



City of Cincinnati

801 Plum Street
Cincinnati, OH 45202

Agenda - Final

Budget and Finance Committee

Chairperson Reggie Harris
Vice Chair Jeff Cramerding
Councilmember Mark Jeffreys
Councilmember Scotty Johnson
Vice Mayor Jan-Michele Kearney
Councilmember Liz Keating
Councilmember Meeka Owens
Councilmember Seth Walsh
President Pro Tem Victoria Parks

Monday, September 18, 2023

1:00 PM

Council Chambers, Room 300

AGENDA

COMMUNITY REINVESTMENT AREA AGREEMENTS

1. [202301964](#) **ORDINANCE (EMERGENCY)** submitted by Sheryl M. M. Long, City Manager, on 9/7/2023, **APPROVING AND AUTHORIZING** the City Manager to execute a Community Reinvestment Area Tax Exemption Agreement with So Much Better, LLC, thereby authorizing an eight-year tax exemption for 100 percent of the value of improvements made to real property located at 635 Main Street in the Central Business District of Cincinnati, in connection with the remodeling of an existing building into approximately 1,920 square feet of commercial space and 1,720 square feet of office space, at a total construction cost of approximately \$557,501.

Sponsors: City Manager

Attachments: [Transmittal](#)

[Ordinance](#)

[Attachment](#)

DONATIONS

2. [202301986](#) **ORDINANCE (EMERGENCY)** submitted by Sheryl M. M. Long, City Manager, on 9/13/2023, **AUTHORIZING** the City Manager and employees of the Cincinnati Recreation Commission to accept donations of money and in-kind contributions from the Cincinnati Recreation Foundation valued individually at up to \$20,000 for the purpose of supporting Cincinnati Recreation Commission programming and services; **AUTHORIZING** the City Manager and employees of the Cincinnati Recreation Commission to accept donations of money and in-kind contributions from the Cincinnati business community, individual benefactors, and other appropriate sources valued individually at up to

\$5,000 for the purpose of supporting Cincinnati Recreation Commission programming and services; and **AUTHORIZING** the Director of Finance to deposit donated funds accepted in accordance with these parameters into Contributions for Recreation Purposes Fund revenue account no. 319x8571.

Sponsors: City Manager

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

MUNICIPAL CODE CHANGES

3. [202301992](#) **ORDINANCE**, submitted by Sheryl M. M. Long, City Manager, on 9/13/2023, **MODIFYING** the provisions of Chapter 203, "Employees' Retirement System," of the Cincinnati Municipal Code by **AMENDING** Section 203-42, "Health Care Benefits," Section 203-43, "Health Care Benefits For Membership Dates Prior to January 9, 1997 and Retirement Effective Dates After January 1, 2016," Section 203-44, "Health Care Benefits For Membership Dates On and After January 9, 1997," and Section 203-48, "Health Care Benefits for Eligible Dependent Family Members," to implement policy changes made by the Cincinnati Retirement System Board and to clarify the parties entitled to health care benefits under Chapter 203.

Sponsors: City Manager

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

ADJOURNMENT

September 7, 2023

To: Mayor and Members of City Council

202301964

From: Sheryl M.M. Long, City Manager

Subject: Emergency Ordinance – Approving and Authorizing a CRA Tax Exemption Agreement with So Much Better LLC

Attached is an Emergency Ordinance captioned:

APPROVING AND AUTHORIZING the City Manager to execute a Community Reinvestment Area Tax Exemption Agreement with So Much Better, LLC, thereby authorizing an eight-year tax exemption for 100 percent of the value of improvements made to real property located at 635 Main Street in the Central Business District of Cincinnati, in connection with the remodeling of an existing building into approximately 1,920 square feet of commercial space and 1,720 square feet of office space, at a total construction cost of approximately \$557,501.

BACKGROUND/CURRENT CONDITIONS

The property is located at 635 Main Street near the corner of Main and E. 7th Street in the Central Business District. This historic building is approximately 150 years old and currently sits vacant. The building previously was home to the Hathaway Stamp company and at one point was a women’s hat shop. Throughout the life of the building, the ground floor has primarily been used as a commercial space, with the remaining floors being used as storage space. This project will renovate the two lower floors of the building into a reception space and law offices. The building is in excellent structural condition and maintains its historic façade.

DEVELOPER INFORMATION

So Much Better, LLC is headed by Christopher P. Finney, owner of Finney Law Firm, the Project’s future commercial tenant. Mr. Finney and his affiliated companies have been involved in several development projects, including the restoration and conversion of the adjacent property, 633 Main Street, into three residential condos and a hair salon. Other projects that Mr. Finney and his associates have completed include the renovation of a 16,000 sq. ft. office space at 7373 Beechmont Avenue, the renovation of a 14-unit office building in Ft. Thomas, Kentucky, the development and sale of the Massie’s Point and Todd’s Fork residential subdivisions, and the ownership and sale of numerous other residential units around the region.

CRA Agreement – 636 Main Street

So Much Better, LLC

Page 2

RECOMMENDATION

The Administration recommends approval of this Emergency Ordinance so that the Developer can commence construction as soon as possible.

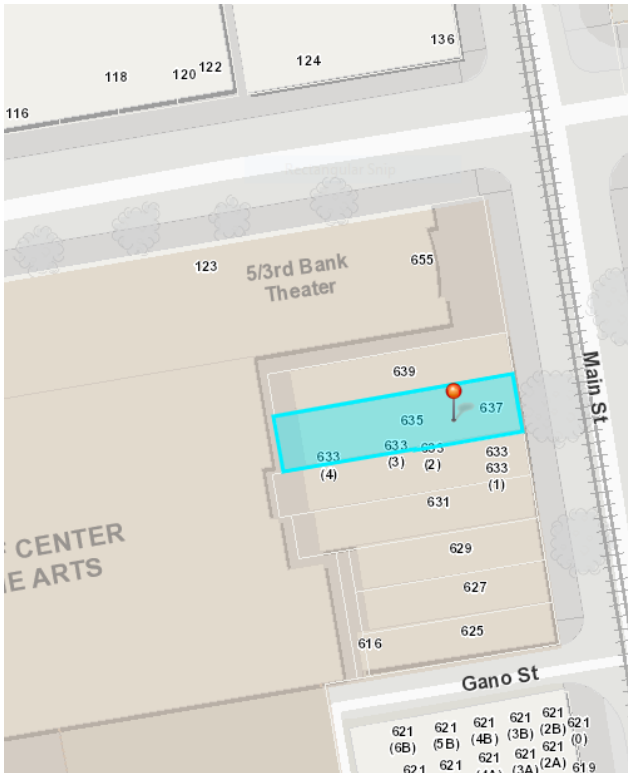
Attachment: Project Outline and Proposed Incentive

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

Project Outline

Project Name	635 Main Street
Street Address	635 Main Street
Neighborhood	Downtown
Property Condition	Primarily Vacant Building
Project Type	Renovation
Project Cost	Hard Construction Costs: \$557,501 Acquisition Costs: \$199,000 Soft Costs: \$83,575
Private Investment	Private Financing: None Developer Equity: \$840,076
Sq. Footage by Use	Commercial: 1,920 sq. ft. Office: 1,720 sq. ft.
Rent Ranges	\$23.35 per sq. ft.
Jobs and Payroll	Created FTE Positions: 9 Total Payroll for Created FTE Positions: \$987,596 Average Salary for Created FTE Positions: \$109,733 Construction FTE Positions: 1 Total Payroll for Construction FTE Positions: \$50,000
Location and Transit	Located within the Central Business District; Walk Score of 96, Transit Score of 80, and Bike Score of 64
Community Engagement	Developer has met with surrounding property owners
Plan Cincinnati Goals	Compete Initiative Area Goal 2 (p. 114-120), Sustain Initiative Area Goal 2 (p.193-198)

Project Image and Site Map



Proposed Incentive

Incentive Terms	8-year, net 52%
Incentive Application Process	Commercial CRA – Downtown Streetcar Area (Non-LEED)
“But For”	Without Abatement: Year 5: 8% (stabilized vacancy) With Abatement: Year 5: 10% (stabilized vacancy)
Environmental Building Certification	Non-LEED
VTICA	Streetcar VTICA – 15%
SBE/MBE/WBE Goals	SBE Goal of 30%
Other Incentives & Approvals	Developer is pursuing residential tax abatements for condominium units being created on the third and fourth floors of the building outside the scope of the commercial portion of this project.

Potential Taxes Forgone & Public Benefit

Taxes Forgone	Value
Annual Net Incentive to Developer	\$4,972
Total Term Incentive to Developer	\$39,774
City's Portion of Property Taxes Forgone (Term)	\$0
City's TIF District Revenue Forgone (Term)	\$55,837

Public Benefit	Value	
CPS PILOT	Annual	\$3,155
	Total Term	\$25,241
VTICA	Annual	\$1,434
	Total Term	\$11,473
Income Tax Total Term (Maximum)	\$143,114	
Total Public Benefit (CPS PILOT, VTICA, Income Tax)	\$179,828	

Total Public Benefit ROI*	\$4.52
City's ROI**	\$2.56

* This figure represents the total dollars returned for public purposes (City/Schools/Other) over the benefit received.

**This figure represents the total income tax generated for the City over the City's property taxes forgone.

EMERGENCY

TJL

- 2023

APPROVING AND AUTHORIZING the City Manager to execute a Community Reinvestment Area Tax Exemption Agreement with So Much Better, LLC, thereby authorizing an eight-year tax exemption for 100 percent of the value of improvements made to real property located at 635 Main Street in the Central Business District of Cincinnati, in connection with the remodeling of an existing building into approximately 1,920 square feet of commercial space and approximately 1,720 square feet of office space, at a total construction cost of approximately \$557,501.

WHEREAS, to encourage the development of real property and the acquisition of personal property, Council 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 (“R.C.”) Sections 3735.65 through 3735.70 (the “Statute”); and

WHEREAS, Ordinance No. 275-2017 passed by Council on September 27, 2017, as amended by Ordinance No. 339-2018, passed by Council on October 31, 2018, 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, So Much Better, LLC (the “Company”) desires to remodel an existing building on real property at 635 Main Street located within the corporate boundaries of the City of Cincinnati into approximately 1,920 square feet of commercial space and 1,720 square feet of office space (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; 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 percent 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 percent of the exempt real property taxes; and

WHEREAS, the Company has represented that it has entered into (or will enter into) a voluntary tax incentive contribution agreement with a third-party organization for amounts equal to fifteen percent of the exempt real property taxes, which funds shall be committed by the third-party organization to support the streetcar that specially benefits the property; and

WHEREAS, the City's Department of Community and Economic Development estimates that the real property tax exemption for the Improvements will provide an annual net benefit to the Company in the amount of approximately \$4,972; 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 R.C. 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 So Much Better, LLC (the "Agreement"), thereby authorizing an eight-year tax exemption for 100 percent of the assessed value of improvements to be made to real property located at 635 Main Street in Cincinnati, as calculated by the Hamilton County Auditor, in connection with the remodeling of an existing building into approximately 1,920 square feet of commercial space and approximately 1,720 square feet of office space, to be completed at a total construction cost of approximately \$557,501.

Section 2. That Council authorizes the City Manager:

- (i) to execute the Agreement on behalf of the City of Cincinnati (the "City") in substantially the form of Attachment A to this ordinance; and
- (ii) to submit on behalf of Council annual reports on the Agreement to the Director of the Ohio Department of Development, in accordance with Ohio Revised Code Section 3735.672, and to the Board of Education of the Cincinnati City School District, as necessary; and

- (iii) 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: _____, 2023

Aftab Pureval, Mayor

Attest: _____
Clerk

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 SO MUCH BETTER, LLC, an Ohio limited liability company (the "Company").

Recitals:

- A. 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").
- B. 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.
- C. 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, Ordinance No. 370-2020, passed on November 12, 2020, and Ordinance No. 24-2022, passed on February 2, 2022 (as amended, 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.
- D. The Company is the sole owner of certain real property within the City, located at 635 Main Street, Cincinnati, Ohio 45202 (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.
- E. The Company has proposed the remodeling of a building 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.
- F. The Statute provides that if any part of a project is to be used for commercial or industrial purposes, including projects containing five 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.
- G. 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.

- H. 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 the City application fee of One Thousand Two Hundred Fifty Dollars (\$1,250) made payable to the City.
- I. 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.
- J. 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.
- K. 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").
- L. 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").
- M. The Company represents that within the past three (3) 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.
- N. 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.
- O. City Council passed (i) Motion No. 201401368 on November 19, 2014, establishing a tax incentive policy that incentivizes each applicant for a real property tax abatement in the neighborhoods of Downtown and OTR to enter into a voluntary tax incentive contribution agreement with a third-party organization ("VTICA") for an amount equal to a percentage of the real property taxes that would have been payable on the abated property but for the City-authorized tax abatement (the "VTICA Contribution"), which funds shall be committed by a third-party organization to support the streetcar that specially benefits the abated property, and (ii) Motion No. 201501592 on December 16, 2015, which established that the VTICA Contribution to be recognized by the Director of the Department of Community and Economic Development is 15% of the real property taxes that would have been payable on the abated property but for the City-authorized tax abatement. The Commercial Policy Ordinance confirmed that such motions have not been superseded and remain the will of Council.
- P. The Company acknowledges that the Streetcar will specially benefit the Project due to (a) the Streetcar's enhancement of public transit options in such neighborhoods and (b) the anticipated increase in property values attributable to public investment in Streetcar infrastructure.
- Q. The Company represents and warrants to the City that the Company has entered or will enter into a VTICA and shall pay the VTICA Contribution each year for the full term of the abatement.
- R. This Agreement has been authorized by Ordinance No. _____-2023, passed by Cincinnati City Council on _____, 2023.

- S. 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, the VTICA Contribution, 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 existing building on the Property to create approximately 1,920 square feet of commercial space and approximately 1,720 square feet of office space (the "Improvements") at an estimated aggregate cost of \$557,501 to commence after the execution of this Agreement and to be completed no later than January 1, 2026; *provided*, however, that the Director of the Department of Community and Economic Development (the "Housing Officer") may, in his or 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 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 8 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 2026 nor extend beyond the earlier of (i) tax year 2033 or (ii) the end of the eighth (8th) 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. As a condition of the tax exemption authorized under this Agreement, the Company agrees to enter into and comply with its obligation under the Board of Education Agreement.

Section 5. Duty of Company to Pay Taxes. As required by Ohio Revised Code Section 3735.671(B)(3), 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(B)(4), 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 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 11 U.S.C. §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(B), 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(B), 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.

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 Company and its major tenants have (a) no existing employment at the Property, (b) 4 full-time equivalent employees in the City of Cincinnati, with a total annual payroll of \$425,000 (the “Retained Jobs”), (c) 11 full-time equivalent employees in Union Township, Clermont County, Ohio, and (d) 5 full-time equivalent employees at another location 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 relocate and retain the Retained Jobs to the Property in connection with the Project.

B. Jobs to be Created by Company. The Company agrees to use its best efforts to create (i) 9 full-time permanent jobs, and (ii) 1 full-time temporary construction job 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 Company's increase in the number of employees will result in approximately (i) \$987,596 of additional annual payroll with respect to the full-time permanent jobs, and (ii) \$50,000 of additional annual payroll prior to the completion of the Project with respect to the full-time temporary construction job.

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(B), if the Company materially fails to fulfill its obligations under this 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(B)(5) 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 (C) 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(C) from entering into this Agreement. As required by Ohio Revised Code Section 3735.671(B)(7), 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 (C) of Ohio Revised Code Section 3735.671) has violated the prohibition against entering into this Agreement under division (C) of Ohio Revised Code Section 3735.671 or under Ohio Revised Code Sections 5709.62, 5709.63, or 5709.632 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 – Board of Education Agreement and VTICA. The Parties acknowledge and agree that a material failure by the Company to comply with its representations concerning the Board of Education Agreement or VTICA Contribution shall constitute an event of default for purposes of Section 16 (Default) and the basis for revocation under Section 18 (Revocation). Subject to the terms of the VTICA, if the VTICA is unenforceable for reasons of infeasibility or otherwise, the Company shall enter into alternative arrangements providing for the economic equivalent of the VTICA Contribution in order to support the streetcar. Such arrangements may include, but are not limited to, providing for the economic equivalent of the VTICA Contribution through formation of a special improvement district. For purposes of this Section 19.B, alternative arrangements must result in services substantially similar to those that would have been supported through the VTICA and at a value that is the economic equivalent of the VTICA Contribution, which value shall not be required to exceed the VTICA Contribution amount that would have been payable by the Company. Any determination of infeasibility or mechanism for providing alternative arrangements is subject to approval by the City at its sole discretion. 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. 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(C), 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 three (3) 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(C).

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:

So Much Better, LLC
Attention: Christopher P. Finney
4270 Ivy Pointe Blvd., Suite 225
Cincinnati, Ohio 45245

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(B)(6), 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 or VTICA 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 and VTICA, as applicable. Failure to assign or otherwise perform the Company's obligations under the Board of Education Agreement or VTICA 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, 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

SO MUCH BETTER, LLC
an Ohio limited liability company

By: _____
Sheryl M. M. Long, City Manager

Date: _____, 2023

By: _____

Printed Name: _____

Title: _____

Date: _____, 2023

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

TO BE ATTACHED

Exhibit B to CRA Agreement
APPLICATION FOR TAX EXEMPTION

TO BE ATTACHED

September 13, 2023

To: Mayor and Members of City Council

202301986

From: Sheryl M. M. Long, City Manager

Subject: Emergency Ordinance – CRC: Contributions for Recreation Purposes Donation Authorizations

Attached is an Emergency Ordinance captioned:

AUTHORIZING the City Manager and employees of the Cincinnati Recreation Commission to accept donations of money and in-kind contributions from the Cincinnati Recreation Foundation valued individually at up to \$20,000 for the purpose of supporting Cincinnati Recreation Commission programming and services; **AUTHORIZING** the City Manager and employees of the Cincinnati Recreation Commission to accept donations of money and in-kind contributions from the Cincinnati business community, individual benefactors, and other appropriate sources valued individually at up to \$5,000 for the purpose of supporting Cincinnati Recreation Commission programming and services; and **AUTHORIZING** the Director of Finance to deposit donated funds accepted in accordance with these parameters into Contributions for Recreation Purposes Fund revenue account no. 319x8571.

Approval of this Emergency Ordinance would authorize the City Manager and employees of the Cincinnati Recreation Commission (CRC) to accept donations and in-kind contributions from the Cincinnati Recreation Foundation valued individually at up to \$20,000 for the purpose of supporting CRC programming and services. Approval of this Emergency Ordinance would further authorize the City Manager and CRC employees to accept donations and in-kind contributions from the Cincinnati business community, individual benefactors, and other appropriate sources valued individually at up to \$5,000 for the purpose of supporting CRC programming and services. Finally, this Emergency Ordinance authorizes the Finance Director to deposit the donated funds accepted in accordance with these parameters into Contributions for Recreation Purposes Fund revenue account no. 319x8571.

CRC regularly receives numerous donations of various types and values in support of programming and service delivery. This Emergency Ordinance will establish parameters under which CRC may accept donations without prior discrete City Council approval. Donations individually valued above the established parameters, any requests for the solicitation of donations, and donations to be used for CRC capital improvement projects of any values will be prepared as discrete ordinances subject to Council approval.

The Cincinnati Recreation Commission will track individual donations and provide quarterly reports to the City Manager and the City Council.

The acceptance of the monetary and in-kind donations in accordance with these parameters is in accordance with the “Collaborate” goal to “[w]ork in synergy with the Cincinnati community” and the strategy to “[u]nite our communities” as described on pages 207 - 212 of Plan Cincinnati (2012).

The reason for the emergency is the need to establish donation parameters to allow for the timely acceptance of donations to support Cincinnati Recreation Commission programming and services.

The Administration recommends passage of this Emergency Ordinance.

cc: Andrew M. Dudas, Budget Director
Karen Alder, Finance Director



Attachment

EMERGENCY

LES

- 2023

AUTHORIZING the City Manager and employees of the Cincinnati Recreation Commission to accept donations of money and in-kind contributions from the Cincinnati Recreation Foundation valued individually at up to \$20,000 for the purpose of supporting Cincinnati Recreation Commission programming and services; **AUTHORIZING** the City Manager and employees of the Cincinnati Recreation Commission to accept donations of money and in-kind contributions from the Cincinnati business community, individual benefactors, and other appropriate sources valued individually at up to \$5,000 for the purpose of supporting Cincinnati Recreation Commission programming and services; and **AUTHORIZING** the Director of Finance to deposit donated funds accepted in accordance with these parameters into Contributions for Recreation Purposes Fund revenue account no. 319x8571.

WHEREAS, the Cincinnati Recreation Commission (“CRC”) regularly receives numerous donations of varying types and value from the community and the Cincinnati Recreation Foundation (“the Foundation”) in support of its programming and delivery of services; and

WHEREAS, Council desires to establish parameters under which CRC may accept donations without prior discrete Council approval; and

WHEREAS, CRC is authorized to accept donations of money and in-kind contributions from the Foundation valued individually at up to \$20,000 for the purpose of supporting CRC programming and services; and

WHEREAS, CRC is authorized to accept donations of money and in-kind contributions from the Cincinnati business community, individual benefactors, and other appropriate sources valued individually at up to \$5,000 for the purpose of supporting CRC programming and services; and

WHEREAS, Council will continue to approve discrete ordinances for donations individually valued above the established maximums, requests for the solicitation of donations, and donations to be used for CRC capital improvement; and

WHEREAS, CRC will track individual donations and will provide reports on a quarterly basis to the City Manager and Council regarding donations received in accordance with the parameters established in this ordinance; and

WHEREAS, acceptance of monetary and in-kind donations pursuant to these parameters is in accordance with the “Collaborate” goal to “[w]ork in synergy with the Cincinnati community” and strategy to “[u]nite our communities” as described on pages 207 - 212 of Plan Cincinnati (2012); now, therefore,

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

Section 1. That the City Manager and employees of the Cincinnati Recreation Commission are authorized to accept donations of money and in-kind contributions from the Cincinnati Recreation Foundation valued individually at up to \$20,000 for the purpose of supporting Cincinnati Recreation Commission programming and services.

Section 2. That the City Manager and employees of the Cincinnati Recreation Commission are authorized to accept donations of money and in-kind contributions from the Cincinnati business community, individual benefactors, and other appropriate sources valued individually at up to \$5,000 for the purpose of supporting Cincinnati Recreation Commission programming and services.

Section 3. That the Director of Finance is authorized to deposit donated funds accepted in accordance with the parameters set forth in this ordinance into Contributions for Recreation Purposes Fund revenue account no. 319x8571.

Section 4. That the proper City officials are authorized to do all things necessary and proper to implement the provisions of Sections 1 through 3, including the City Manager approving policies and procedures for things such as handling cash donations, determining appropriate in-kind donations, and identifying appropriate sources of donations.

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 need to establish donation parameters to allow for the timely acceptance of donations to support Cincinnati Recreation Commission programming and services.

Passed: _____, 2023

Aftab Pureval, Mayor

Attest: _____
Clerk

September 13, 2023

To: Mayor and Members of City Council 202301992
From: Sheryl M. M. Long, City Manager
Subject: **Ordinance – Board Proposed Amendment to CMC 203**

Attached is an Ordinance captioned:

MODIFYING the provisions of Chapter 203, “Employees’ Retirement System,” of the Cincinnati Municipal Code by **AMENDING** Section 203-42, “Health Care Benefits,” Section 203-43, “Health Care Benefits For Membership Dates Prior to January 9, 1997 and Retirement Effective Dates After January 1, 2016,” Section 203-44, “Health Care Benefits For Membership Dates On and After January 9, 1997,” and Section 203-48, “Health Care Benefits for Eligible Dependent Family Members,” to implement policy changes made by the Cincinnati Retirement System Board and to clarify the parties entitled to health care benefits under Chapter 203.

The current requirements of CMC Chapter 203 regarding the determination of disability for adult dependent children specifies that the determination must be made by the Social Security Administration prior to the child attaining age 19. This Ordinance permits such a determination to be made by the Cincinnati Retirement System Medical Director based on medical evidence provided. In addition, this Ordinance eliminates the requirement that the adult disabled child reside within the pensioner’s home.

This Ordinance also provides clarification of the requirement for Medicare eligible pensioners and their spouses and eligible dependents to enroll in Medicare. This provision will provide consistency with existing provisions of CMC 203 that requires all health claims for Medicare eligible persons be processed as secondary to Medicare coverage.

Various terminology changes are included in this Ordinance to use existing defined terms in CMC 203.

The Administration recommends passage of this Ordinance.

c: Jon Salstrom, Retirement Director
Karen Alder, Finance Director
William “Billy” Weber, Assistant City Manager

MODIFYING the provisions of Chapter 203, “Employees’ Retirement System,” of the Cincinnati Municipal Code by **AMENDING** Section 203-42, “Health Care Benefits,” Section 203-43, “Health Care Benefits For Membership Dates Prior to January 9, 1997 and Retirement Effective Dates After January 1, 2016,” Section 203-44, “Health Care Benefits For Membership Dates On and After January 9, 1997,” and Section 203-48, “Health Care Benefits for Eligible Dependent Family Members,” to implement policy changes made by the Cincinnati Retirement System Board and to clarify the parties entitled to health care benefits under Chapter 203.

WHEREAS, the Cincinnati Retirement System Board (“Board”) desires to provide healthcare coverage to the adult disabled children of retirees whenever possible and further wishes to amend the language of Chapter 203 to more accurately reflect the parties entitled to Cincinnati Retirement System health care benefits; and

WHEREAS, following a review of the rules related to Social Security Disability Income and Supplemental Security Income (“SSI”), the Board has determined that the cost of this healthcare coverage to the 115 Trust that funds retirees’ healthcare is not significant; and

WHEREAS, the Board no longer wants to require retirees to provide a Certificate of Disability from the Social Security Administration or to apply for SSI on behalf of a disabled adult child as a condition for retiree healthcare coverage for an adult disabled child under Chapter 203, regardless of the disabled adult child’s eligibility for such benefits; and

WHEREAS, the Board wants to require those retiree members and their spouses or eligible dependent children who are eligible to receive Medicare benefits to enroll in Medicare as a condition of receiving retiree healthcare coverage under Chapter 203; and

WHEREAS, the Board voted to change the Board’s procedures to address eligibility requirements for retirees’ disabled adult children to receive retiree healthcare coverage and desires to revise Chapter 203 to implement those changes; now, therefore,

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

Section 1. That existing Section 203-42, “Health Care Benefits,” Section 203-43, “Health Care Benefits For Membership Dates Prior to January 9, 1997 and Retirement Effective Dates After January 1, 2016,” Section 203-44, “Health Care Benefits For Membership Dates On

and After January 9, 1997,” and Section 203-48, “Health Care Benefits for Eligible Dependent Family Members,” of the Cincinnati Municipal Code are hereby amended to read as follows:

Sec. 203-42. Health Care Benefits.

- (a) In addition to other benefits provided in this chapter, the Retiree health care benefits described in this Section shall be provided to the following persons:
 - (i) A Member who retired on or before July 1, 2011 and whose eligibility for health care benefits was determined on their Retirement Effective Date according to the provisions of this chapter in effect on such date, or
 - (ii) A Member of Group C who retires on or after August 1, 2011 with 15 years of Membership Service, or
 - (iii) A Member of Group D, E, or F whose most recent membership enrollment date is before January 9, 1997 and who retired on or after August 1, 2011 and on or before January 1, 2016 with 15 years of Membership Service, or
 - (iv) Persons receiving the benefits of a retirement optional allowance under Section 203-63 and who are eligible for benefits under Section 203-48 of this chapter, provided that the Member satisfied the health care eligibility requirements of paragraph (i), (ii) or (iii) above at the time the Member retired, or
 - (v) A surviving spouse, eligible dependent child, and/or orphan receiving survivor benefits as provided in Section 203-49 of this chapter on or before January 1, 2016.
- (b) The benefits to be provided under this Section are:
 - (i) Medical and prescription drug coverage similar to coverage in effect for eligible ~~Retirees~~Pensioners on January 1, 2014, and ~~Member~~Retiree premium contributions are not to exceed 5% of the full funding rate for each tier of coverage:
 - (A) For in-network benefits:
 - (I) An annual deductible of \$300 per person and \$600 per family;
 - (II) A maximum annual medical out-of-pocket expense of \$1,500 per person and \$3,000 per family; and
 - (III) Prescription co-pays: \$10 for generic; \$20 for brand name; \$30 for non-formulary; with no out-of-pocket limit.
 - (B) For out-of-network benefits:
 - (I) An annual deductible of \$600 per person and \$1,200 per family;
 - (II) A maximum annual medical out-of-pocket expense of \$3000 per person and \$6,000 per family; and
 - (III) Limited out-of-network coverage for prescription drugs.

- (ii) Dental and vision insurance coverage which shall be purchased and fully paid for by the Retirees, their surviving spouse, or their eligible dependents or orphans, as provided in Section 203-48 of this chapter.
- (c) Members who retired before September 1, 2007, and their surviving spouse as provided in Section 203-48 of this chapter, who met the requirements of former Section 203-43(d), subsections (i), (ii), (iii), or (iv) as in effect prior to July 1, 2011, and who as of January 1, 2012, and annually thereafter, meet the requirements of subsection (i) below are entitled to the benefits described in subsection (ii) below.
- (i) MembersPensioners must establish that their annual household income is less than \$30,000 by annually submitting to the Retirement System a copy of their federal income tax return or any other or additional documentation the Retirement System requires to determine annually whether the Member's Pensioner's household income is less than \$30,000. For purposes of this Section, "household income" shall mean the total income of the MemberPensioner, including the income of the Member'sPensioner's spouse if married, after adding back the nontaxable portion of interest, dividends, pensions, annuities, IRA distributions, and social security benefits. Business or investment losses are not included in "household income" and may not be used to reduce the amount of "household income" for purposes of this Section. MembersPensioners must submit a copy of their federal income tax return (and that of their spouse, if applicable) for the prior year to the Retirement System no later than the date determined by the Retirement System each year, or any other or additional documentation the Retirement System requires. Failure to submit the required documentation shall result in the MemberPensioner becoming permanently ineligible for the benefits described in (c)(ii) of this Section. The Member Pensioner will be eligible for coverage as described in (b) of this Section.
 - (ii) MembersPensioners who meet the requirements of subsection (i); above shall receive medical and prescription drug coverage with no premium cost with the following benefits:
 - (A) For in-network benefits:
 - (I) An annual deductible of \$0;
 - (II) A maximum annual medical out-of-pocket expense of \$500 per person and \$1,000 per family;
 - (III) A maximum annual prescription drug out-of-pocket expense of \$500 per person; and
 - (IV) Prescription drug tiers: \$5 for generic; \$15 for brand name; \$30 for non-formulary.
 - (B) For out-of-network benefits:
 - (I) An annual deductible of \$0;
 - (II) A maximum annual medical out-of-pocket expense of \$1000 per person and \$2,000 per family; and

(III) Limited out-of-network coverage for prescription drugs.

~~Members~~Pensioners who meet the requirements of subsection (i) above shall be provided dental and vision coverage to be purchased and fully paid for by the Retirees, their surviving spouse, or their eligible dependents ~~or orphans~~.

- (d) Any person eligible to receive healthcare coverage under this Chapter who is eligible for coverage under Medicare shall apply for Medicare coverage and provide documentation to the Retirement System that is acceptable to the Retirement System that confirms either acceptance or denial for such coverage. To the extent allowable under applicable federal law, coverage under this Section for any person who is eligible to be covered under Medicare shall be secondary to coverage of such person under Medicare. The benefit payable under this Section shall be reduced by the greater of: (a) the amount actually paid by Medicare Part A and Part B; or (b) the amount Medicare would pay if the person were enrolled in Medicare Part A and Part B. A person is considered eligible for Medicare for these purposes during any period such person has coverage under Medicare Part A or Part B or, while otherwise qualifying for coverage under Medicare Part A (premium free) or Part B, does not have such coverage under Medicare Part A or Part B solely because such person has refused, discontinued, or failed to make any necessary application or applicable payment for Medicare Part A or Part B coverage.
- (e) The director of retirement shall adopt rules and procedures necessary to implement this Section.

Sec. 203-43. Health Care Benefits For Membership Dates Prior to January 9, 1997 and Retirement Effective Dates After January 1, 2016.

- (a) In addition to other benefits provided in this chapter, the Retiree health care benefits described in this Section shall be provided to the following persons:
- (i) A Qualified Member (as defined in paragraph (c) below) who retires after January 1, 2016 who is at least 60 years of age with a minimum of 20 years of Membership Service and who is not otherwise eligible for health care benefits under Section 203-42, or
 - (ii) A Qualified Member (as defined in paragraph (c) below) who retires with 30 or more years of Creditable Service consisting of a minimum of 20 years of Membership Service and who is not otherwise entitled to benefits under Section 203-42, or
 - (iii) Persons receiving the benefits of a retirement optional allowance under Section 203-63 of this chapter, and who are eligible for benefits under Section 203-48 of this chapter, provided that the Member satisfied the requirements of either paragraph (i) or paragraph (ii) above at the time the Member retired and who is not otherwise entitled to benefits under Section 203-42, or
 - (iv) Each surviving spouse, and each eligible dependent child ~~and/or~~ orphan of a deceased Active Member who would have been eligible for benefits under this Section, who is receiving survivor benefits as provided in Section 203-49 of this Chapter, provided that:

- (A) the deceased Active Member's most recent membership enrollment date is before January 9, 1997 and the survivor benefit commenced on or after February 1, 2016 and the deceased Active Member is not otherwise entitled to benefits under Section 203-42; and
 - (B) a surviving spouse may only obtain coverage if the surviving spouse possessed a valid marriage certificate or other proof of marriage recognized by the State of Ohio, dated prior to the date of the Active Member's death. However, if the deceased Active Member dies on or after January 1, 2019, the surviving spouse is eligible for coverage only if the spouse was not legally separated from the deceased Active Member at the time of the deceased Active Member's death.
 - (v) Qualified Members who are not covered by the provisions of the Collaborative Settlement Agreement and who retire on or after February 1, 2016 and on or before January 1, 2017 and who have at least 15 years of Membership Service.
- (b) The benefits to be provided under this Section are:
- (i) Medical and prescription drug coverage similar to the most favorable plan available to active Employees, excluding Police, & Fire, and Building & Trade unions, and Member premium contributions are not to exceed 10% of the full funding rate for each tier of coverage; and
 - (ii) Dental and vision insurance coverage which shall be purchased and fully paid for by the Retirees, their surviving spouse, or their eligible dependents or orphans as provided in Section 203-48 of this chapter.
 - (iii) Any person eligible to receive healthcare coverage under this Chapter who is eligible for coverage under Medicare shall apply for Medicare coverage and provide documentation to the Retirement System that is acceptable to the Retirement System that confirms either acceptance or denial for such coverage. To the extent allowable under applicable federal law, coverage under this Section for any person a Member who is eligible to be covered under Medicare shall be secondary to coverage of such Member under Medicare. The benefit payable under this Section shall be reduced by the greater of: (a) the amount actually paid by Medicare Part A and Part B; or (b) the amount Medicare would pay if the Member were enrolled in Medicare Part A and/or Part B. A Member is considered eligible for Medicare for these purposes during any period such Member has coverage under Medicare Part A or Part B or, while otherwise qualifying for coverage under Medicare Part A (premium free) or Part B, does not have such coverage under Medicare Part A or Part B solely because such Member has refused, discontinued, or failed to make any necessary application or applicable payment for Medicare Part A or Part B coverage.
- (c) For purposes of this Section, a Qualified Member is a Member who was an Active Member before January 9, 1997. The following rules shall apply for purposes of determining whether a Member was an Active Member before January 9, 1997:
- (i) If the Member terminates Membership due to a withdrawal of Accumulated Contributions (as provided in Section 203-11(d)) or a transfer of service credit

and Accumulated Contributions to a State Retirement System (as provided in Sections 203-8 and 203-7-A), the Member shall not be considered to have been an Active Member for any period attributable to the withdrawn or transferred contributions, irrespective of whether the Member is subsequently granted credit for such period of service pursuant to Section 203-29, Section 203-8 or any similar provisions of this Retirement System.

- (ii) A Member shall not be considered to have been an Active Member for any period of Creditable Service of a Member that is attributable to State Retirement System Service Credit, Out of State and Federal Service Credit, or Unpaid Authorized Leave of Absence Service Credit.
 - (iii) If a Member ceases (or ceased) to be an Employee, the Member shall not be considered to have been an Active Member for any period of employment that precedes the date the Member ceases (or ceased) to be an Employee, unless the Member does not withdraw all or any part of his Accumulated Contributions.
 - (iv) Notwithstanding the foregoing, if a Member is granted service credit for a period of military absence pursuant to Sections 203-27 or 203-27A, to the extent required by federal law, the Member shall be considered to have been an Active Member during the period of military absence.
- (d) Any Inactive Member who is rehired on or after January 1, 2016 shall not be eligible for benefits under this Section.
 - (e) The director of retirement ~~or his or her designee~~ shall adopt rules and ~~policies~~procedures necessary to implement this Section.

Sec. 203-44. Health Care Benefits For Membership Dates On and After January 9, 1997.

- (a) In addition to other benefits provided in this chapter, the Retiree health care benefits described in this Section shall be provided to the following persons:
 - (i) A Member whose most recent membership enrollment date is on or after January 9, 1997 and on or before December 31, 2015, and who:
 - (A) Retired on or after August 1, 2011 and on or before January 1, 2016 with 15 years of Membership Service and who is not entitled to benefits under Section 203-42 or 203-43, or
 - (B) Retires on or after February 1, 2016 and who is at least 60 years of age with a minimum of 20 years of Membership Service and who is not otherwise eligible for health care benefits under Section 203-42 or Section 203-43, or
 - (C) Retires on or after February 1, 2016 with 30 or more years of Creditable Service consisting of a minimum of 20 years of Membership Service and who is not otherwise entitled to benefits under Section 203-42 or Section 203-43.
 - (ii) Persons receiving the benefits of a retirement optional allowance under Section 203-63 of this Chapter, and who are eligible for benefits under Section 203-48 of this Chapter, provided that the Member satisfied the requirements of

paragraph (i) above at the time the Member retired and who is not otherwise entitled to benefits under Section 203-42 or Section 203-43.

- (iii) Members whose most recent membership enrollment date is on or after January 9, 1997 and who are not covered by the provisions of the Collaborative Settlement Agreement and who retire on or after February 1, 2016 and on or before January 1, 2017 and who have at least 15 years of Membership Service.
- (iv) Each surviving spouse, and each eligible dependent child ~~and/or~~ orphan of a deceased Active Member who would have been eligible for benefits under this Section, who is receiving survivor benefits as provided in Section 203-49 of this Chapter, provided that:
 - (A) the deceased Active Member's most recent membership enrollment date is on or after January 9, 1997 and on or before December 31, 2015; and
 - (B) a surviving spouse may only obtain benefits if the surviving spouse possessed a valid marriage certificate or other proof of marriage recognized by the State of Ohio, dated prior to the date of the Active Member's death. However, if the deceased Active Member dies on or after January 1, 2019, the surviving spouse is eligible for coverage only if the spouse was not legally separated from the deceased Active Member at the time of the deceased Active Member's death.

Accordingly, the provisions of Section 203-33 of this Chapter, which provide for Service Retirement Allowances after vesting, shall not entitle ~~persons~~Members who are so vested to health care benefits under the provisions of this Section unless such ~~persons are~~ Members ~~who~~ also qualify for health care benefits under the provisions of this Section.

- (b) The benefits to be provided under this Section are:
 - (i) Medical and prescription drug coverage similar to the most favorable plan available to active Employees, excluding Police, ~~& Fire,~~ and Building & Trade unions; and subject to Member premium contributions described in (c) below; and
 - (ii) Dental and vision insurance coverage shall be purchased and fully paid for by the ~~Member~~Retiree, their surviving spouse, and their eligible dependents or orphans.
 - (iii) Any person eligible to receive healthcare coverage under this Chapter who is eligible for coverage under Medicare shall apply for Medicare coverage and provide documentation to the Retirement System that is acceptable to the Retirement System that confirms either acceptance or denial for such coverage. To the extent allowable under applicable federal law, coverage under this Section for any person who is eligible to be covered under Medicare shall be secondary to coverage of such person under Medicare. The benefit payable under this Section shall be reduced by the greater of: (a) the amount actually paid by Medicare Part A and Part B; or (b) the amount Medicare would pay if the person were enrolled in Medicare Part A and/or Part B. A person is considered eligible for Medicare for these purposes during any period such

person has coverage under Medicare Part A or Part B or, while otherwise qualifying for coverage under Medicare Part A or Part B, does not have such coverage under Medicare Part A (premium free) or Part B solely because such person has refused, discontinued, or failed to make any necessary application or applicable payment for Medicare Part A or Part B coverage.

- (c) Except for dental and vision insurance coverage, the percentage of the full funding rates, or premiums, for medical and prescription drug coverage to be paid by the Retirement System on behalf of persons entitled to benefits under this Section shall be based on a formula consisting of the sum of (i) the number of the Member's full years of Creditable Service, and (ii) the Member's age at the earlier of the Member's Retirement date or the date that the Member ceased to be an Active Member, with each such full year of Membership Service and each such year of age at Retirement date counting as one point each. Years of age at Retirement shall mean years of age at the birthday immediately preceding the earlier of the Member's Retirement date or the date that the Member ceased to be an Active Member. The number of full years of Creditable Service and the years of age at Retirement date shall be added together and shall result in the payment of medical and prescription drug coverage in the following percentage amounts:

95% of full cost or full premiums for 90 points

75% of full cost or full premiums for 80 to 89 points

50% of full cost or full premiums for 70 to 79 points

25% of full cost or full premiums for 60 to 69 points

If a Member's total points are less than 60, the Member is only eligible for individual medical and prescription drug coverage. The Retirement System will pay 25% of the premium for individual medical and prescription drug coverage. No spouse or family coverage is available.

A Member's years of Creditable Service shall be used for the purpose of determining the points of a Member under this subsection (c); but will not include years of Creditable Service credited under a previous Service Retirement Allowance provided under this Chapter.

- (d) If a Member leaves the City service prior to Retirement and is entitled to a deferred Service Retirement Allowance and such Member is entitled to benefits under this Section, no benefits shall be provided to the Member until the Member reaches the later of their normal retirement date, or their Medicare eligibility age.
- (e) Any Inactive Member who is rehired on or after January 1, 2016 shall not be eligible for benefits under this Section.
- (f) The director of retirement ~~or his or her designee~~ shall adopt rules and ~~polices~~procedures necessary to implement this Section.

Sec. 203-48. Health Care Benefits for Eligible Dependent Family Members.

Notwithstanding any other provisions of this chapter, health care benefits provided by the Retirement System for eligible dependent family members of Retirees or deceased Active Members shall be limited to the following:

(a) Eligibility for Health Care:

- (i) If a Retiree or deceased Active Member is eligible to receive health care benefits pursuant to this Chapter, only the following dependents as defined by and in accordance with the Ohio Administrative Code 145-4-09, "Definition of Eligible Dependent for Health Care Coverage," or Internal Revenue Code Section 152 (a)(1), "Qualifying Child," may be enrolled for health insurance purposes:
 - (A) A Retiree's spouse possessing a valid marriage certificate or other proof of marriage as recognized by the State of Ohio, dated prior to the effective date of retirement, and beginning January 1, 2019 who is not legally separated from the Retiree; or
 - (B) A surviving spouse of a deceased Retiree who is receiving benefits under Section 203-63, and who possessed a valid marriage certificate or other proof of marriage recognized by the State of Ohio, dated prior to the effective date of retirement. However, if the deceased Retiree dies on or after January 1, 2019, the spouse is eligible for coverage only if the spouse was not legally separated from the deceased Retiree at the time of the deceased Retiree's death; or
 - (C) A surviving spouse of a deceased Active Member who is receiving benefits under Section 203-49, and who possessed a valid marriage certificate or other proof of marriage recognized by the State of Ohio, dated prior to the date of death. However, if the deceased Active Member dies on or after January 1, 2019, the spouse is eligible for coverage only if the spouse was not legally separated from the deceased Active Member at the time of the deceased Active Member's death; or
 - (D) A Retiree's or a deceased Active Member's biological children who were born or children who were legally adopted by the Retiree prior to the effective date of retirement, or in the case of a deceased Active Member, prior to the date of death.
- (ii) A Retiree's child who has never entered into a marriage recognized by the State of Ohio is eligible for coverage if the child is either under the age of 19 or is a student attending an accredited school on a fulltime basis for at least 7 months of the calendar year and who has not attained the age of 24.
- (iii) Coverage shall be extended if the Retiree's child is permanently and totally disabled in accordance with Social Security Disability Definition, 42 U.S.C. 416i(1), prior to the limiting age specified in Section (a)(ii) herein ~~and maintains his or her residence within the household of the Retiree.~~ For purposes of this Section, the term "disability" means the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment, which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months. Evidence of the incapacity shall be required to be provided to the Board Retirement System's Medical Director for review and recommendation regarding whether the child is permanently and totally disabled ~~such as a Certificate of Disability or other adequate proof from the United States Social Security Administration, and the Medical Director's recommendation~~ shall be subject to approval by the Board.

Appeals from the Board's determination will be governed by rules adopted by the director of retirement.

(iv) Any person eligible to receive healthcare coverage under this Chapter who is eligible for coverage under Medicare shall apply for Medicare coverage and provide documentation to the Retirement System that is acceptable to the Retirement System and confirms either acceptance or denial for such coverage. To the extent allowable under applicable federal law, coverage under this Section for any person who is eligible to be covered under Medicare shall be secondary to coverage of such person under Medicare. The benefit payable under this Section shall be reduced by the greater of: (a) the amount actually paid by Medicare Part A and Part B; or (b) the amount Medicare would pay if the person were enrolled in Medicare Part A and/or Part B. A person is considered eligible for Medicare for these purposes during any period such person has coverage under Medicare Part A or Part B or, while otherwise qualifying for coverage under Medicare Part A or Part B, does not have such coverage under Medicare Part A (premium free) or Part B solely because such person has refused, discontinued, or failed to make any necessary application or applicable payment for Medicare Part A or Part B coverage.

(b) Eligibility to Purchase Health Care at 100% of Premium Cost:

(i) The ability to enroll a spouse, minor child, or minor grandchild for Health Care benefits shall be closed to spouses when the date of marriage is after the date of the Retiree's retirement, to children born or adopted after the Retiree's date of Retirement, and to minor grandchildren after December 31, 2017, unless subsection (ii) below applies.

(ii) Otherwise eligible spouses and dependents who were married to, born of, or adopted by the Retiree after the Retiree's date of Retirement, and one minor grandchild born to an unmarried, un-emancipated minor child of the Retiree that the Retiree is permitted to claim as a dependent on the Retiree's federal tax return in accordance with Section 152 of the Internal Revenue Code, will be entitled to remain enrolled in coverage as long as they meet all other eligibility requirements, were enrolled in Retiree Health Care coverage on January 1, 2018, and provided that there is no break in coverage. Once a break in coverage occurs, spouses, dependents, and minor grandchildren will be subject to all the eligibility requirements of Chapter 203, including this Section, and will be ineligible for re-enrollment unless they meet all the eligibility requirements of Chapter 203.

(c) If an individual receives a monthly benefit as an Optionee of a deceased Retiree of the Retirement System, he or she may enroll the biological children who were born of the Retiree or any eligible children who were legally adopted by the Retiree prior to the effective date of the Retiree's Retirement, provided that all such individuals meet the criteria listed in Sections (a)(i),(ii), (iii), or (iv) ~~(iii)~~ herein.

(d) If a Retiree has not selected a pension payment option that includes an Optionee, health care benefits provided by the Retirement System for the Retiree's dependent spouse and eligible biological or legally adopted dependent child/ren terminates following the death of the Retiree.

- (e) For the purposes of this chapter, it is the responsibility of the Retiree, Optionee, or survivor to notify the Retirement System in writing, within 60 days of the date that any spouse or dependent child fails to meet eligibility requirements. Failure to provide such notice to the Retirement System may result in overpaid health care claims for which the Retiree, Optionee, or survivor shall be responsible in addition to penalties imposed in Section (f) herein.
- (f) The Board maintains the right to conduct compliance-related audits of spouse and dependent eligibility and to impose penalties for non-compliance. Penalties for non-compliance shall include suspension of health care coverage of ~~the Retiree, Optionee, or surviving spouse and his or her dependents~~ any person eligible for coverage under this chapter for a period of 3 years and a requirement that ~~the Retiree, Optionee, or surviving spouse~~ such individuals repay all improperly paid prescription drug claims. After the three-year suspension period, the ~~Retiree, Optionee, or surviving spouse, or dependent children~~ eligible individual's health insurance may only be reinstated upon full repayment of the amount of the improperly paid prescription drug claims. The ~~Retiree, Optionee, or surviving spouse~~ eligible individual is responsible for making payment arrangements to repay the amounts owed. If the ~~Retiree, Optionee, or surviving spouse~~ eligible individual has been found legally incompetent by a court, the Board, at its sole discretion, may elect to modify the penalty imposed by this ~~Section~~.
- (g) The director of retirement shall adopt rules and procedures necessary to implement this Section.

Section 2. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed: _____, 2023

Aftab Pureval, Mayor

Attest: _____
Clerk

New language underscored. Deletions struck through.