

Contract No. _____

PURCHASE, FUNDING, AND DEVELOPMENT AGREEMENT

between the

CITY OF CINCINNATI

and

WHEX GARAGE LLC

Project Name: Whex Garage

(purchase and leaseback of real property for development
of a garage in Cincinnati)

PURCHASE, FUNDING, AND DEVELOPMENT AGREEMENT

This Purchase, Funding, and Development 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 address of which is 801 Plum Street, Cincinnati, Ohio 45202 (the “**City**”), and **WHEX GARAGE LLC**, an Ohio nonprofit limited liability company, the address of which is 1203 Walnut Street, 4th Floor, Cincinnati, Ohio 45202 (“**Developer**”), an affiliate of Cincinnati Center City Development Corporation, an Ohio nonprofit corporation (“**3CDC**”).

Recitals:

A. In 2022, the City and the Board of County Commissioners of Hamilton County, Ohio, acting for and on behalf of Hamilton County, Ohio (the “**County**”) appointed 3CDC as master developer for the redevelopment of the City-owned Convention Center (the “**Convention Center**”) and certain properties surrounding the Convention Center, including (i) certain real property located on the southwest corner of W. 5th Street and Elm Street in Cincinnati, which property is more particularly described on Exhibit A (Site Plan and Legal Description of Property) hereto (the “**Property**”), which is owned by Developer, and (ii) [approximately 1.71 acres of real property located at 251 W. Fifth Street and 240 W. Fourth Street] immediately adjacent to the Property, upon which a convention center hotel is to be constructed pursuant to an agreement among the City, the County, and Cincinnati CH (OH), LLC (the “**Convention Center Hotel Project**”).

B. Pursuant to a certain *Real Estate Agreement* dated _____, 2026, between the City, Developer, and Cincinnati CH (OH), LLC, the parties agreed to convey certain real property interests that benefit and burden the Property (the “**Hotel Real Estate Agreement**”).

C. To further facilitate the success of the recently redeveloped Convention Center and the to-be constructed Convention Center Hotel Project, the parties acknowledge and agree there is a need for a public parking garage to support those assets.

D. Accordingly, the City desires to purchase the Property, including the parking garage located thereon operated as the Whex Garage, from Developer and Developer desires to convey the Property to the City on the Closing Date (as defined below), for the total purchase price of \$1.00 (the “**Purchase Price**”), on the terms and conditions described herein.

E. Following the transfer of the Property, the City intends to lease the Property to Developer pursuant to a *Lease and Management Agreement*, between the City and Developer, where Developer shall operate the Property solely as a public parking garage (the “**Lease**”).

F. In addition to leasing the Property from the City, Developer desires to renovate the existing garage on the Property, as more particularly described on Exhibit B (Statement of Work, Budget, and Sources of Funds) hereto (the “**Project**”).

G. The City, upon the recommendation of the City’s Department of Community and Economic Development (“**DCED**”), desires to provide support for the Project in the form of a grant of City funds in an amount not to exceed \$4,000,000 (the “**Grant**”), on the terms and conditions described herein.

H. The City believes that the Project is in the vital and best interests of the City and the health, safety, and welfare of its residents; and is consistent with the public purpose and provisions of applicable federal, state, and local laws and requirements.

I. Section 13 of Article VIII of the Ohio Constitution provides that, in order to create or preserve jobs and employment opportunities, and to improve the economic welfare of the people of the state, it is in the public interest and a proper public purpose for the state or its political subdivisions, or not-for-profit corporations designated by them, to acquire, construct, enlarge, improve or equip, and to sell, lease, exchange or otherwise dispose of, property, structures, equipment and facilities for industry, commerce, distribution and research, and to make loans and to provide moneys for the acquisition,

construction, enlargement, improvement or equipment of such property, structures, equipment and facilities.

J. Execution of this Agreement on behalf of the City has been authorized by Ordinance No. _____ passed by City Council on _____.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Term.** The term of this Agreement shall commence on the Effective Date, and unless sooner terminated as herein provided, shall end on the date on which Developer has satisfied all other obligations to the City under this Agreement (the “**Term**”). Any and all obligations of Developer that have accrued but have not been fully performed as of such termination or expiration date shall survive such termination or expiration until fully performed.

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

3. **Amount and Terms of Grant.** Subject to the terms and conditions of this Agreement, the City agrees to provide the Grant to Developer from City funds, in an amount not to exceed \$4,000,000 (the “**Funds**”). The Funds shall be used exclusively to pay for the costs itemized on Exhibit B and for no other purpose. For the avoidance of doubt, Developer shall not use any portion of the Funds to pay for the purchase of inventory, supplies, furniture, trade fixtures, or any other items of personal property, or to establish a working capital fund. The City shall disburse the Funds as described in Exhibit C (Disbursement of Funds) hereto. Any disbursement of the Funds must be properly vouchered within 30 days of the Completion Date. The City shall have no obligation as to vouchers submitted thereafter. Notwithstanding anything herein to the contrary, the City shall have no obligation to disburse any of the Funds until all of the conditions for disbursement set forth in this Agreement, including, without limitation, Exhibit C, are satisfied. Except for the City’s agreement to provide the Grant, as described herein, the City shall not be responsible for any costs associated with the completion of the Project.

4. **Due Diligence Materials.**

(A) **Delivery of Due Diligence Materials to the City.** Following the parties’ execution of this Agreement, Developer, at its sole expense, shall obtain and deliver to the City the following items (collectively, the “**Due Diligence Materials**”) prior to the Closing Date:

- (i) ***Title:*** A title certificate or, if available, an Owner’s Policy of Title Insurance, dated not prior to the Effective Date hereof, showing that Developer owns fee simple title to the Property free from liens or any other encumbrances, except those listed in Exhibit D (List of Encumbrances) hereto;
- (ii) ***Legal Description(s) and Survey:*** Legal description of the Property and recent property survey of the Property showing all easements and other matters of record that can be shown on a survey;
- (iii) ***Site Plan:*** Detailed site plan showing the Property and other improvements;
- (iv) ***Plans and Specifications:*** Developer must provide plans and specifications for the Project, including such professionally-prepared architectural or engineering plans and specifications for the Project as may be required by the City (as the same may be

amended from time to time and approved by the City, the “**Plans and Specifications**”), generally consistent with the statement of work shown on Exhibit B;

- (v) *Budget*: Developer must present a final itemized budget for the Project (as the same may be amended from time to time and approved by the City, the “**Budget**”), generally consistent with the budget shown on Exhibit B;
- (vi) *Permits*: Developer must present evidence that any necessary City permits have been secured;
- (vii) *Financing*: Developer must present evidence that all other financing necessary for the Project has been obtained, if applicable;
- (viii) *Approval of Contractors*: Developer must present a list of contractors and subcontractors for the Project, none of whom shall be identified as being debarred on lists maintained by the City or by the federal or state governments;
- (ix) *Environmental*: Phase I environmental site assessments for the Property, and a Phase II environmental site assessment as may be required at the discretion of the City;
- (x) *Engineering Studies*: Geotechnical and other engineering studies for the Property as required at the discretion of the City;
- (xi) *Insurance*: Evidence satisfactory to the City that Developer has obtained proof of insurance for all insurance policies required by the Lease; and
- (xii) *Other Information*: Such other information and documentation pertaining to Developer or the Property as the City may reasonably request.

(B) Contingency for City’s Satisfaction with Due Diligence Materials. Developer shall deliver all Due Diligence Materials to be provided by Developer to the City and fully cooperate with the City in any other investigations the City may conduct concerning the Property as the City deems reasonably necessary. All reports and the like obtained by Developer from third parties and delivered to the City shall be recent (i.e., prepared or updated, as the case may be, within 3 months from the date that the item is delivered to the City or within such shorter time period as stated herein or as the City deems necessary to reasonably rely on the accuracy of such item) and shall be prepared by properly licensed and qualified companies or individuals reasonably acceptable to the City. The City shall use reasonable efforts to notify Developer of its acceptance or objections to the Due Diligence Materials within 10 business days after receipt of such materials by the City.

(C) Right to Terminate. If during the due diligence investigations, any party determines that the transfer of the Property is not feasible or desirable for any reason, then, notwithstanding anything in this Agreement to the contrary, such party may terminate this Agreement by giving the other party written notice thereof, whereupon this Agreement shall terminate and no party shall thereafter have any rights or obligations hereunder. All rights of the parties under this Section 4(C) shall expire as of the Closing Date.

5. Conveyance of the Property.

(A) Agreement to Sell Property. In consideration of the Purchase Price and the covenants contained herein, Developer hereby agrees to sell to the City, and the City agrees to purchase, all of Developer’s right, title, and interest in and to the Property. Between the Effective Date and the conveyance of the Property to the City (the “**Closing**”), Developer shall not make or permit any physical changes to the Property outside of those consistent with the Plans and Specifications without the City’s prior written consent. Developer shall deliver exclusive possession of the Property to the City at the Closing, including the existing interests on the Property identified on Exhibit E (*List of Existing Interests*) hereto.

(B) City's Right to Enter. Between the Effective Date and the Closing, the City's agents, employees, and contractors shall have the right to enter upon the Property for purposes of inspection and any and all other reasonable purposes.

(C) Reserved.

(D) Title. Except as may be expressly provided herein and in the Hotel Real Estate Agreement, Developer shall not take any action without the City's prior written consent between the Effective Date and the Closing that affects the title to the Property, including, without limitation, conveying any interest in the Property to any third party, granting any easements, or otherwise voluntarily or consensually performing any act that results in any additional exceptions to title that would survive such Closing.

(E) Closing Date. On such date upon which the parties mutually agree (the "**Closing Date**"), but in no event later than _____, Developer shall transfer title of the Property to the City by general warranty deed in substantially the form of Exhibit F (Form of General Warranty Deed) hereto (the "**Deed**"). Developer's title shall be free, clear, and unencumbered, subject only to such matters of record as are acceptable to the City. At the Closing, Developer shall execute a customary seller's title affidavit and the parties shall execute a settlement statement, and any and all other customary closing documents, all in form and substance reasonably agreed to by Developer and the City.

(F) Closing Costs. At the Closing, Developer shall pay all customary closing costs (e.g., County transfer tax and County recording fees, if applicable). Developer shall be exclusively responsible for all delinquent taxes and assessments, including penalties and interest, and for all other real estate taxes and assessments that are a lien at the time of the Closing. Real estate taxes and assessments shall be prorated as of the Closing Date.

(G) Environmental Indemnity. As a material inducement to the City to enter into this Agreement, Developer does hereby agree that, with respect to any environmental condition on or otherwise affecting the Property that exists at or prior to the time of the City's execution of this Agreement, or that arises post-Closing during the City's ownership of the Property while the Lease is in effect (herein, an "**Environmental Condition**"), and regardless of whether or not such Environmental Condition is described in any environmental assessment or any other environmental report that may have been previously furnished by Developer to the City or otherwise obtained by the City, Developer shall (i) at no expense to the City, promptly take all steps necessary to remediate such Environmental Condition, within a reasonable time after discovery, to the satisfaction of the City's Office of Environment and Sustainability, and (ii) defend, indemnify, and hold the City harmless from and against any and all actions, suits, claims, losses, costs (including, without limitation, attorneys' fees), demands, judgments, liability, and damages suffered or incurred by or asserted against the City as a result of or arising from any such Environmental Condition, unless such Environmental Condition occurred during the City's prior ownership. Developer's obligations for (x) remediation under this paragraph shall survive the completion of the Project, and (y) indemnity under this paragraph shall survive the completion of the Project and the term of the Lease, as it relates to any Environmental Condition created prior to the expiration or termination thereof.

6. Lease. On the Closing Date, the City and Developer shall enter into the Lease, pursuant to which the City shall convey a leasehold interest in the Property to Developer in accordance with the terms and conditions of the Lease, which Lease shall be substantially in the form of Exhibit G (Form of Lease Agreement) hereto.

7. Commencement and Completion of Project.

(A) Commencement and Completion of Construction. Developer (i) represents that it (a) applied for and receive the required building permits from the City's Department of Buildings and Inspections ("**B&I**") for construction of the Project, and (b) commenced on-site construction of the Project in accordance with the Plans and Specifications as of _____, 20____; and (ii) shall complete construction of the Project (as evidenced by issuance of a certificate of occupancy for the Project) in accordance with the Plans and Specifications and all other City approvals no later than October 31, 2026 (the "**Completion Date**"); *provided however*, that upon Developer's written request and at the City's sole and absolute discretion, the City may extend the Completion Date each by up to 12 months by providing written notice to Developer.

Under no circumstances shall Developer use insufficient funds as the justification for requesting an extension of either such date.

(B) Plans and Specifications. Developer shall complete the Project in accordance with the Plans and Specifications. Developer shall not make any material changes thereto without the City's prior written consent.

(C) Contractors and Subcontractors. In performing work on the Project, Developer shall not solicit bids from any contractors or subcontractors who are identified as being debarred by the federal or state government or who are identified as being debarred on the City's Vendor's Performance list.

(D) Applicable Laws. Developer shall obtain, pay for, and maintain all necessary building permits and other permits, licenses, and other governmental approvals and shall comply with all applicable federal, state, and local laws, codes, ordinances, judicial orders, and other governmental requirements applicable to the Project, including, without limitation, those set forth on Exhibit H (Additional Requirements) hereto, and this Agreement shall in no way act as an authorization for Developer to act without obtaining such permits or licenses, or in violation of applicable laws, codes, ordinances, judicial orders or other governmental requirements. The City makes no representations or other assurances to Developer that Developer will be able to obtain whatever variances, permits, or other approvals from B&I, the City's Department of Transportation and Engineering ("DOT"), other City departments, City Planning Commission, City Council, or any other governmental agency that may be required in connection with the Project.

(E) Inspection of Work. During construction at the Property, the City, its employees and agents shall have the right at all reasonable times to inspect the progress of construction to determine whether Developer is complying with its obligations under this Agreement. If the City determines that the work is not in accordance with the Plans and Specifications or other requirements of this Agreement, is not in compliance with all applicable laws, or is not performed in a good and workmanlike manner, the City shall have the right, in its reasonable judgment and after giving Developer prior written notice thereof, to stop such work and order its replacement at Developer's expense, and pursue all other rights and remedies available under this Agreement, the Lease, or available at law or in equity, including, without limitation, pursuing an action for specific performance.

(F) Mechanics' Liens. Developer shall not permit any mechanics' liens or other liens to be filed against the Property during construction. If a mechanic's lien shall at any time be filed, Developer shall, within 30 days after notice of the filing thereof, cause the same to be discharged of record.

(G) Reporting During Construction. Upon the City's request throughout construction, Developer shall provide the City with reports describing the status of the Project, including, without limitation, information about whether the Project is on budget and on schedule and containing such additional pertinent information thereto as the City may from time-to-time reasonably request. Developer shall submit a final report to the City upon completion of the Project.

(H) Recognition of City Support. Developer shall acknowledge the support of the City with respect to the Project in all printed materials such as informational releases, pamphlets and brochures, construction signs, project and identification 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 participant, Developer shall use either the phrase "Project made possible 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. Developer's obligations under this section shall commence on the Effective Date and shall terminate on the date on which the Project has been completed.

(I) Barricade Fees Payable to DOTE. Developer acknowledges that (i) Developer may be required to obtain a barricade permit and pay barricade fees to DOTE for the closure of any sidewalks and curb lanes of the adjacent streets if and when construction necessitates such closures, and (ii) with many entities competing for space on City streets, it is important that construction activities be limited to only that space which is reasonably necessary and the shortest duration as possible and that all work be scheduled and performed to cause the least interruption possible to vehicular travel, bicyclists, pedestrians and

businesses; therefore, DOTE shall have the right to evaluate Developer's need for a barricade throughout construction and, if at any time after consultation with Developer DOTE determines that a barricade is not needed, DOTE shall have the right to withdraw the permit.

8. Insurance; Indemnity.

(A) Insurance. Throughout construction, Developer shall maintain, or cause to be maintained, the following insurance: (i) Commercial General Liability insurance of at least \$1,000,000 per occurrence, combined single limit/\$2,000,000 aggregate, naming the City as an additional insured, (ii) builder's risk insurance in the amount of 100% of the value of the improvements to be constructed, (iii) worker's compensation insurance in such amount as required by law, (iv) all insurance as may be required by Developer's lenders for the Project, and (v) such other insurance as may be reasonably required by the City's Division of Risk Management. Developer's insurance policies shall (a) be written in standard form by companies of recognized responsibility and credit reasonably acceptable to the City, that are authorized to do business in Ohio, and that have an A.M. Best rating of A VII or better, and (b) provide that they may not be canceled or modified without at least 30 days' prior written notice to the City. Within 10 days following execution of this Agreement, Developer shall send proof of all such insurance to the Department of Community and Economic Development at 805 Central Avenue, Suite 700, Cincinnati, Ohio 45202, Attention: Department of Community and Economic Development, or such other address as may be specified by the City from time to time.

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

(C) Indemnity. Notwithstanding anything in this Agreement to the contrary, as a material inducement to the City to enter into this Agreement, Developer shall defend, indemnify, and hold the City, its officers, council members, employees, and agents (collectively, the "**Indemnified Parties**") harmless from and against any and all actions, suits, claims, losses, costs (including, without limitation, attorneys' fees), demands, judgments, liability and damages (collectively, "**Claims**") suffered or incurred by or asserted against the Indemnified Parties as a result of or arising from the acts of Developer, its agents, employees, contractors, subcontractors, licensees, invitees or anyone else acting at the request of Developer in connection with the Project. Developer's obligations under this paragraph shall survive termination or expiration of this Agreement with respect to Claims suffered, incurred, asserted, or arising prior thereto.

9. Casualty; Eminent Domain. If the Property, or any improvements thereon made pursuant to the Project, is damaged or destroyed by fire or other casualty during construction, or if any portion of the Property is taken by exercise of eminent domain (federal, state, or local), Developer shall repair and restore the Property, as expeditiously as possible, and to the extent practicable, to substantially the same condition that existed immediately prior to such occurrence. If the available condemnation or insurance proceeds are insufficient to fully repair and restore the Property, the City shall not be required to make up the deficiency. Developer shall handle all construction or reconstruction in accordance with the applicable requirements set forth herein, including, without limitation, obtaining the City's approval of the plans and specifications for the improvements if they deviate from the final Plans and Specifications as initially approved by the City hereunder. Developer shall not be relieved of any obligations, financial or otherwise, under this Agreement during any period in which the Project or the Property is being repaired or restored.

10. Default; Remedies.

(A) Default. The occurrence of any of the following shall be an “**event of default**” under this Agreement:

(i) the failure of Developer to perform or observe any obligation, duty, or responsibility under this Agreement, the Lease, or any other agreement to which Developer and the City are parties, or which the Property or the owner thereof is subjected to, and failure by Developer to correct such failure within 30 days after Developer’s receipt of written notice thereof from the City (the “**Cure Period**”); *provided, however,* that if the nature of the default is such that it cannot reasonably be cured during the Cure Period, Developer shall not be in default under this Agreement or the Lease so long as Developer commences to cure the default within the Cure Period and thereafter diligently completes such cure within 60 days after Developer’s receipt of the City’s initial notice of default. Notwithstanding the foregoing, if Developer’s failure to perform or observe any obligation, duty, or responsibility under this Agreement or the Lease creates a dangerous condition or otherwise constitutes an emergency as determined by the City, an event of default shall be deemed to have occurred if Developer fails to take corrective action immediately upon discovering such dangerous condition or emergency; or

(ii) the dissolution of Developer, the filing of any bankruptcy or insolvency proceedings by or against Developer, the making by Developer of an assignment for the benefit of creditors, the appointment of a receiver (temporary or permanent) for Developer or the Property, or the attachment of, levy upon, or seizure by legal process of any of the property of Developer; or

(iii) any representation, warranty, or certification of Developer made in connection with this Agreement, the Lease, or any other related agreements or documents shall prove to have been false or materially misleading when made.

(B) Remedies. Upon the occurrence of an event of default under this Agreement or the Lease that are not cured or corrected within the Cure Period, the City shall be entitled to: (i) if the default occurs prior to Closing, terminate this Agreement or the Lease by giving Developer written notice thereof, (ii) take such actions in the way of “self-help” as the City determines to be reasonably necessary or appropriate to cure or lessen the impact of such event of default, all at the expense of Developer, and (iii) exercise any and all other rights and remedies under this Agreement, the Lease, or available at law or in equity, including, without limitation, pursuing an action for specific performance. Developer shall be liable for all costs and damages, including, without limitation, attorneys’ fees, suffered or incurred by the City as a result of a default of Developer under this Agreement, the Lease, or the City’s enforcement or termination of this Agreement or the Lease. The failure of the City to insist upon the strict performance of any covenant or duty or to pursue any remedy under this Agreement, the Lease, or any other agreement to which Developer and the City are parties relating to the Project shall not constitute a waiver of the breach of such covenant or of such remedy.

11. Notices. All notices given by the parties hereunder shall be deemed given if personally delivered, or delivered by UPS, Federal Express, or other recognized courier service, or mailed by U.S. registered or certified mail, postage prepaid, return receipt requested, addressed to the parties at their addresses below or at such other addresses as either party may designate by notice to the other party given in the manner prescribed herein. Notices shall be deemed given on the date of receipt.

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 Developer:

Whex Garage LLC
1203 Walnut Street, 4th Floor
Cincinnati, Ohio 45202
Attention: Legal

If Developer sends a notice to the City alleging that the City is in default under this Agreement, Developer shall simultaneously send a copy of such notice by U.S. certified mail to: City Solicitor, City of Cincinnati, 801 Plum Street, Suite 214, Cincinnati, Ohio 45202.

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

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

(ii) Developer has full power and authority to execute and deliver this Agreement and to carry out the transactions provided for herein. This Agreement has by proper action been duly authorized, executed, and delivered by Developer and all actions necessary have been taken to constitute this Agreement, when executed and delivered, valid and binding obligations of Developer.

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

(iv) There are no actions, suits, proceedings, or governmental investigations pending, or to the knowledge of Developer, threatened against or affecting the Project or Developer or its parents, subsidiaries, or affiliates, at law or in equity or before or by any governmental authority that, if determined adversely, would impair the financial condition of such entity or its ability to perform its obligations with respect to the matters contemplated herein.

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

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

(vii) With reference to Section 301-20 of the Cincinnati Municipal Code, neither Developer nor any of its affiliates are currently delinquent in paying any fines, penalties, judgments, water, or other utility charges, or any other amounts owed by them to the City.

13. Reporting Requirements.

(A) Submission of Records and Reports; Records Retention. Developer shall collect, maintain, and furnish to the City upon the City's request such accounting, financial, business, administrative, operational, and other reports, records, statements, and information as may be requested by the City pertaining to Developer, the Project, or this Agreement, including, without limitation, audited financial statements, bank statements, income tax returns, information pertinent to the determination of finances of the Project, and such reports and information as may be required for compliance with programs and projects funded by the City, Hamilton County, the State of Ohio, or any federal agency (collectively, "**Records and Reports**"). All Records and Reports compiled by Developer and furnished to the City shall be in such form as the City may from time to time require. Developer shall retain all Records and Reports for a period of 3 years after the completion of the Project.

(B) City's Right to Inspect and Audit. During construction and for a period of 3 years after completion of the Project, Developer shall permit the City and its employees, agents, and auditors to have reasonable access to and to inspect and audit Developer's Records and Reports. In the event any such inspection or audit discloses a material discrepancy with information previously provided by Developer to the City, Developer shall reimburse the City for its out-of-pocket costs associated with such inspection or audit.

14. General Provisions.

(A) Assignment. Developer shall not sell, lease, or convey any interest in or to the Property or assign its rights or obligations under this Agreement or the Lease without the prior written consent of the City, which may be withheld in the City's sole and absolute discretion, and any attempt to do so without the City's consent shall, at the City's option, render this Agreement null and void.

(B) Entire Agreement. This Agreement (including the exhibits hereto) contains the entire agreement between the parties with respect to the subject matter hereof and supersedes any and all prior discussions, negotiations, representations, or agreements, written or oral, between them respecting the subject matter hereof. In the event that any of the provisions of this Agreement are in conflict or are inconsistent, the provision determined by the City to provide the greatest legal and practical safeguards with respect to the City's interests in connection with this Agreement shall control.

(C) Amendments and Waivers. This Agreement may be amended, waived, or otherwise modified only by a written amendment signed by both parties.

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

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

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

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

(H) No Third Party Beneficiaries. No third party beneficiary rights are intended to be created by this Agreement.

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

(J) No Recording. This Agreement shall not be recorded in the Hamilton County Recorder's Office.

(K) Time. Time is of the essence with respect to the performance by Developer of its obligations under this Agreement.

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

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

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

(O) 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.

- 15. Exhibits.** The following exhibits are attached hereto and made a part hereof:
- Exhibit A – *Site Plan and Legal Description of Property*
 - Exhibit B – *Statement of Work, Budget, and Sources of Funds*
 - Exhibit C – *Disbursement of Funds*
 - Exhibit D – *List of Encumbrances*
 - Exhibit E – *List of Existing Interests*
 - Exhibit F – *Form of General Warranty Deed*
 - Exhibit G – *Form of Lease Agreement*
 - Exhibit H – *Additional Requirements* (incl. Addendum I - City's Prevailing Wage Determination)

[SIGNATURE PAGE FOLLOWS]

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

CITY OF CINCINNATI,
an Ohio municipal corporation

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

Date: _____, 2026

WHEX GARAGE LLC,
an Ohio limited liability company

By: _____

Printed Name: _____

Title: _____

Date: _____, 2026

Approved as to Form:

Assistant City Solicitor

Certified Date: _____

Fund/Code: _____

Amount: _____

By: _____
Steve Webb, City Finance Director

Exhibit A
to Purchase, Funding, and Development Agreement

Site Plan and Legal Description of Property

Property Address:

Auditor Parcel ID No.:

Situated in Section 18, Town 4, Fractional Range 1, Between the Miamis, Cincinnati Township, The City of Cincinnati, Hamilton County, Ohio, and being Lot 1 of Whex Garage Subdivision, Section One as recorded in Plat Book _ Page _, of the Hamilton County Recorder's Office.

Exhibit B
to Purchase, Funding, and Development Agreement

Statement of Work, Budget, and Sources of Funds

I. STATEMENT OF WORK

Developer shall manage the renovation of the 780 space Convention Center Garage located at 210 W 4th Street. The renovation includes the reconfiguration of internal ramps, removal of the 5th Street speed ramp, creation of a new ground level vehicular access point along 5th Street, construction of a new elevator and stair tower on 5th Street connecting the garage to the Convention Center and the Convention Headquarters Hotel. Additionally, the renovation will upgrade building MEP systems.

II. BUDGET

Budget Items	Total	City Funds	Non-City Funds
Acquisition Carry Costs	\$12,330,461	\$0	\$12,330,461
General Requirements, General Conditions	\$315,755	\$0	\$315,755
Demo, Concrete, Foundations, Elevator, Electrical, and Structural Steel	\$5,759,667	\$4,000,000	\$1,759,667
General Trades, Roofing, Curtain Wall, Paint, Signage	\$1,592,084	\$0	\$1,592,084
Fire Suppression, Plumbing, Masonry	\$797,111	\$0	\$797,111
Restoration, Landscape, Utilities	\$608,352	\$0	\$608,352
Miscellaneous Hard Costs	\$2,873,218	\$0	\$2,873,216
FF&E	\$293,000	\$0	\$293,000
Contingency	\$623,366	\$0	\$623,366
Developer Fee	\$750,000	\$0	\$750,000
Interest Carry	\$542,000	\$0	\$542,000
Operating Reserve	\$250,000	\$0	\$250,000
Other Soft Costs	\$1,043,456	\$0	\$1,043,456
Total	\$27,778,470	\$4,000,000	\$23,778,468

I. SOURCES OF FUNDS

Construction Loan	\$13,200,000
CEF III Equity	\$4,578,470
ODOD	\$6,000,000
City Grant	\$4,000,000
Total	\$27,778,470

Exhibit C
to Purchase, Funding, and Development Agreement

Disbursement of Funds

(A) Conditions to be Satisfied Prior to Disbursement of Funds. The City shall be under no obligation to disburse the Funds unless and until the following conditions are satisfied and continue to be satisfied:

(i) Closing on the Property has occurred and Developer and the City have executed the Lease;

(ii) Developer has provided the City with evidence of insurance required under this Agreement;

(iii) Developer has provided the City with evidence that it has obtained all licenses, permits (including Revocable Street Privileges), governmental approvals, written authorization from DOTE, and the like necessary for the Project;

(iv) Developer has provided the City with evidence that Developer has secured all other funds necessary to complete the Project (if any);

(v) Developer has provided and the City has approved of the Due Diligence Materials, and the Project has commenced and is proceeding in accordance with the Plans and Specifications, Budget, and Construction Schedule;

(vi) Developer has provided the City with such other documents, reports, and information relating to the Project as the City has reasonably requested; and

(vii) Developer is not in default under this Agreement or the Lease.

(B) Disbursement of Funds. Provided all of the requirements for disbursement of the Funds shall have been satisfied, the City shall endeavor to disburse the Funds to Developer within 30 days of receipt of a completed draw request in accordance with Section (C)(ii) of this Exhibit. The City shall disburse the Funds on a reimbursement basis and pro-rata with all construction loan funds being utilized by Developer for the Project (*i.e.*, the Funds shall not be first in). Developer shall not be entitled to a disbursement of Funds to pay for costs incurred prior to June 12, 2025. Developer shall request the Funds and shall use the Funds solely for the purposes permitted under the Agreement. Nothing in this Agreement shall permit, or shall be construed to permit, the expenditure of Funds for the acquisition of supplies or inventory, or for the purpose of purchasing materials not used in the construction, or for establishing a working capital fund, or for any other purpose expressly disapproved in writing by the City. Developer shall not request a disbursement of Funds for any expenditure that is not itemized on or contemplated by the approved budget or if the costs for which the disbursement is being requested exceeds the applicable line item in the budget; however, Developer may request, in writing, that funds be transferred between line items, with the City's approval thereof not to be unreasonably withheld. Disbursements from the project account shall be limited to an amount equal to the actual cost of the work, materials, and labor incorporated in the work up to the amount of such items as set forth in Developer's request for payment. Anything contained in this Agreement to the contrary notwithstanding, the City shall not be obligated to make or authorize any disbursements from the project account if the City determines, in its reasonable discretion, that the amounts remaining from all funding sources with respect to the Project are not sufficient to pay for all the costs to complete construction. Developer acknowledges that the obligation of the City to disburse the Funds to Developer for construction shall be limited to the Funds to be made available by the City under this Agreement. Developer shall provide all additional funds from other resources to complete the Project. Notwithstanding anything in this Agreement to the contrary, the City's obligation to make the Funds

available to Developer, to the extent such Funds have not been disbursed, shall terminate 90 days following completion of construction of the Project.

(C) Draw Procedure

(i) Frequency. Developer may make disbursement requests no more frequently than once in any 30 day period.

(ii) Documentation. Each disbursement request shall include the following: For construction costs shown on the approved budget, Developer shall submit a draw request form provided by the City, with the following attachments: (i) an AIA G-702-703 Form (AIA) or such other similar form acceptable to the City, (ii) for partial payments, sworn affidavits and/or conditional lien waivers (together with invoices, contracts, or other supporting data) from all contractors, subcontractors, and materialmen covering all work, labor, and materials for the work through the date of the disbursement., (iii) for final payments, sworn affidavits and/or unconditional lien waivers (together with invoices, contracts, or other supporting data) from all contractors, subcontractors, and materialmen covering all work, labor, and materials for the work through the date of the disbursement and establishing that all such work, labor, and materials have been paid for in full, (iv) waivers or disclaimers from suppliers of fixtures or equipment who may claim a security interest therein, and (v) such other documentation or information requested by the City that a prudent construction lender might request. All affidavits and lien waivers shall be signed, fully-executed originals.

(D) Retainage. After review and approval of a disbursement request, the City shall disburse 90% of the amount requested (with retainage of 10%) or 100% of the amount requested if the application for payment already includes retainage in an amount of 10%. The retained amount shall be disbursed when (i) construction has been completed and evidence thereof, in form satisfactory to the City, has been delivered to the City, (ii) the City has obtained final lien waivers and all other conditions to payment set forth in this Agreement have been satisfied with respect to such payment, and (iii) Developer has complied with all of its other obligations under this Agreement as determined by the City in its sole discretion. For the avoidance of doubt, Developer may, following the completion of the Project, and upon the provision of the required documentation and the satisfaction of the other disbursement conditions in this Exhibit, request disbursement of the entire amount of Funds in one lump sum, in which case such amount would not be subject to retainage.

(E) Estoppel Certification. A request for the disbursement of City Funds shall, unless otherwise indicated in writing at the time Developer makes such request, be deemed as a representation and certification by Developer that (i) all work done and materials supplied to date are in accordance with the approved plans and specifications and in strict compliance with all legal requirements as of the date of the request, (ii) the construction is being completed in accordance with the approved budget and construction schedule, and (iii) Developer and the City have complied with all of their respective obligations under this Agreement. If Developer alleges that the City has been or is then in default under this Agreement at the time Developer makes such request, and if the City disputes such allegation, the City shall not be obligated to make or authorize such disbursement until the alleged default has been resolved.

Exhibit D
to Purchase, Funding, and Development Agreement

List of Encumbrances

TO BE ATTACHED

Exhibit E
to Purchase, Funding, and Development Agreement

List of Existing Interests

TO BE ATTACHED

Exhibit F
to Purchase, Funding, and Development Agreement

Form of General Warranty Deed

[SEE ATTACHED]

[SPACE ABOVE FOR RECORDER'S USE]

GENERAL WARRANTY DEED

WHEX GARAGE LLC, an Ohio nonprofit limited liability company ("**Grantor**"), for valuable consideration paid, hereby grants and conveys, with general warranty covenants, to the **CITY OF CINCINNATI**, an Ohio municipal corporation, the address of which is 801 Plum Street, Cincinnati, Ohio 45202 ("**Grantee**"), all of Grantor's right, title, and interest in and to the real property more particularly described on Exhibit A (*Legal Description*) hereto (the "**Property**"), to wit:

Property Address:

Auditor's Parcel No.

Prior Instrument Reference: Official Record _____, Page _____, Hamilton County,
Ohio Recorder's Office

Funding for the City's acquisition of the described Property was authorized by Ordinance No. _____, passed by City Council on _____.

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

Exhibit A – Legal Description

Executed on the date of acknowledgement below.

WHEX GARAGE LLC

By: _____

Printed Name: _____

Title: _____

STATE OF OHIO)
) SS:
COUNTY OF HAMILTON)

The foregoing instrument was acknowledged before me this ___ day of _____, 2026 by _____, the _____ of the Whex Garage LLC, an Ohio limited liability company, on behalf of the company.

Notary Public
My commission expires: _____

Approved as to Form:

Assistant City Solicitor

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

EXHIBIT A
to General Warranty Deed

Legal Description

TO BE ATTACHED TO EXECUTION VERSION

Exhibit G
to Purchase, Funding, and Development Agreement
Form of Lease Agreement

SEE ATTACHED

LEASE AND MANAGEMENT AGREEMENT
(Whex Garage LLC)

THIS LEASE AND MANAGEMENT AGREEMENT (this "**Lease**") 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, having an address of 801 Plum Street, Cincinnati, Ohio 45202 (the "**City**"), and **WHEX GARAGE LLC**, an Ohio nonprofit limited liability company, having an address of 1203 Walnut Street, 4th Floor, Cincinnati, Ohio 45202 ("**Operator**") (Operator being a wholly-owned subsidiary of Cincinnati Center City Development Corporation ("**3CDC**")).

Recitals:

A. The Operator owns the parcel and parking garage set forth in Exhibit A (including the real property and the improvements thereon, the "Garage," and as the same may be amended and/or updated from time to time). Prior to execution of this Lease, the Operator is conveying its fee simple interest in the Garage to the City.

B. Operator has financed debt on the Garage with (i) bonds issued by the Port of Greater Cincinnati Development Authority (the "Authority") (such bonds issued being referred to herein as the "**Bonds**") pursuant to a Trust Indenture between the Authority and The Huntington National Bank, as Trustee ("**Trustee**") and a Financing Agreement between Operator and Fifth Third Bank ("**Financing Agreement**") and (ii) a loan from the Ohio Department of Development ("**ODOD**") (the "**Subordinate Loan**").

C. The City and Operator now desire to execute this Lease to provide for a lease and management agreement for the Garage.

D. The fair market rental value of the Garage is \$1,200,000.00 annually, as determined by an appraisal by the City's Real Estate Services Division.

E. The City has determined to lease the Garage to Operator for \$1.00 annually as the City will receive economic and non-economic benefits from such lease which will equal or exceed the fair market rental value of the Garage.

F. The City determined that eliminating competitive bidding in connection with the lease of the Garage is in the best interest of the public because (i) ownership of the Garage is being transferred to the City by Operator as part of a larger redevelopment project in the area of the Garage, (ii) such transfer of the Garage to the City is contingent upon the City's lease of the Garage to Operator for tax incentive purposes, (iii) the City has an established relationship with Operator, or Operator's affiliates, to manage and maintain the City's public parking assets in the Central Business District and Over-the-Rhine neighborhoods and (iv) it is in the interest of the City to maintain public parking in the area of the Garage and Operator, or its affiliates, have an established and successful record of managing the City's public parking assets.

G. City Planning Commission, having the authority to approve the change in the use of City-owned property, approved the same at its meeting on April 3, 2026 and execution of this Lease was authorized by Ordinance No. _____, passed by City Council on _____.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. GRANT.

(A) Grant. On the terms and conditions set forth in this Lease, the City does hereby lease the Garage to Operator, and Operator does hereby lease the Garage from the City, beginning on the applicable Commencement Date (as defined below) through the Termination Date (as defined below) for the Garage. The parties acknowledge that from the date the Garage was built through the Commencement Date, Operator has previously owned and operated the Garage and conducted its own due diligence in order to familiarize itself with the condition and characteristics of the Garage. The City has not made any representations or warranties concerning the condition or characteristics of the Garage, and Operator acknowledges and agrees that Operator is not relying upon any such representations or warranties from the City. Without limitation of the foregoing, under no circumstances shall the City be responsible or liable for any pre-existing environmental conditions affecting the Garage. On the applicable Commencement Date, Operator shall accept the Garage in "as is" condition.

(B) Title Matters. The City is leasing the Garage to Operator subject to and together with (as the case may be) any and all easements, covenants, restrictions and other matters of record affecting the Garage (including, but not limited to the REAs (as defined herein). Operator shall not take any actions that would violate any such easements, covenants, restrictions, or other matters of record. Except for Permitted Garage Mortgages under Section 9 (*Permitted Leasehold Mortgages*) below, Operator shall not have the right to grant any additional easements or otherwise further encumber the City's title to the Garage without the City's prior written consent. The City shall have the right to take such actions affecting the Garage as may be deemed reasonably necessary by the City from time to time so long as such actions do not unreasonably impair the rights granted to Operator under this Lease; however, during the Term (as defined below) of this Lease the City shall not grant a mortgage on the Garage to any third party.

(C) Ownership of Garage. Throughout the Term, the City shall be deemed to be the fee owner of the Garage for State law and federal tax law purposes.

(D) Advertising Rights. Subject to compliance with the terms of any recorded restrictive covenants applicable to the Garage, the City explicitly retains the right to grant to third parties the right to place advertisements on the exterior of the Garage; *provided however*, that such activities shall not in any way materially disrupt the Garage's business operations. For clarity, any revenues arising from any such advertisements shall not be considered Garage Revenue (as defined below) under this Lease and shall not be pledged by Operator as security for the Bonds.

2. TERM; RENEWAL OPTIONS; DEVELOPMENT AGREEMENTS.

(A) Lease Term. The term ("**Term**") of this Lease shall commence on the Effective Date and shall expire, unless extended or sooner terminated in accordance with the provisions of this Lease, on the date of the outermost Termination Date for the Garage, as identified in Exhibit A to this Lease, as may be amended. On the Termination Date, subject to extension pursuant to any renewal options described in Section 2(B), the Garage shall be surrendered to the City in accordance with the terms herein and will no longer be subject to this Lease. All obligations of Operator under this Lease that have accrued but have not been fully performed as of the end of the Term or the Termination Date, including without limitation indemnity obligations, shall survive such Termination Date and expiration or termination of the Term until fully performed.

(B) Renewal Options. Operator shall have the right to exercise renewal options and extend the Termination Date for the Garage for two (2) successive 10-year periods (each, if applicable, a "**Renewal Period**"), on the same terms and conditions as set forth in this Lease. To exercise a renewal option for a Garage, the Operator must give the City written notice thereof no less than twelve (12) months (but no sooner than 18 months) prior to the date of the initial Termination Date (or, if applicable, the end of the first Renewal Period). As used herein, the "Termination Date" for the Garage means the later of the original Termination Date or the last day of any exercised Renewal Period.

(C) Tax Matters. The City will cooperate in good faith with reasonable written requests from Operator for the City to take such actions or to refrain from taking such actions as may be reasonably necessary for the establishment and maintenance of the tax-exempt status of the Garage Debt (defined in Section 9(A) below) with respect to which the interest is exempt from federal income taxation and of any tax abatements to the extent they exist or apply to the Garage or related commercial property.

3. PERMITTED USE. Operator shall use the Garage solely for the operation of a public parking garage (including any and all ancillary uses approved in writing by the City for the Garage). Operator shall operate the Garage in a Class A Manner (as defined below). Operator shall obtain and maintain all necessary licenses and permits and shall operate and maintain the Garage in compliance with all applicable federal, state and local laws, codes, ordinances and other governmental requirements, including without limitation all environmental laws. Operator shall operate the Garage as a public parking facility, open and available to members of the general public on a daily, monthly or other subscription basis.

4. RENT.

(A) Base Rent. Beginning on the Commencement Date for the Garage, and on each anniversary thereof until the Termination Date, Operator shall pay the City annual base rent ("**Base Rent**") in the amount of One Dollar (\$1.00). Operator may, at its option, prepay Base Rent.

(B) Additional Rent. This is a "triple net" lease, and throughout the Term, Operator shall pay all costs associated with the operation, maintenance, repair and replacement of the Garage, including without limitation charges for gas, electricity, water, sewer, telephone and all other utilities, insurance costs, real estate taxes, service payments, installments of assessments that become due and payable during the Term, management fees to any third-party operator, and all other costs that would generally be regarded in the industry as operating costs or expenses (the foregoing, together with any other costs or expenses otherwise consistent with this definition, collectively referred to as the "**Operating Costs**"). For clarity, Operating Costs does not include the Management Fee (defined below) or the City Management Fee (defined below). Operator shall make payments of Operating Costs directly to the persons or entities to whom such payments are owed. To the extent that the City, rather than Operator, pays any costs or expenses that would otherwise be payable by Operator as Operating Costs, Operator shall reimburse the City on an annual basis for such costs or expenses, as additional rent, within thirty (30) days after Operator's receipt of documentation substantiating such costs or expenses.

(C) Eligible Costs. Operator may only use Garage Revenue for the following uses (collectively, the "**Eligible Costs**"), in each case in accordance with the terms and conditions of this Lease, and in the following order of priority: (i) payment of Operating Costs; (ii) payment of all scheduled payments required with respect to the Garage Debt (as defined in Section 9(A) below), including administrative costs associated with or required to be paid under any Bonds ("**Debt Service Payments**") and amounts sufficient to provide minimum levels of reserve funds required with the Bonds; (iii) payment on Subordinated Loans; (iv) deposits to the Parking Program Fund required to be made under any Bonds or otherwise required under this Lease (for purposes of this Lease, all such payments and costs together with the Debt Service Payments are collectively referred to as the "**Debt Costs**"); (v) payment of the Management Fee; (vi) payment of the City Management Fee; (vii) deposits to the Sinking Fund (as permitted below) and/or other replenishments consistent with Section 5; and (viii) any remaining amounts, after the payments of the Eligible Costs listed in subparagraphs (i) through (vii) above, to the Operator, which remaining amount shall be referred to herein as "**Net Garage Revenues**." Net Garage Revenue shall be transferred by Operator to Operator's affiliate, 3CDC, and utilized solely for the purposes of supporting and funding redevelopment and revitalization projects in the Central Business District and Over-the-Rhine neighborhoods of Cincinnati.

5. PERMITTED SINKING FUND CONTRIBUTIONS. Promptly following the Effective Date, Operator shall establish a separate, federally-insured bank account for the Garage into which Operator shall deposit Garage Revenues (the "**Sinking Fund**") that will be used by Operator to (a) fund repair, replacement, or addition of structural elements or other aspects of the Garage; (b) fund Operating Costs; and/or (c) fund Debt Costs.

“Permitted Sinking Fund Contributions” means deposits of Garage Revenue into the Sinking Fund until such time as the Sinking Fund, together with any required Reserve Fund and Parking Program Fund balances, contains an amount equal to (i) the Parking Space Reserve; (ii) approximately one year of budgeted Debt Service Payments; and (iii) 300 days of budgeted Operating Costs, and thereafter contributions only to replenish and maintain such balance.

“Parking Space Reserve” means \$400 per parking space in the Garage, which at the election of Operator may escalate to \$500 per space for years 11–20 after the Effective Date and \$600 per space thereafter.

6. REAL ESTATE TAXES. Operator shall pay all real estate taxes, service payments, and assessments levied against the Garage that become due and payable during the Term. Upon each such payment, Operator shall furnish the City with appropriate evidence of payment. If Operator institutes proceedings to contest the validity or amount of such taxes, the City, at no cost to the City, shall cooperate with Operator to the extent that the participation of the owner of the lessor’s interest under this Lease is required. Operator shall be entitled to any and all amounts recovered which relate to tax payments previously made by Operator. Notwithstanding the foregoing, the City reserves the right to evaluate, on a case-by-case basis, the merit of Operator’s contest and reserves the right not to cooperate in such contest if, in the reasonable determination of the City, such contest would not be in the best interest of the public. Certain Garages have been granted tax-exempt status as set forth on Exhibit A. The City agrees to reasonably cooperate in filing any applicable real estate tax exemption paperwork as required to obtain or maintain any applicable tax exemptions for the Garage. The parties acknowledge that there is no guarantee that any tax exemption will be granted or maintained by the State.

7. OPERATION OF THE GARAGE.

(A) Maintenance & Repairs; Services. Throughout the Term, Operator shall operate the Garage in a “Class A Manner”. As used herein **“Class A Manner”** means keeping the Garage and abutting sidewalks in good, clean, and safe condition and repair; maintaining appropriate signage and lighting; providing a sufficient number of garage attendants; maintaining appropriate technology; and providing all security and other services for the Garage consistent with services offered at other parking facilities of similar age, size, quality and amenities in the downtown Cincinnati area. The City shall not have any maintenance or repair obligations or any obligation to provide services for the benefit of the Garage under this Lease.

(B) Management and Monitoring Fees. Notwithstanding anything in this Lease to the contrary, for each year of the Term, Operator shall be entitled to a management fee for management and oversight of the Garage equal to an amount of up to five percent (5%) of Garage Revenue (the **“Management Fee”**); *provided however*, that the Management Fee shall at all times be a commercially reasonable amount for the services provided. The Management Fee and any distributions of Garage Revenue to 3CDC under Section 4(D) shall be the sole source of compensation to Operator and its affiliates for management and oversight services provided under this Lease. As the City will provide certain monitoring and oversight of this Lease, for each year of the Term Operator shall pay to the City a fee, payable annually with the delivery of the Operating Report (defined below), equal to one half of one percent (0.5%) of the annual Garage Revenue (the **“City Management Fee”**).

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

(D) Operating Account. Operator shall maintain, in its own name or in the name of its applicable subsidiary for the Garage, a separate federally-insured bank account for the Garage (the **“Operating Account”**) into which Operator shall deposit all user fees or other revenue generated from the

operation of the Garage (if any) (collectively, the “**Garage Revenue**”). Upon request of the City, Operator shall provide the City with copies of the bank statements for each Operating Account.

(E) Parking Program Fund. Operator shall establish a separate, federally-insured bank account to act as a capital improvement reserve fund for financing capital repairs and improvements to the Garage and for covering shortfalls in Operating Costs or Debt Costs (the “**Parking Program Fund**”). Operator shall deposit Garage Revenue into the Parking Program Fund until the balance is not less than (i) \$500 per parking space in the Garage; plus (ii) any additional amounts projected to be necessary to fund capital improvements under a Capital Improvement Plan.

(F) Parking Rates. Throughout the Term, Operator shall establish commercially reasonable parking rates for Public Parking Spaces. The City will have the right to approve parking rates so long as (i) the Debt Service Coverage Ratio, as defined in the Financing Agreement for the prior calendar year was not less than 1.40x and (ii) the debt service coverage ratio for the current calendar year is projected to be not less than 1.40x. Prior to the beginning of each calendar year during the Term, or prior to any proposed change in parking rates, Operator shall notify the City Manager in writing of the parking rates for the Public Parking Spaces and, in the event that the Debt Service Coverage Ratio, as defined in the Financing Agreement for the prior calendar year was not less than 1.40x and the debt service coverage ratio for the current calendar year is projected to be not less than 1.40x, obtain written approval from the City for such rate change. In the event that the City does not provide any response within thirty (30) days to proposed rate changes when the aforementioned qualifiers relating to debt service coverage ratio are met, then such rate changes shall automatically be deemed approved.

(G) Parking Garage Operator. If Operator hires an independent parking operator to manage and operate any of the Garage, each such third-party parking operator shall be reputable and have prior experience in operating similar-sized parking garages and such engagement shall be on commercially reasonable terms. Operator shall be allowed to structure such independent parking operator agreement in any manner it deems appropriate, including as a lease, which is hereby approved as a sublease; *provided however*, that any such sublease shall include a provision clarifying that a termination of Operator’s interest in this Lease shall automatically terminate any such sublease. The hiring by Operator of a parking operator for any of the Garage, including structuring such hiring as a lease, shall not relieve Operator from any obligations or liability under this Lease. In its Operating Report, Operator shall provide the City notice if Operator hires such an independent parking operator and upon any change in such operator.

(H) Reporting Requirements. Throughout the Term, Operator shall provide the City (to be delivered to the City’s Department of Community and Economic Development Department (“**DCED**”)) with the following information and reports:

i. Budget. Prior to the Commencement Date and prior to the beginning of each calendar year thereafter during the Term, Operator shall provide the City with an operating budget for the Garage (with reasonable proration of Operating Costs) for the upcoming year, including anticipated capital expenditures to be paid from the Parking Program Fund, estimated Operating Costs, and estimated Management and City Management Fees, in a form acceptable to the City.

ii. Operating Report. No later than March 31st of each calendar year during the Term, Operator shall provide the City with a reasonably detailed, professionally prepared operating statement, balance sheet, and report for the Garage (and such other financial statements and information as may be reasonably requested by the City) for the calendar year then just ended showing (a) the Garage Revenue, Operating Costs, Management Fee, City Management Fee, and Permitted Sinking Fund Contributions made for such calendar year; (b) the calculation of the amount of the Net Garage Revenue for such year; (c) the balances in the Operating Account and Parking Program Fund as of the end of such year; (d) an attendance report showing the number of motor vehicles that were parked at the Garage during such year; (e) evidence of insurance policies required to be maintained under this Lease, as applicable; (f) information on activities under any Capital Improvement Plan (as defined below); and (g) any and all other information regarding operations of the Garage or compliance with the terms of this Lease as the City may

from time to time reasonably request (each an “**Operating Report**”). The Operating Report shall be in a form acceptable to the City.

iii. *Financial Statements.* Within one hundred eighty (180) days after the end of each fiscal year of Operator, Operator shall provide the City with audited financial statements detailing income and expenses for the Garage for the year then just ended, prepared by an independent certified public accountant utilizing generally accepted accounting principles. The City’s receipt of Operator’s audited financial statements shall not constitute a waiver of the City’s right to inspect and audit Operator’s books and records pertaining to the Garage. If Operator submits consolidated audited financial statements for itself and its parent company and/or one or more of its subsidiaries, such statements shall contain supplemental schedules detailing the performance of the Garage individually.

iv. *Structural Engineering Report; Capital Improvement Plan.* Upon the execution of this Lease, the Operator is completing a substantial renovation of the Garage from proceeds of the Bonds in accordance with plan and specifications provided to the City. Upon the substantial completion of the renovation of the Garage, the Operator will provide to the City a certificate establishing the substantial completion date (the “Completion Date”). On the tenth (10th) anniversary of the Completion Date and on each successive tenth (10th) anniversary thereafter, Operator, at its expense, shall provide the City with a structural engineering report, prepared by a reputable structural engineer, assessing the then current structural integrity of the Garage. If at any time during the Term the City has reasonable concern regarding the structural integrity of the Garage, then the City may request and the Operator, at its expense, shall provide the City, promptly following such request, with a structural engineering report, prepared by a reputable structural engineer, assessing the then current structural integrity of the Garage. As part of the Operating Report delivered for the sixth (6th) year prior to the Termination Date (to be delivered by the following March 31st), the Operator, at its expense, shall provide the City with a structural engineering report, prepared by a reputable structural engineer, assessing the then current structural integrity of each applicable Garage. Based upon such report, the Operator shall promptly develop a capital improvement plan to accomplish such capital repairs and improvements required to bring the Garage into a good, clean, safe, and stable condition and shall submit it to the City for review and approval (each as approved by the City, a “**Capital Improvement Plan**”). Notwithstanding the forgoing, the City may, in its sole discretion, waive the requirement that Operator produce a structural engineering report for the Capital Improvement Plan if the City has within a reasonable amount of time beforehand otherwise received an acceptable and up-to-date structural engineering report under this provision and Operator is able to develop an acceptable Capital Improvement Plan based on the prior report. Notwithstanding anything in this Lease to the contrary, Operator shall not be required to borrow funds or contribute additional funds from its own resources to complete a Capital Improvement Plan if available funds from a combination of the Sinking Fund and Garage Revenue are not sufficient to finance a Capital Improvement Plan. In the event that such available funds are insufficient to finance a Capital Improvement Plan, the parties will work together in good faith to jointly identify funds for completing such Capital Improvement Plan.

v. *Other Information.* Operator shall collect, maintain, and furnish to the City from time to time such other accounting, financial, business, administrative, operational and other reports, records, statements and information as may be reasonably requested by the City pertaining to Operator or the Garage (including information related to Operator and 3CDC’s use of Garage Revenue), including without limitation bank statements, loan statements, income tax returns, and such other reports and information as may be required for compliance with programs and projects funded by the City, Hamilton County, the State of Ohio, or any federal agency (all reports, records, statements and other information furnished by Developer under this paragraph being referred to herein collectively as “**Records and Reports**”). All Records and Reports compiled by Operator and furnished to the City shall be in such form as the City may from time to time require. During the Term, Operator shall permit the City and its designees and auditors to have access to and to inspect and audit Operator’s Records and Reports. If the City’s inspection or audit reveals a material discrepancy with information previously provided by Operator as determined by the City Manager, Operator shall reimburse the City for the City’s actual out-of-pocket costs associated with such inspection or audit, and the parties shall work cooperatively to resolve such discrepancy.

(I) City's Right to Inspect. The City shall have the right to inspect each of the Garage from time to time for any proper purpose; *provided* that the City will not unreasonably interfere with the Garage' business operations.

(J) REA Compliance; Pass-Through of "Garage Owner" Obligations.

i. REAs. The City, Whex (or its permitted affiliate and assigns), and Cincinnati CH (OH), LLC intend to execute one or more reciprocal covenants, restrictions, and easements agreements affecting the Garage, including without limitation (A) a Reciprocal Covenants, Restrictions, and Easements Agreement (Convention Center-Hotel-Garage Skybridge) among the City, Operator and Cincinnati CH (OH), LLC ("Cincinnati CH"), relating to the operation, control, maintenance and repair of an elevated pedestrian walkway (the "Skybridge") extending from the property immediately west of the Garage (the "Hotel"), over the Garage property, and over the 5th Street right of way to the Cincinnati Convention Center (the "Convention Center"), and (B) a Reciprocal Covenants, Restrictions, and Easements Agreement (Former Home Alley) among the City, Operator and Cincinnati CH, relating to the operation, control, maintenance and repair of the property which was formerly Home Alley, as each may be finalized, recorded, and amended from time to time (collectively, the "**REAs**").

ii. Pass-Through Obligations. As between the City (fee owner) and Operator (lessee), Operator covenants to perform, at Operator's sole cost, risk, and expense, any and all covenants, obligations, responsibilities, and commitments of the "Garage Owner" (or owner of the Garage property) under the REAs that are applicable to the Garage or its operations, including without limitation: (A) construction coordination and temporary construction easements; (B) granting, maintaining, and honoring access/encroachment/utility/support easements benefiting the Skybridge/Hotel/Convention Center; (C) maintenance, repair, capital maintenance, shared maintenance cost allocations (including the Whex sewer line allocations), and access control systems integration; (D) insurance requirements (during and after construction), waivers of subrogation, and contractor insurance; (E) security responsibilities; (F) casualty response, reconstruction, and cooperation; (G) signage, wayfinding, and operational coordination; and (H) any estoppel, subordination, and consent requirements applicable to the Garage side.

iii. REA Changes; Coordination. Operator shall not consent to, execute, or record any amendment, modification, release, or termination of any REA provision that burdens or benefits the Garage without the City's prior written approval; the City will not unreasonably withhold, condition, or delay consent. Operator shall cooperate with the City and Cincinnati CH in providing non-disturbance and subordination agreements reasonably required by mortgagees with respect to the REAs.

iv. Funding; Priority. Operator shall fund any REA-related maintenance, repair, or capital costs consistent with the Eligible Costs priority in Section 4(C), utilizing Operating Costs, Parking Program Fund, Sinking Fund, and Debt Costs, as applicable.

v. Cross-Default. Any material default by Operator in performing "Garage Owner" obligations under the REA relating to the former Home Alley (after applicable notice and cure periods under the REAs) shall constitute a default under this Lease.

8. ALTERATIONS; SIGNS; NO LIENS

(A) Alterations. Operator shall not make any material alterations, additions, or other changes to the Garage that would diminish the fair market value of the Garage. Any and all alterations made by Operator shall be made in a good and workmanlike manner, in compliance with all applicable laws and regulations, and shall be consistent with the quality, design, functionality, and aesthetic appeal of the Garage. Once installed, Operator shall not remove such alterations (unless such removal shall have been consented to in writing by the City, such consent not to be unreasonably withheld), and Operator shall surrender the same to the City on the Termination Date as described in Section 15 (*Surrender; Holdover*) below.

(B) Signs. Operator shall be permitted to install such directional, informational, advertising and other signs at the Garage as Operator deems appropriate provided that all such signs are professionally prepared and comply with all laws and regulations. Operator shall, at its expense, keep all signs in good condition and repair. Notwithstanding the foregoing, Operator shall install conspicuous signage, as a part of the Garage, that is visible from a public-right-of-way, indicating that public parking is available at the Garage (subject to all applicable zoning laws and regulations).

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

9. PERMITTED LEASEHOLD MORTGAGES.

(A) Permitted Mortgages. The parties acknowledge and agree that: (i) Operator has obtained or will obtain one or more loans in connection with refinancing the Garage; namely, the Bonds and the Subordinate Loan (collectively, and together with any bonds or loans made to refinance such bonds or loans, the "**Garage Debt**"); and (ii) following the parties' execution of this Lease, Operator may grant to the Trustee or the other secured parties for the Garage Debt, as security for such loan(s), a cross-collateralized leasehold mortgage and other security instruments with respect to Operator's leasehold interests in the Garage (each, a "**Permitted Garage Mortgage**", with each holder thereof being referred to herein as a "**Permitted Garage Mortgagee**"). From and after the date of the parties' execution of this Lease, Operator shall not refinance the debt that is secured by a leasehold mortgage on a Garage without prior written consent of the City. At the end of the Term, Operator shall pay in full all then outstanding Garage Debt and shall surrender the Garage to the City free and clear of all Permitted Garage Mortgages.

(B) Notice to Permitted Garage Mortgagees of Default under Lease. If the City sends a notice of default to Operator under this Lease and intends to exercise any right it may have under this Lease to terminate this Lease as to a Garage by reason of such default, the City shall, prior to exercising any right to terminate (but not necessarily concurrently with the delivery of a notice of default), send a copy of such notice of default to the Trustee and to all Permitted Garage Mortgagees at such address as is provided by each Permitted Garage Mortgagee in writing to the City from time to time. The City shall send notices to the Permitted Garage Mortgagees in the same manner in which the City sends notices to Operator under this Lease.

(C) Opportunity to Cure Operator's Default. Notwithstanding anything in Section 12 (*Default; Remedies*) below to the contrary, the City shall delay exercising any right the City may have pursuant to Section 12(B) to terminate the Lease in order to permit each Permitted Garage Mortgagee a reasonable opportunity to cure Operator's default in accordance with the following:

- (i) If the Permitted Garage Mortgagee (a) does not notify the City in writing within 60 days after receiving a copy of the notice of default that such Permitted Garage Mortgagee intends to cure the default or (b) the Permitted Mortgagee does not in fact commence to cure the default within such 60-day period, whether by way of instituting foreclosure proceedings or otherwise, then the City shall be free to exercise its right to terminate this Lease by reason of Operator's default; or
- (ii) If the Permitted Garage Mortgagee (a) does notify the City in writing within 60 days after receiving a copy of the notice of default that such Permitted Garage Mortgagee intends to cure the default and (b) the Permitted Mortgagee does in fact commence to cure the default within such 60-day period, whether by way of instituting foreclosure proceedings or otherwise, but (c) it fails to completely cure the default to the City's reasonable satisfaction within 180 days after (i), in the event that the subject default is under Section 12(A)(iii), the Operator being deemed in default pursuant to Section 12(A)(iii) and the Permitted Garage Mortgagee's receipt of notice

of such default or (ii), in all other cases, the Permitted Garage Mortgagee's receipt of a copy of the notice of default, then the City shall be free to exercise its right to terminate this Lease by reason of Operator's default; or

- (iii) If Operator's default is under Section 12(A)(iv), Permitted Garage Mortgagee may assume this Lease by providing written notice thereof to the City.

Notwithstanding anything herein to the contrary, the Permitted Garage Mortgagee's rights hereunder shall run concurrently with any cure rights by the Operator acting on behalf of the City under the REA's, such that the Permitted Garage Mortgagee shall not have any extended cure periods beyond those provided for in the REAs for violations or defaults on REA terms. Nothing in this Lease shall be construed as requiring any Permitted Garage Mortgagee to cure defaults of Operator under this Lease. The Operator and the City agree that if Operator's default is under Section 12(A)(iii), the Operator's failure to object to the City's basis for default or the court entering a Declaratory Judgement that Operator is in default shall immediately grant possession, as lessee under this Lease, of the applicable Garages to the Permitted Garage Mortgagee so that it may commence to cure such default in accordance with the terms of Section 9(C)(ii). If the nature of the default is such that the Permitted Garage Mortgagee determines that, in order to cure such default, it is necessary to hire a contractor or other third party to do work on-site, all such persons and companies shall be subject to the City's prior written approval and shall perform such work in accordance with all terms and conditions of this Lease.

(D) Operator's Default under Permitted Mortgages; City's Right to Terminate Lease Early. If Operator receives a notice of default from any Permitted Mortgagee, Operator shall promptly send a copy of each such notice to the City. If, as a result of Operator's default under a Permitted Mortgage, the Permitted Mortgagee exercises any right that it may have under the Permitted Mortgage to institute foreclosure proceedings or otherwise effectuate a transfer of Operator's leasehold estates to the Permitted Mortgagee, a purchaser at foreclosure, or other transferee, the City shall have the right, in its sole discretion, to terminate this Lease at any time, either before or after any transfer, by (i) giving to each Permitted Mortgagee and Operator no less than ninety (90) days prior written notice and (ii) by paying to each Permitted Mortgagee an amount equal to the then outstanding principal of and accrued interest on the Bonds or Subordinate Loans, including accrued interest thereon from a default interest rate of up to a maximum increase of 4%, if applicable, but excluding all other penalties, late charges, and interest thereon, with Operator being responsible for paying any further balance owed to each Permitted Mortgagee and any and all other indebtedness of Operator allocable to the Garage. Any such payment by the City shall first be applied to any past due amounts and interest accrued thereon. At the time of termination, all funds then maintained in the reserves and funds set forth in this Lease shall be applied towards repayment of outstanding principal of and accrued interest on the Bonds and Subordinate Loans, in accordance with each Permitted Mortgagee's interest therein. Upon such termination, the parties agree to take such actions as may be necessary to enable the City to pay the foregoing amounts using tax-exempt municipal bonds. Further, any transferee of Operator's leasehold estate under this Lease shall deliver to the City, within thirty (30) days of any transfer, an instrument evidencing the transferee's express assumption of the Operator's obligations and liabilities under this Lease. Operator shall reimburse the City for any and all out-of-pocket costs incurred by the City in connection with any such mortgage foreclosure or transfer.

(E) Subordination of City's Rights of Distraint with Respect to Operator's Personal Property. Notwithstanding any existing or future statute, law or rule of law to the contrary, the City hereby agrees that any rights of distraint arising in favor of the City under this Lease to machinery, equipment, apparatus, appliances, goods, chattels and any other personal property located at the Garage and belonging to Operator shall be subject and subordinate to the rights of any holder of a Permitted Garage Mortgage. Although the foregoing subordination shall be self-operative without the necessity for any further instrument or document, the City hereby agrees, upon written request from Operator, to furnish written confirmation thereof to Operator and any vendor, supplier, holder of a security interest in Operator's property, or any other third party designated by Operator.

(F) City's Transfer of its Interest in the Garage; Operator's Purchase Option. The City shall not have the right to sell or otherwise dispose of the Garage during the Term of this Lease without the express written consent of the Operator. At the expiration of the Term, the Operator has the right to purchase the Garage from the City for \$100.00. Operator shall provide notice of its intent to purchase the Garage not less than ninety (90) days prior to the Termination Date. If such notice is not provided to the City not less than ninety (90) days prior to the Termination Date, then the City may provide a notice to Operator that no notice of Operator's intent to purchase the Garage has been received by the City. If the Operator fails to provide a notice of its intent to purchase the Garage within ten (10) days after receipt of the City's aforementioned notice, then Operator's above described right to purchase the Garage shall be forfeited. Upon exercise by the Operator to purchase the Lessor's interest in the Garage and upon payment of all amounts payable by the Operator in connection therewith, the City will deliver, or cause to be delivered, to the Lessee such quit-claim deeds, bills of sale, instruments and other documents conveying to the Operator all of the City's interests in the Garage. No further action of the Council of the City shall be required to authorize or to effect the conveyance contemplated in this Section, and any officer or officers of the City are authorized and directed hereby to execute and deliver any instruments and documents necessary or advisable to effect the conveyance.

10. INSURANCE; INDEMNITY.

(A) Insurance. From and after the Effective Date, Operator shall maintain, or cause to be maintained by its third-party management company, the following insurance:

i. special peril (formerly known as "all-risk") full replacement cost property insurance on the Garage, naming the City and Operator as their interests may appear;

ii. property insurance on any and all personal property of Operator from time to time located at the Garage in the amount of the full replacement cost thereof;

iii. garage liability insurance covering claims for bodily injury, personal injury or death, and property damage occurring at the Garage in an amount not less than Three Million Dollars (\$3,000,000) per accident, combined single limit, and garagekeepers' insurance written on a direct primary basis in an amount not less than Two Hundred Fifty Thousand Dollars (\$250,000) for loss in any one event, or such additional amounts as the City or its insurance or risk advisors may determine from time to time to be customary for similar-sized parking facilities in the Central Business District of Cincinnati, together with umbrella liability insurance in the amount of not less than \$10,000,000, naming the City as an additional insured;

iv. workers' compensation insurance as required by law; and

v. such other policies or additional amounts of insurance as may be required under any and all Permitted Garage Mortgages (such other policy requirements and additional amounts of insurance in excess of the policies and amounts herein stated shall control over the above requirements).

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

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

such loss or damage by maintaining adequate insurance. Operator shall cause its property insurance policies to include a waiver of subrogation provision consistent with the foregoing waiver.

(D) Indemnity. The City assumes no responsibility for any acts, errors or omissions of Operator or any employee, agent, representative or any other person acting or purporting to act for or on behalf of Operator. Operator shall defend, indemnify and hold the City, its employees, agents, contractors and subcontractors ("**Indemnified Parties**") harmless from and against all costs (including without limitation legal costs), losses, claims, demands, actions, suits, judgments, claims for relief, damages and liability suffered or incurred by or asserted against the Indemnified Parties or any one or more of them as a result of or arising from the acts of Operator, its agents, employees, licensees, invitees, contractors, subcontractors or anyone else acting at the request of Operator in connection with Operator's activities at or with respect to any of the Garage or in connection with any breach by Operator under this Lease.

11. CASUALTY; EMINENT DOMAIN. If the Garage is damaged or destroyed by fire or other casualty, or if any portion of the Garage is taken by exercise of eminent domain (federal, state or local), Operator shall repair and restore the Garage, as expeditiously as possible, and to the extent practicable, to substantially the same condition in which the Garage was in immediately prior to such occurrence. The City and Operator shall jointly participate in filing claims and taking such other actions pertaining to the payment of proceeds resulting from such occurrence. If insurance proceeds under Operator's insurance policies are paid to the City as the owner of the Garage, the City shall promptly turn over all such proceeds to Operator. If the proceeds are insufficient to fully repair and restore the Garage, the City shall not be required to make up the deficiency. Operator shall handle all construction/reconstruction and repair. Operator shall not be relieved of any obligations, financial or otherwise, under this Lease during any period in which the Garage is being repaired or restored.

12. DEFAULT; REMEDIES.

(A) Default. Each of the following shall constitute an event of default by Operator under this Lease:

i. Operator fails to pay any sum payable to the City hereunder when due, and such failure to pay continues for longer than 30 days after Operator receives written notice thereof from the City;

ii. Operator fails to perform or observe any covenant, term, or condition contained in Section 7(E) of this Lease, and such failure continues for longer than 30 days after Operator receives written notice thereof from the City, or if such failure is not reasonably susceptible of being cured within such 30 day period, an event of default shall not be deemed to have occurred if Operator commences to cure such failure within such 30 day period and thereafter diligently pursues such cure to completion and, in fact, cures such failure within ninety (90) days after Operator receives written notice of the default from the City;

iii. Operator fails to perform or observe any other covenant, term, or condition contained in this Lease, and (a) if such failure is reasonably susceptible to being cured within thirty (30) days, Operator fails to cure such failure within thirty (30) days of Operator receiving written notice of such failure from the City; or (b) if such failure is not reasonably susceptible to being cured within such 30 day period, Operator fails (i) to commence to cure such failure within such 30 day period or (ii) thereafter fails to diligently pursue such cure to completion and actually completes such cure within ninety (90) days of Operator receiving written notice of such failure from the City; or (c) if the failure creates a dangerous condition or otherwise constitutes an emergency as determined by the City, Operator fails to take corrective action immediately upon discovering such dangerous condition or emergency. The foregoing notwithstanding, if under this Section 12(A)(iii) the applicable period for Operator to cure has expired, before the City shall have any rights set forth herein due to Operator's default, the City shall provide a second written notice upon expiration of the cure period to the Operator stating why Operator is in default. Operator shall have five (5) days to object in writing to the City's stated basis for default. If Operator does not object, it shall be deemed in default under this provision. If Operator provides an objection, Operator and the City shall work together in good faith to resolve the dispute. If they cannot resolve the dispute in fifteen (15) days, then the City may file for a Declaratory Judgment that Operator is in default in the Hamilton County Court of Common Pleas. If the court issues a Declaratory Judgment finding a default, then Operator shall

be deemed in default under this provision, but the parties acknowledge that any Permitted Garage Mortgagee shall be provided an opportunity to take possession of the Garage as lessee under this Lease and cure such default as provided in Section 9 above; and

iv. The commencement of levy, execution or attachment proceedings against Operator, any principal (which shall be defined as any individual or entity having an ownership interest in Operator of more than 25%) or partner of Operator, or any of the assets of Operator, or the application for or appointment of a liquidator, receiver, custodian, sequester, conservator, trustee, or other similar judicial officer; or the insolvency in the bankruptcy or equity sense, of Operator or any principal or partner of Operator; or the assignment for the benefit of creditors, or the admission in writing of an inability to pay debts generally as they become due, or the ordering of the winding-up or liquidation of the affairs of Operator or any principal or partner of Operator; or the commencement of a case by or against Operator or any principal or partner of Operator under any insolvency, bankruptcy, creditor adjustment, debtor rehabilitation or similar laws, state or federal, or the determination by any of them to request relief under any insolvency, bankruptcy, creditor adjustment, debtor rehabilitation or similar proceeding, state or federal, including, without limitation, the consent by any of them to the appointment of or taking possession by a receiver, liquidator, assignee, trustee, custodian, sequester or similar official for it or for any of its respective property or assets (unless, in the case of involuntary proceedings, the same shall be dismissed within ninety (90) days after institution).

v. Any other provisions of this Section 12(A) notwithstanding, in the event that any act or omission of Operator, as required by Section 7(J) above, results in a default of the City or Garage Owner under the REAs described in said Section 7(J) after any applicable notice and cure periods, such act or omission shall be considered an immediate default of Operator under this Lease, unless Operator has contested such alleged default in good faith and is pursuing the City's and/or Garage Owner's rights under the REAs.

(B) Remedies.

- i. Upon the occurrence of an event of default that continues beyond the applicable notice and cure period (if any) provided for under Section 12(A)(i-iii) above, the City may be entitled to terminate this Lease by providing written notice of such termination to Operator and the City may take possession of the Garage upon delivery of such notice, or the City may take such actions in the way of "self help" as the City determines to be reasonably necessary or appropriate to cure or lessen the impact of such default, all at the expense of Operator, and may exercise any and all other rights and remedies under this Lease or available at law or in equity, including without limitation pursuing an action for specific performance, subject to the terms of Sections 9(A-D) above.

In the event of any default under Section 12(A)(iv) above due to acts or omissions of Operator, the City shall be entitled to terminate this Lease effective immediately upon written notice to the Operator and entitle the City to possession of the Garage. Termination or repossession under this Section 12(B)(ii) shall not be subject to any terms of Sections 9(A-D) as the same relate to any cure period for Operator or the Permitted Mortgagees.

All such rights and remedies under this Section 12(B) being cumulative. Operator shall be liable for all costs and damages, including without limitation legal fees, suffered or incurred by the City as a result of a default of Operator under this Lease or the City's enforcement or termination of this Lease. Operator shall pay all such costs and damages within 30 days after receiving documentation from the City of the amount due. The failure of the City to insist upon the strict performance of any covenant or duty or to pursue any remedy under this Lease shall not constitute a waiver of the breach of such covenant or of such remedy. Nothing contained in this Lease shall limit or prejudice the right of a party to prove for and obtain as damages incident to a termination of this Lease in any bankruptcy, reorganization or other court proceedings, the maximum amount allowed by any statute or rule of law in effect when such damages are to be proved.

(C) Rights of Permitted Garage Mortgagees. Notwithstanding the City's termination rights provided for in Section 12(B) above, prior to exercising such termination rights the City shall provide each Permitted Garage Mortgagee with notice and an opportunity to cure as described in Section 9 above.

13. ASSIGNMENT AND SUBLETTING.

(A) Assignment. Operator acknowledges that the City is entering into this transaction because of the City's confidence that Operator has the financial backing, business experience and community support that are necessary to carry out the operation of the Garage in accordance with the provisions of this Lease throughout the entire Term. Operator acknowledges that the City shall not be expected to consent to a proposed assignment by Operator of its interests under this Lease to any person or entity in whom the City does not have similar confidence. Any attempt by Operator to assign or otherwise transfer its interests under this Lease to a third party without the City's prior written consent (such consent not to be unreasonably withheld or delayed) shall be null and void and shall, at the option of the City, constitute a default of Operator under this Lease. The foregoing notwithstanding, if (i) Operator transfers its interests under this Lease to an affiliate of Operator, (ii) if Operator enters into a sublease with an independent parking operator pursuant to Section 7(H), or (iii) if Operator's interests are transferred to a Permitted Garage Mortgagee or other successor tenant under Section 9(D) hereof, such transfer shall not constitute a prohibited assignment for purposes of this section so long as Operator provides the City with at least 60 days' prior written notice of any transfer under clause (i) and enters into such clerical assignment or amendment documents as may be deemed reasonably necessary or appropriate by the City in connection with a transfer under (i) to effect the requisite changes in this Lease in connection therewith. As used in the preceding sentence, an "affiliate" of Operator means an entity that controls, or is controlled by, or is under common control with, Operator. For purposes hereof "control" shall mean the power, exercisable jointly or severally, to manage and direct the business and affairs of a party through the ownership of more than fifty percent (50%) of membership or partnership interests, corporate stock and/or voting rights. No assignment or sublease by Operator of its rights or obligations under this Lease to any third party shall relieve Operator from any liability to the City under this Lease.

(B) Assignment to Subsidiaries. Operator intends to operate the Garage in a separate legal entity, each of which shall be a wholly owned subsidiary of Operator, as set forth in Exhibit A. City expressly consents to such operation and Operator's assignment of its right and obligations to its applicable subsidiaries.

(C) Consent to Collateral Assignment. After the Effective Date, Operator may collaterally assign, transfer, and convey to a trustee (the "Trustee") all of Operator's right, title, and interest in this Lease to secure the Garage Debt. City acknowledges and agrees to such collateral assignment, transfer, and conveyance to the Trustee. Any exercise of rights by the Trustee, including any transfer, shall not be deemed a prohibited assignment.

14. ESTOPPEL CERTIFICATES. Within thirty (30) days after written request from the other party (or, with respect to certificates from the City, within such longer period of time as may be reasonably needed in order to conduct requisite due diligence and obtain all required governmental authorizations and signatures), each party shall execute and deliver to the requesting party an estoppel certificate (i) certifying that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified and stating the modifications), (ii) stating, to the best of such party's knowledge, whether or not the requesting party is in default under this Lease, and, if so, specifying the nature of such default, and (iii) covering such other matters pertaining to this Lease as the requesting party may reasonably request.

15. SURRENDER; HOLDOVER.

(A) Surrender. On the Termination Date, Operator shall (i) surrender the Garage to the City in good condition and repair, reasonable wear and tear excepted, and free and clear of all mortgages and other monetary liens. On or before the Termination Date, Operator shall remove all of Operator's personal property, and any property not so removed shall be deemed abandoned. Operator

shall not remove any signs, trade fixtures, ordinary fixtures or equipment used in connection with the Garage unless the City approves of such removal in writing. Operator shall promptly repair any and all damage to the Garage caused by its removal of any items under this paragraph. Upon expiration or termination of this Lease, Operator shall first use the Sinking Fund and Parking Program Fund for the repayment of Garage Debt, then, shall transfer an amount equal to one year's operating expenses, which shall be calculated by taking the average annual operating expenses of the Garage for the five years prior to the Termination Date, to the City, and then Operator shall retain the balance.

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

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

Notwithstanding the foregoing, the provisions of this Section 15 shall not apply if Operator exercises its option to purchase the Garage at the expiration of the Term in accordance with Section 9(F) above.

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

To the City:
City of Cincinnati
Attn: Director of Comm. & Econ. Dev.
805 Central Ave. Suite 700
Cincinnati, OH

To Operator:
Whex Garage LLC
1203 Walnut Street, 4th Floor
Cincinnati, Ohio 45202
Attention: Legal & CEO

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

Whenever approval is required by the City hereunder, the City agrees to use best efforts to provide such approval or provide written objection to such approval within 45 business days of the City's receipt of Operator's request for approval pursuant to this Lease.

17. GENERAL PROVISIONS.

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

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

(C) Governing Law. This Lease shall be governed by and construed in accordance with the laws of the City of Cincinnati and the State of Ohio. All actions regarding this Lease shall be

brought in the Hamilton County Court of Common Pleas, and Operator agrees that venue in such court is proper. Operator hereby waives trial by jury with respect to any and all disputes arising under this Lease.

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

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

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

(G) No Recording. This Lease shall not be recorded in the Hamilton County Recorder's office. At the request of either party, the parties shall execute a memorandum of lease for recording purposes in substantially the form attached hereto as Exhibit B (*Form of Memorandum of Lease*).

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

(I) No Third-Party Beneficiaries. The parties hereby agree that, except for the rights of Permitted Garage Mortgagees under Section 9 (*Permitted Leasehold Mortgages*) hereof, no third-party beneficiary rights are intended to be created by this Lease.

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

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

(L) Representation as to Authority. The City and Operator each represents to the other that it has the power and authority to enter into and perform its obligations under this Lease without the consent of anyone who is not a party to this Lease and that the execution and performance of this Lease have been duly authorized by all necessary actions on the part of the performing party.

(M) Parking Technology. The Garage shall incorporate the following technology: (i) real-time data tracking regarding total parking space capacity, available to the City for publication online and compatible with other City garage inventory tracking systems, and which may include electronic signage at one or more entrances, as deemed appropriate by DCED, indicating available parking, and (ii) a ticketing and payment system compatible with leading enterprise software providers including specifications such as public application program interface (API), open data, and open source code. Operator agrees to cooperate in good faith with DCED in incorporating other parking technology in the Garage from time to time.

(N) Exhibits. The following exhibits are attached here and made a part hereof:

Exhibit A – *List of Garages with Applicable Legal Descriptions*
Exhibit B - *Form of Memorandum of Lease*

This Lease and Management Agreement is executed by the parties on the dates indicated below their respective signatures, effective as of _____, 2026 (the "Effective Date").

CITY OF CINCINNATI

Whex Garage LLC

By: _____
Sheryl Long, City Manager

By: _____

Date: _____, 2026

Printed name: _____

Title: _____

Date: _____, 2026

Recommended By:

Markiea Carter, Director
Department of Community and Economic Development

Approved as to Form:

Assistant City Solicitor

Certified Date: _____
Fund/Code: _____
Amount: _____
By: _____
Steve Webb, City Finance Director

STATE OF OHIO)
) ss:
COUNTY OF HAMILTON)

The foregoing instrument was acknowledged before me this ____ day of _____, 2026, by Sheryl Long, City Manager of the CITY OF CINCINNATI, an Ohio municipal corporation, on behalf of the corporation.

Notary Public
My commission expires: _____

STATE OF OHIO)
) ss:
COUNTY OF HAMILTON)

The foregoing instrument was acknowledged before me this ____ day of _____, 2026 by _____, the _____ of Whex Garage LLC, an Ohio nonprofit limited liability company, on behalf of the company.

Notary Public
My commission expires: _____

EXHIBIT A
to
Lease and Management Agreement

GARAGE

1. Whex Garage

- (A) **Operator Entity:** Whex Garage LLC
- (B) **Commencement Date:** the Commencement Date shall be the same date as the Effective Date
- (C) **Termination Date:** The date which is Seventy-Five (75) years after the Commencement Date
- (D) **Renewal Period Dates:** Two (2) successive renewal periods of ten (10) years each (each, a "Renewal Period"). To exercise a renewal option for a Garage, the Operator must give the City written notice thereof no less than twelve (12) months (but no sooner than 18 months) prior to the date of the initial Termination Date (or, if applicable, the end of the first Renewal Period).
- (E) **Completion Date (per Purchase Funding and Development Agreement):** not later than October 31, 2026
- (F) **Tax-Exemption Status:** Structure Exempt
- (G) **Principal amount of Bonds:** \$13,200,000.00
- (H) **Subordinate Secured Debt:** [\$10,578,470.00]
- (I) **Legal Description of Garage Parcel:**

Situated in Section 18, Town 4, Fractional Range 1, between the Miamis, Cincinnati Township, the City of Cincinnati, Hamilton County, Ohio and being Lot 1 of Whex Garage Subdivision, Section one as recorded in Plat Book ____, Page ____, of the Hamilton County Recorder's Office.

EXHIBIT B
to
Lease and Management Agreement

Form of Memorandum of Lease

SEE ATTACHED

----- space above for recorder -----

MEMORANDUM OF LEASE
(Whex Garage LLC)

This Memorandum of Lease is executed by the **CITY OF CINCINNATI**, an Ohio municipal corporation, having an address of 801 Plum Street, Cincinnati, Ohio 45202 (the “**City**”), and **WHEX GARAGE LLC**, an Ohio nonprofit limited liability company (being a wholly-owned subsidiary of Cincinnati Center City Development Corporation, commonly known as 3CDC), having an address of 1203 Walnut Street, 4th Floor, Cincinnati, Ohio 45202 (“**Operator**”).

1. The City and Whex Garage LLC (“**Tenant**”) are parties to a certain *Lease and Management Agreement* dated [____], relating to certain real estate and the public parking garage, as more particularly described in the attached Exhibit A (the “**Garage**”), which was evidenced by a Memorandum of Lease filed on [____], and recorded in OR Book [____], Page [____], of the Hamilton County Records (the “**Lease**”).
2. Pursuant to the Lease, the City has leased the Garage to Operator commencing on [April, 1 2026] (defined therein as the Commencement Date) through, unless extended, [April, 1, 2100] (defined therein as the Termination Date), as set forth on Exhibit A of the Lease. Operator has two (2) successive 10-year renewal options as described in the Lease.
3. This Memorandum of Lease is executed solely for recording purposes, and nothing herein shall be deemed as modifying any of the terms or conditions of the Lease.

[signature page(s) follow]

Executed by the parties on the dates of their respective signatures.

CITY OF CINCINNATI

WHEX GARAGE LLC

By: _____
Sheryl Long, City Manager

By: _____

Date: _____, 2026

Printed name: _____

Title: _____

Date: _____, 2026

Recommended By:

Markiea Carter, Director
Department of Community and Economic Development

Approved as to Form:

Assistant City Solicitor

STATE OF OHIO)
) ss:
COUNTY OF HAMILTON)

The foregoing instrument was acknowledged before me this ____ day of _____, 2026, by Sheryl Long, City Manager of the CITY OF CINCINNATI, an Ohio municipal corporation, on behalf of the corporation.

Notary Public
My commission expires: _____

STATE OF OHIO)
) ss:
COUNTY OF HAMILTON)

The foregoing instrument was acknowledged before me this ____ day of _____, 2026 by _____, the _____ of Whex Garage LLC, an Ohio limited liability company, on behalf of the company.

Notary Public
My commission expires: _____

This instrument prepared by:

Caitlin Graham Felvus
Cincinnati Center City Development Corporation
1203 Walnut St. 4th Floor
Cincinnati, OH 45202

Exhibit A
To Memorandum of Lease

Legal Description

Situated in Section 18, Town 4, Fractional Range 1, between the Miamis, Cincinnati Township, the City of Cincinnati, Hamilton County, Ohio and being Lot 1 of Whex Garage Subdivision, Section one as recorded in Plat Book _____, Page _____, of the Hamilton County Recorder's Office.

Exhibit H
to Purchase, Funding, and Development Agreement

Additional Requirements

Developer and Developer's general contractor 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 (collectively, "**Government Requirements**"), including the Government Requirements listed below, to the extent that they are applicable. Developer hereby acknowledges and agrees that (a) the below listing of Government Requirements is not intended to be an exhaustive list of Government Requirements applicable to the Project, Developer, or Developer's contractors, subcontractors or employees, either on the City's part or with respect to any other governmental entity, and (b) neither the City nor its Law Department is providing legal counsel to or creating an attorney-client relationship with Developer by attaching this Exhibit to the Agreement.

This Exhibit serves two functions:

(i) Serving as a Source of Information with Respect to Government Requirements. This Exhibit identifies certain Government Requirements that may be applicable to the Project, Developer, or its contractors and subcontractors. Because this Agreement requires that Developer comply with all applicable laws, regulations, and other Government Requirements (and in certain circumstances to cause others to do so), this Exhibit flags certain Government Requirements that Developers, contractors and subcontractors regularly face in constructing projects or doing business with the City. To the extent a Developer is legally required to comply with a Government Requirement, failure to comply with such a Government Requirement is a violation of the Agreement.

(ii) Affirmatively Imposing Contractual Obligations. If certain conditions for applicability are met, this Exhibit also affirmatively imposes contractual obligations on Developer, even where such obligations are not imposed on Developer by Government Requirements. As described below, the affirmative obligations imposed hereby are typically a result of policies adopted by City Council which, per Council's directive, are to be furthered by the inclusion of certain specified language in some or all City contracts. The City administration is responsible for implementing the policy directives promulgated by Council (which typically takes place via the adoption of motions or resolutions by Council), including, in certain circumstances, by adding specific contractual provisions in City contracts such as this Agreement.

(A) Construction Workforce.

(i) Applicability. Consistent with the limitations contained within the City Resolutions identified in clause (ii) below, this Section (A) shall not apply to contracts with the City other than construction contracts, or to construction contracts to which the City is not a party. For the avoidance of doubt, this Agreement is a construction contract solely to the extent that it directly obligates Developer to assume the role of a general contractor on a construction project for public improvements such as police stations or other government buildings, public parks, or public roadways.

The Construction Workforce Goals are not applicable to future work (such as repairs or modifications) on any portion of the Project. The Construction Workforce Goals are not applicable to the purchase of specialty fixtures and trade fixtures.

(ii) Requirement. In furtherance of the policy enumerated in City Resolutions No. 32-1983 and 21-1998 concerning the inclusion of minorities and women in City construction work, if Developer is performing construction work for the City under a construction contract to which the City is a party, Developer shall use Best Efforts to achieve a standard of no less than 11.8% Minority Persons (as defined below) and 6.9% females (of whom at least one-half shall be Minority Persons) in each craft trade in Developer and its general contractor's aggregate workforce in Hamilton County, to be achieved at least

halfway through the construction contract (or in the case of a construction contract of six months or more, within 60 days of beginning the construction contract) (collectively, the “**Construction Workforce Goals**”).

As used herein, the following terms shall have the following meanings:

(a) “**Best Efforts**” means substantially complying with all of the following as to any of its employees performing such construction, and requiring that all of its construction subcontractors substantially comply with all of the following: (1) solicitation of Minority Persons as potential employees through advertisements in local minority publications; and (2) contacting government agencies, private agencies, and/or trade unions for the job referral of qualified Minority Persons.

(b) “**Minority Person**” means any person who is Black, Asian or Pacific Islander, Hispanic, American Indian or Alaskan Native.

(c) “**Black**” means a person having origin in the black racial group of Africa.

(d) “**Asian or Pacific Islander**” means a person having origin in the original people of the Far East or the Pacific Islands, which includes, among others, China, India, Japan, Korea, the Philippine Islands, Malaysia, Hawaii and Samoa.

(e) “**Hispanic**” means a person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish cultural origin.

(f) “**American Indian**” or “**Alaskan Native**” means a person having origin in any of the original people of North America and who maintains cultural identification through tribal affiliation.

(B) Trade Unions; Subcontracts; Competitive Bidding.

(i) Meeting and Confering with Trade Unions.

(a) Applicability. Per City of Cincinnati, Ordinance No. 130-2002, this requirement is limited to transactions in which Developer receives City funds or other assistance (including, but not limited to, the City’s construction of public improvements to specifically benefit the Project, or the City’s sale of real property to Developer at below fair market value).

(b) Requirement. This Agreement may be subject to the requirements of City of Cincinnati, Ordinance No. 130-2002, as amended or superseded, providing that, if Developer receives City funds or other assistance, Developer and its general contractor, prior to the commencement of construction of the Project and prior to any expenditure of City funds, and with the aim of reaching comprehensive and efficient project agreements covering all work done by Developer or its general contractor, shall meet and confer with: the trade unions representing all of the crafts working on the Project, and minority, female, and locally-owned contractors and suppliers potentially involved with the construction of the Project. At this meeting, Developer and/or its general contractor shall make available copies of the scope of work and if prevailing wage rates apply, the rates pertaining to all proposed work on the Project. Not later than ten (10) days following Developer and/or its general contractor’s meet and confer activity, Developer shall provide to the City, in writing, a summary of Developer and/or its general contractor’s meet and confer activity.

(ii) Contracts and Subcontracts; Competitive Bidding.

(a) Applicability. This clause (ii) is applicable to “construction contracts” under Cincinnati Municipal Code Chapter 321. Municipal Code Chapter 321 defines “construction” as “any construction, reconstruction, improvement, enlargement, alteration, repair, painting, decorating, wrecking or demolition, of any public improvement the total overall project cost of which is fairly estimated by Federal or Ohio statutes to be more than four thousand dollars and performed by other than full-time employees who have completed their probationary periods in the classified service of a public authority,” and “contract”

as “all written agreements of the City of Cincinnati, its boards or commissions, prepared and signed by the city purchasing agent or a board or commission for the procurement or disposal of supplies, service or construction.”

(b) Requirement. If CMC Chapter 321 applies to the Project, Developer is required to ensure that all contracts and subcontracts for the Project are awarded pursuant to a competitive bidding process that is approved by the City in writing. All bids shall be subject to review by the City. All contracts and subcontracts shall be expressly required by written agreement to comply with the provisions of this Agreement and the applicable City and State of Ohio laws, ordinances and regulations with respect to such matters as allocation of subcontracts among trade crafts, Small Business Enterprise Program, Equal Employment Opportunity, and Construction Workforce Goals.

(iii) Competitive Bidding for Certain City-Funded Development Agreements.

(a) Applicability. Pursuant to Ordinance No. 273-2002, the provision in clause (b) below applies solely where the Project receives in \$250,000 or more in direct City funding, and where such funding comprises at least 25% of the Project’s budget. For the purposes of this clause (iii), “direct City funding” means a direct subsidy of City funds in the form of cash, including grants and forgivable loans, but not including public improvements, land acquisitions and sales, job creation tax credits, or tax abatements or exemptions.

(b) Requirement. This Agreement requires that Developer issue an invitation to bid on the construction components of the development by trade craft through public notification and that the bids be read aloud in a public forum. For purposes of this provision, the following terms shall be defined as set forth below:

(1) “Bid” means an offer in response to an invitation for bids to provide construction work.

(2) “Invitation to Bid” means the solicitation for quoted prices on construction specifications and setting a time, date and place for the submission of and public reading of bids. The place for the public reading of bids shall be chosen at the discretion of Developer; however, the place chosen must be accessible to the public on the date and time of the public reading and must have sufficient room capacity to accommodate the number of respondents to the invitation to bid.

(3) “Trade Craft” means (a) general construction work, (b) electrical equipment, (c) plumbing and gas fitting, (d) steam and hot water heating and air conditioning and ventilating apparatus, and steam power plant, (e) elevator work, and (f) fire protection.

(4) “Public Notification” means (a) advertisement of an invitation to bid with ACI (Allied Construction Industries) and the Dodge Report, and (b) dissemination of the advertisement (either by mail or electronically) to the South Central Ohio Minority Business Council, Greater Cincinnati Northern Kentucky African-American Chamber of Commerce, and the Hispanic Chamber of Commerce. The advertisement shall include a description of the “scope of work” and any other information reasonably necessary for the preparation of a bid, and it shall be published and disseminated no less than fourteen days prior to the deadline for submission of bids stated in the invitation to bid.

(5) “Read Aloud in a Public Forum” means all bids shall be read aloud at the time, date and place specified in the invitation for bids, and the bids shall be available for public inspection at the reading.

(C) City Building Code. All construction work must be performed in compliance with City building code requirements.

(D) Lead Paint Regulations. All work must be performed in compliance with Chapter 3742 of the Ohio Revised Code, Chapter 3701-32 of the Ohio Administrative Code, and must comply with OSHA's Lead in Construction Regulations and the OEPA's hazardous waste rules. All lead hazard abatement work must be supervised by an Ohio Licensed Lead Abatement Contractor/Supervisor.

(E) Displacement. If the Project involves the displacement of tenants, Developer shall comply with all Government Requirements in connection with such displacement. If the City shall become obligated to pay any relocation costs or benefits or other sums in connection with the displacement of tenants, under Cincinnati Municipal Code Chapter 740 or otherwise, Developer shall reimburse the City for any and all such amounts paid by the City in connection with such displacement within twenty (20) days after the City's written demand.

(F) Small Business Enterprise Program.

(i) Applicability. The applicability of Municipal Code Chapter 323 (Small Business Enterprise Program) is limited to construction contracts in excess of \$5,000. Municipal Code Chapter 323 defines "contract" as "a contract in excess of \$5,000.00, except types of contracts listed by the City purchasing agent as exempt and approved by the City Manager, for (a) construction, (b) supplies, (c) services, or (d) professional services." It defines "construction" as "any construction, reconstruction, improvement, enlargement, alteration, repair, painting, decorating, wrecking or demolition, of any public improvement the total overall project cost of which is fairly estimated by Federal or Ohio statutes to be more than \$4,000 and performed by other than full-time employees who have completed their probationary periods in the classified service of a public authority." To the extent Municipal Code Chapter 323 does not apply to this Agreement, Developer is not subject to the various reporting requirements described in this Section (F).

(ii) Requirement. The City has an aspirational goal that 30% of its total dollars spent for construction and 15% of its total dollars spent for supplies/services and professional services be spent with Small Business Enterprises ("SBE"s), which include SBEs owned by minorities and women. Accordingly, subject to clause (i) above, Developer and its general contractor shall use its best efforts and take affirmative steps to assure that SBEs are utilized as sources of supplies, equipment, construction, and services, with the goal of meeting 30% SBE participation for construction contracts and 15% participation for supplies/services and professional services contracts. An SBE means a consultant, supplier, contractor or subcontractor who is certified as an SBE by the City in accordance with Cincinnati Municipal Code ("CMC") Chapter 323. (A list of SBEs may be obtained from the Department of Economic Inclusion or from the City's web page, <http://cincinnati.diversitycompliance.com>.) Developer and its general contractor may refer interested firms to the Department of Economic Inclusion for review and possible certification as an SBE, and applications may also be obtained from such web page. If the SBE program is applicable to this Agreement, as described in clause (i) above, Developer agrees to take (or cause its general contractor to take) at least the following affirmative steps:

(1) Including qualified SBEs on solicitation lists.

(2) Assuring that SBEs are solicited whenever they are potential sources. Contractor 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 for the Project. Contractor is encouraged to use the internet and similar types of advertising to reach a broader audience, but these additional types of advertising cannot be used as substitutes for the above.

(3) When economically feasible, dividing total requirements into small tasks or quantities so as to permit maximum SBE participation.

(4) When needs permit, establishing delivery schedules that will encourage participation by SBEs.

(iii) Subject to clause (i) above, if any subcontracts are to be let, Developer shall require the prime contractor to take the above affirmative steps.

(iv) Subject to clause (i) above, Developer shall provide to the City, prior to commencement of the Project, a report listing all of the contractors and subcontractors for the Project, including information as to the owners, dollar amount of the contract or subcontract, and other information that may be deemed necessary by the City Manager. Developer or its general contractor shall update the report monthly by the 15th. Developer or its general contractor shall enter all reports required in this subsection via the City's web page referred to in clause (i) above or any successor site or system the City uses for this purpose. Upon execution of this Agreement, Developer and its general contractor shall contact the Department of Economic Inclusion to obtain instructions, the proper internet link, login information, and password to access the site and set up the necessary reports.

(v) Subject to clause (i) above, Developer and its general contractor shall periodically document its best efforts and affirmative steps to meet the above SBE participation goals by notarized affidavits executed in a form acceptable to the City, submitted upon the written request of the City. The City shall have the right to review records and documentation relevant to the affidavits. If affidavits are found to contain false statements, the City may prosecute the affiant pursuant to Section 2921.12, Ohio Revised Code.

(vi) Subject to clause (i) above, failure of Developer or its general contractor 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 the minimum percentage goals for SBE participation as set forth in Cincinnati Municipal Code Chapter 323, may be construed by the City as failure of Developer to use 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

(G) Equal Employment Opportunity.

(i) Applicability. Chapter 325 of the Cincinnati Municipal Code (Equal Employment Opportunity) applies (a) where the City expends more than \$5,000 under a non-construction contract, or (b) where the City spends or receives over \$5,000 to (1) employ another party to construct public improvements, (2) purchase services, or (3) lease any real or personal property to or from another party. Chapter 325 of the Municipal Code does not apply where the contract is (a) for the purchase of real or personal property to or from another party, (b) for the provision by the City of services to another party, (c) between the City and another governmental agency, or (d) for commodities such as utilities.

(ii) Requirement. If this Agreement is subject to the provisions of Chapter 325 of the Cincinnati Municipal Code (the City of Cincinnati's Equal Employment Opportunity Program), the provisions thereof are hereby incorporated by reference into this Agreement.

(H) Prevailing Wage. Developer shall comply, and shall cause all contractors working on the Project to comply, with all any prevailing wage requirements that may be applicable to the Project. In the event that the City is directed by the State of Ohio to make payments to construction workers based on violations of such requirements, Developer shall make such payments or reimburse the City for such payments within twenty (20) days of demand therefor. A copy of the City's prevailing wage determination may be attached to this Exhibit as Addendum I to Additional Requirements Exhibit (City's Prevailing Wage Determination) hereto.

(I) Compliance with the Immigration and Nationality Act. In the performance of its construction obligations under this Agreement, Developer shall comply with the following provisions of the federal Immigration and Nationality Act: 8 U.S.C.A. 1324a(a)(1)(A) and 8 U.S.C.A. 1324a(a)(2). Compliance or noncompliance with those provisions shall be solely determined by final determinations resulting from the actions by the federal agencies authorized to enforce the Immigration and Nationality Act, or by determinations of the U.S.

(J) Prompt Payment. The provisions of Chapter 319 of the Cincinnati Municipal Code, which provides for a "Prompt Payment System", may apply to this Agreement. Municipal Code Chapter 319 also (i) provides certain requirements for invoices from contractors with respect to the Prompt Payment System, and (ii) obligates contractors to pay subcontractors for satisfactory work in a timely fashion as provided therein.

(K) Conflict of Interest. Pursuant to Ohio Revised Code 102.03, no officer, employee, or agent of the City who exercises any functions or responsibilities in connection with the planning or carrying out of the Project may have any personal financial interest, direct or indirect, in Developer or in the Project, and Developer shall take appropriate steps to assure compliance.

(L) Ohio Means Jobs. If this Agreement constitutes a construction contract (pursuant to the guidance with respect to the definition of that term provided in Section (A) above), then, pursuant to Ordinance No. 238-2010: To the extent allowable by law, Developer and its general contractor shall use its best efforts to post available employment opportunities with Developer, the general contractor's organization, or the organization of any subcontractor working with Developer or its general contractor with the OhioMeansJobs Center, 1916 Central Parkway, Cincinnati, Ohio 45214-2305, through its Employer Services Unit Manager at 513-946-7200.

(M) 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.

(N) Americans With Disabilities Act; Accessibility.

(i) Applicability. Cincinnati City Council adopted Motion No. 201600188 on February 3, 2016 (the "**Accessibility Motion**"). This motion directs City administration to include language specifically requiring compliance with the Americans With Disabilities Act, together with any and all regulations or other binding directives promulgated pursuant thereto (collectively, the "**ADA**"), and imposing certain minimum accessibility standards on City-subsidized projects regardless of whether there are arguably exceptions or reductions in accessibility standards available under the ADA or State law.

(ii) Requirement. In furtherance of the policy objectives set forth in the Accessibility Motion, (A) the Project shall comply with 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 Developer 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.

(O) Electric Vehicle Charging Stations in Garages.

(i) Applicability. Cincinnati City Council passed Ordinance No. 89-2017 on May 10, 2017. This ordinance requires all agreements in which the City provides any amount of "qualifying incentives" for projects involving the construction of a parking garage to include a provision requiring the inclusion of certain features in the garage relating to electric vehicles. The ordinance defines "qualifying incentives" as the provision of incentives or support for the construction of a parking garage in the form of (a) the provision of any City monies or monies controlled by the City including, without limitation, the provision of funds in the form of loans or grants; (b) the provision of service payments in lieu of taxes in connection with tax increment financing, including rebates of service payments in lieu of taxes; and (c) the provision of the proceeds of bonds issued by the City or with respect to which the City has provided any source of collateral security or repayment, including, but not limited to, the pledge of assessment revenues or service payments in lieu of taxes. For the avoidance of doubt, "qualifying incentives" does not include (1) tax abatements such as Community Reinvestment Area abatements pursuant to Ohio Revised Code 3735.67, et seq., or Job Creation Tax Credits pursuant to Ohio Revised Code 718.15; (2) the conveyance

of City-owned real property for less than fair market value; and (3) any other type of City support in which the City provides non-monetary assistance to a project, regardless of value.

(ii) Requirement. If the applicability criteria of Ordinance No. 89-2017 are met, then the following requirements shall apply to any parking garage included within the Project: (a) at least one percent of parking spaces, rounding up to the nearest integer, shall be fitted with Level 2 minimum 7.2 kilowatt per hour electric car charging stations; provided that if one percent of parking spaces is less than two parking spaces, the minimum number of parking spaces subject to this clause shall be two parking spaces; and (b) the parking garage's electrical raceway to the electrical supply panel serving the garage shall be capable of providing a minimum of 7.2 kilowatts of electrical capacity to at least five percent of the parking spaces of the garage, rounding up to the nearest integer, and the electrical room supplying the garage must have the physical space for an electrical supply panel sufficient to provide 7.2 kilowatts of electrical capacity to at least five percent of the parking spaces of the garage, rounding up to the nearest integer.

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

(Q) Use of Nonfranchised Commercial Waste Haulers Prohibited. The City requires that persons providing commercial waste collection services (as that term is defined under CMC Chapter 730) within the City of Cincinnati obtain a franchise, and the City maintains a list of franchised commercial waste haulers. Developer is prohibited from using or hiring (or causing to be used or hired) a nonfranchised commercial waste hauler to provide commercial waste collection services in connection with the performance of this Agreement, and Developer is responsible for ensuring that any commercial waste collection services provided in connection with the performance of this Agreement are provided by a franchised commercial waste hauler. Questions related to the use of commercial waste franchisees can be directed to, and a list of current franchisees can be obtained from, the City's Office of Environment & Sustainability by calling (513)352-3200.

Addendum I to Additional Requirements Exhibit

City's Prevailing Wage Determination

TO BE ATTACHED