required LEED standard (~~Certified~~, Silver, Gold, or Platinum) by the U.S. Green Building Council or of LBC Qualification with reference to the applicable LBC standards and certifications provided by the International Living Future Institute, as applicable, and satisfy all other requirements for a real property tax exemption under this ordinance and the Reauthorizing Ordinance.

Section 4. That in order for a remodeled Residential Improvement to be eligible for a Home Energy Rating System (“HERS”) bonus to a real property tax

exemption, an applicant must (a) have a certified Home Energy Rater conduct a home energy rating (“Initial Rating”) and (b) (i) if the structure’s initial index score from the Initial Rating is equal to or above 85, the applicant must reduce the structure’s index score to at most 70 or (ii) if the structure’s initial index score from the Initial Rating is below 85, the applicant must reduce their HERS score by at least 20% (each of the foregoing (1) as confirmed by a certified Home Energy Rater conducting a second home energy rating (“Subsequent Rating”) and (2) will make the Residential Improvement “HERS Qualified”). Documentation establishing the index score from Initial Rating and the Subsequent Rating must be provided to the City in order for the remodeled Residential Improvement to be HERS Qualified.

Section 6. That in order to be eligible for a tax exemption pursuant to this ordinance and as required by State law, the cost of the remodeling or new construction of (a) a Residential Improvement containing one or two dwelling units must be at least \$2,500 and (b) a Residential Improvement containing three or four dwelling units must be at least \$5,000.

Section 4. That the Residential Policy Ordinance is hereby amended by adding a new

Section 13 as follows:

Section 13. That in order to be eligible for a historic restoration real property tax exemption, “.....a remodeled Residential Improvement must have been built no later than 1920, as memorialized in the County Auditor’s records and during the term of the exemption, no Residential Improvements that constitute “new construction” shall be constructed on the subject property (“Historic Restoration”).

Section 5. That Exhibit A to the Residential Policy Ordinance is hereby amended by substituting the Exhibit A attached to this ordinance in its place.

Section 6. That this ordinance shall only apply to applications for tax exemption for Residential Improvements where the remodeling or construction commenced on and after January 1, 2022, as either evidenced by permits issued by the City’s Department of Buildings and Inspections, if required pursuant to applicable law, or if permits are not required by applicable law, as determined by the housing officer.

Section 7. That all applications made, abatement agreements executed, and abatements granted pursuant to the Reauthorizing Ordinance, the Commercial Policy Ordinance, and the

Residential Policy Ordinance shall continue in force in accordance with the provisions of the ordinance applicable to that application, agreement, or grant of abatement, in effect at the time of the application, execution of the agreement, or grant of abatement, respectively.

Section 8. That existing (i) Sections 1-3 and 9-17 of the Reauthorizing Ordinance, (ii) the remaining recitals and Sections 1 and 3-20 of the Commercial Policy Ordinance, and (iii) the remaining recitals and Sections 1, 5, and 7-12 of the Residential Policy Ordinance shall remain in full force and effect.

Section 9. That the proper City officials are hereby authorized to do all things necessary to carry out the provisions of this ordinance.

Section 10. That the Clerk of Council is directed to send a certified copy of this ordinance to the County Auditor of Hamilton County as a matter of information.

Section 11. That the Clerk of Council is directed to publish this ordinance in the City Bulletin once a week for two consecutive weeks immediately following its adoption.

Section 12. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed: _____, 2020

John Cranley, Mayor

Attest: _____
Clerk

New ordinance language underscored. Deleted ordinance language indicated by strikethrough.

Exhibit A

(Residential CRA Program)

The applicable City officials are hereby directed to award real property tax abatements in the below amounts and durations, based upon the conditions present in the Residential Improvement and in accordance with this ordinance and the Reauthorizing Ordinance. For the avoidance of doubt, in the event a property is subject to multiple real property tax abatements at a given time pursuant to this ordinance, at no point shall the total value of the abatements exceed the applicable maximum market improved value per the tables below.

Remodeling:

Conditions Present in Remodeling of Residential Improvement	Maximum Market Improved Value	Length of Abatement	Percentage of Abatement
Non-LEED, Non-LBC Qualified and not HERS Qualified	\$200,000*	12 years	100%
HERS Qualified	\$300,000*	15 years	100%
LEED Silver	\$500,000*	15 years	100%
LEED Gold or LBC Net Zero	\$650,000*	15 years	100%
LEED Platinum, LBC Full or LBC Petal (must include “Energy Petal”)	\$800,000*	15 years	100%

***If the Residential Improvement is certified to the Cincinnati Visitability and Universal Design Standards or is a Historic Restoration, then the maximum market improved value is increased by \$100,000.**

New Construction:

Conditions Present in New Construction of Residential Improvement	Maximum Market Improved Value	Length of Abatement	Percentage of Abatement
Non-LEED or Non-LBC Qualified	\$200,000*	10 years	100%
LEED Silver	\$400,000*	15 years	100%
LEED Gold or LBC Net Zero	\$500,000*	15 years	100%
LEED Platinum, LBC Full or LBC Petal (must include "Energy Petal")	\$650,000*	15 years	100%

***If the Residential Improvement is certified to the Cincinnati Visitability and Universal Design Standards, then the maximum market improved value is increased by \$100,000.**