



City of Cincinnati

801 Plum Street
Cincinnati, OH 45202

Agenda - Final

Budget and Finance Committee

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

Tuesday, January 17, 2023

1:00 PM

Council Chambers, Room 300

PRESENTATIONS

Updated Human Services Strategies and Priorities Plan

William "Billy" Weber, Assistant City Manager

Andrew Dudas, Budget Director

AGENDA

HUMAN SERVICES AND LEVERAGED SUPPORT

1. [202300264](#) **ORDINANCE (EMERGENCY)** submitted by Sheryl M. M. Long, City Manager, on 1/11/2023, **ESTABLISHING** the City of Cincinnati's human services funding priorities for Fiscal Year 2024 and subsequent Fiscal Years; **ESTABLISHING** an Impact Award for one large-scale social innovation project; **ESTABLISHING** a multi-year funding cycle for all human services funding; **ADVISING** the United Way and any other organization assisting the City with evaluating human services funding applications that City Council's policy regarding the City of Cincinnati's human services funding priorities is as follows: Impact Award, up to 33 percent; Comprehensive Workforce Development Support, 25 percent; Youth Gun Violence Prevention and Reduction, twenty percent; Supporting, Securing, and Stabilizing Housing for High-Risk Populations, ten percent; Emergency Wrap-Around Services (through Project LIFT), ten percent; overhead, two percent; and **ADVISING** the United Way and any other organization assisting the City with evaluating human services funding applications that the initial Impact Award should prioritize eviction prevention and housing stabilization.

Sponsors: City Manager

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

2. [202300318](#) **REPORT**, dated 1/17/2023, submitted Sheryl M. M. Long, City Manager, regarding the Updated Human Services Strategies and Priorities Plan.
Sponsors: City Manager
Attachments: [Report](#)
3. [202300363](#) **PRESENTATION**, submitted by Sheryl M. M. Long, City Manager, dated 1/17/2023, regarding the Leveraged Funding Process Recommendation.
Sponsors: City Manager
Attachments: [Transmittal](#)
[Presentation](#)

GRANTS

4. [202300262](#) **ORDINANCE** submitted by Sheryl M. M. Long, City Manager, on 1/11/2023, **AUTHORIZING** the City Manager to apply for, accept, and appropriate a grant in the amount of up to \$168,053 in FY 2023 Office of Law Enforcement Recruitment funds from the State of Ohio, Department of Public Safety, Office of Criminal Justice Services, for the purpose of developing the Cincinnati Police Department recruiting process, specifically the Cadet Apprenticeship Program, to include emphasis on recruitment of women and minorities; and **AUTHORIZING** the Director of Finance to deposit the grant resources into Law Enforcement Grant Fund 368, project account no. 23LERF.
Sponsors: City Manager
Attachments: [Transmittal](#)
[Ordinance](#)

PAYMENTS

5. [202300263](#) **ORDINANCE (EMERGENCY)** submitted by Sheryl M. M. Long, City Manager, on 1/11/2023, **AUTHORIZING** a payment of \$86,904 to Rainbow Environmental Services as a moral obligation for outstanding charges related to asbestos abatement preparation services prior to the demolition of dangerous and unsafe buildings for the Department of Buildings and Inspections, to be paid from the Community Development Block Grant Fund 304 project account no. 304x161x0000x7656x30421136.
Sponsors: City Manager
Attachments: [Transmittal](#)
[Ordinance](#)

LEASES

6. [202300265](#) **ORDINANCE** submitted by Sheryl M. M. Long, City Manager, on 1/11/2023, **AUTHORIZING** the City Manager to execute a Lease and Operating Agreement with Great Parks of Hamilton County pursuant to which Great Parks of Hamilton County will lease and operate the City-owned public park known as Fernbank Park in Sayler Park.

Sponsors: City Manager

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

EASEMENTS

7. [202300267](#) **ORDINANCE** submitted by Sheryl M. M. Long, City Manager, on 1/11/2023, **AUTHORIZING** the City Manager to execute a Grant of Easement in favor of Barrister Apartments, LLC, pursuant to which the City of Cincinnati will grant encroachment easements upon portions of Pancoast Alley and Crow Alley in the Central Business District.

Sponsors: City Manager

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

ADJOURNMENT

January 11, 2023

To: Mayor and Members of City Council 202300264
From: Sheryl M. M. Long, City Manager
Subject: Emergency Ordinance – Human Services Fund

Attached is an Emergency Ordinance captioned:

ESTABLISHING the City of Cincinnati’s human services funding priorities for Fiscal Year 2024 and subsequent Fiscal Years; **ESTABLISHING** an Impact Award for one large-scale social innovation project; **ESTABLISHING** a multi-year funding cycle for all human services funding; **ADVISING** the United Way and any other organization assisting the City with evaluating human services funding applications that City Council’s policy regarding the City of Cincinnati’s human services funding priorities is as follows: Impact Award, up to 33 percent; Comprehensive Workforce Development Support, 25 percent; Youth Gun Violence Prevention and Reduction, twenty percent; Supporting, Securing, and Stabilizing Housing for High-Risk Populations, ten percent; Emergency Wrap-Around Services (through Project LIFT), ten percent; overhead, two percent; and **ADVISING** the United Way and any other organization assisting the City with evaluating human services funding applications that the initial Impact Award should prioritize eviction prevention and housing stabilization.

The Administration recommends passage of this Emergency Ordinance.

cc: William “Billy” Weber, Assistant City Manager
Virginia Tallent, Interim Assistant City Manager

EMERGENCY

AKS

- 2023

ESTABLISHING the City of Cincinnati’s human services funding priorities for Fiscal Year 2024 and subsequent Fiscal Years; **ESTABLISHING** an Impact Award for one large-scale social innovation project; **ESTABLISHING** a multi-year funding cycle for all human services funding; **ADVISING** the United Way and any other organization assisting the City with evaluating human services funding applications that City Council’s policy regarding the City of Cincinnati’s human services funding priorities is as follows: Impact Award, up to 33 percent; Comprehensive Workforce Development Support, 25 percent; Youth Gun Violence Prevention and Reduction, twenty percent; Supporting, Securing, and Stabilizing Housing for High-Risk Populations, ten percent; Emergency Wrap-Around Services (through Project LIFT), ten percent; overhead, two percent; and **ADVISING** the United Way and any other organization assisting the City with evaluating human services funding applications that the initial Impact Award should prioritize eviction prevention and housing stabilization.

WHEREAS, Ordinance No. 0212-2019, passed June 19, 2019, established the City of Cincinnati’s human services funding priorities for Fiscal Year 2021 and subsequent Fiscal Years and advised the United Way and any organization assisting the City with evaluating human services funding applications that City Council’s policy for human service funding priorities was established by category and percentage; and

WHEREAS, beginning in FY 2024, Council would like to modify the human services priorities and funding in order to create a new plan that will include a large-scale Impact Award to assist an innovative project to create real, lasting impact in the community; establish data-driven, evidence-based metrics for monitoring the success of organizations receiving funding; and structure the Request-for-Proposal process in order to increase the impact of the City’s funds; and

WHEREAS, the initial Impact Award for FY 2024 should prioritize eviction prevention and housing stabilization, with any remaining Impact Award funding allocated to the priority of Supporting, Securing, and Stabilizing Housing for High-Risk Populations; now, therefore,

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

Section 1. That the City of Cincinnati’s process for human services funding for Fiscal Year 2024 shall include an Impact Award for one large-scale social innovation project and shall use a multi-year funding cycle for all human services funding.

Section 2. That the City of Cincinnati’s human services funding priorities for Fiscal Year 2024 and future years are hereby established as follows: Impact Award, up to 33 percent; Comprehensive Workforce Development Support, 25 percent; Youth Gun Violence Prevention and Reduction, twenty percent; Supporting, Securing, and Stabilizing Housing for High-Risk Populations, ten percent; Emergency Wrap-Around Services (through Project LIFT), ten percent; overhead, two percent; and that the initial Impact Award should prioritize eviction prevention and housing stabilization.

Section 3. That Council hereby establishes that the United Way and any other organization assisting the City with evaluating human services funding applications should use the funding policy described in Sections 1 and 2 herein in evaluating such funding applications.

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

Section 5. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to establish the City’s human services funding priorities so that such funding priorities can be taken into operational account by the City’s human services funding partners in forthcoming human services funding allocations.

Passed: _____, 2023

Aftab Pureval, Mayor

Attest: _____
Clerk

January 17, 2022

TO: Members of the Budget and Finance Committee 202300318
FROM: Sheryl M. M. Long, City Manager
SUBJECT: Report – Updated Human Services Strategies and Priorities Plan

REFERENCE DOCUMENT #202202006

The Climate, Environment & Infrastructure Committee adopted at its session on October 25, 2022, the following Motion:

WE MOVE that the City of Cincinnati amend Ord. 197-2020 and adopt an updated human services strategies and priorities plan (“Plan”) for allocations from the Human Services Fund (“HSF”). The Plan should: 1. Include a large-scale Impact Award to assist an innovative project to create real, lasting impact in the community. 2. Establish data-driven, evidence-based metrics for monitoring the success of organizations that receive allocations. 3. Structure the Request-for-Proposal process in such a way to increase the impact of the City’s funds.

Introduction to Leveraged Support

The City of Cincinnati provides financial support to specific programs or for the general operations of organizations that perform a service benefiting Cincinnati residents. To expand the impact of limited City funds, recipient organizations are expected to leverage funding provided by the City with additional financial resources – either raised from other governmental or private entities or as earned revenue from providing a service. The Approved FY 2023 Budget Update includes \$17.5 million in leveraged support funding to revitalize neighborhoods, bolster the local economy, provide human services, prevent violence, and more.

To create a more comprehensive and transparent leveraged support process, the Administration recommends clarifying eligibility parameters, identifying recipients under a new set of categories, creating an application process to receive funding, and establishing a procedure for selecting and reporting performance metrics.

Definition of “Leveraged Support”

Over time, the descriptor “leveraged support” has been attached to various organizations and programs that receive City financial support. Because an application process will be created, the Administration recommends the following definition of leveraged support to bring clarity to the type of programs and organizations that are considered “leveraged support”:

Financial support from the City of Cincinnati to an external private organization (i) as general operating support to fund their work in the City or (ii) as funding for a specific program aimed at addressing a public need in the City.

This definition does not include City funding of third parties to perform elements of City operations, such as managing City-owned assets or services provided for City-managed programs. It also does not include when the City provides a grant to a third-party to facilitate a competitive process for allocating funding through a City program.

The below table identifies FY 2023 leveraged support line items that will not be considered “leveraged support” moving forward or subject to the forthcoming leveraged support application process:

City Operations Programmatic Support and Recipients	Approved FY 2023 Budget Update
City Administered Programs	
Community Urban Agriculture	\$20,000
Green Cincinnati Fund	\$100,000
Needle Exchange Program	\$150,000
Neighborhood Business Districts	\$120,000
Neighborhood Community Councils	\$425,000
Summer Youth Jobs Initiative	\$1,250,000
Total City Administered Programs	\$2,065,000
Contracts for City Assets & Programs	
3CDC (For Fountain Square)	\$200,000
3CDC (Operating Support for Washington Park and Ziegler Park)	\$375,000
Boots on the Ground Fund Pilot Program ¹	\$150,000
City Human Services Fund (administered by United Way)	\$7,976,930
Findlay Market Operating Budget Support ²	\$366,610
The Port (formerly Greater Cincinnati Redevelopment Authority/Port Authority of Greater Cincinnati)	\$700,000
Women Helping Women Domestic Violence Enhanced Response Team (WHW DVERT)	\$250,000
Total Contracts for City Assets & Programs	\$10,018,540
Grand Total City Operations Programmatic Support and Recipients	\$12,083,540

¹ Denotes one-time funding

² Findlay Market Operating Support was transferred from the Department of Public Services to the Department of Community and Economic Development in FY 2023. Findlay Market Operating Support does not represent new or increased funding.

Though the Administration does not recommend that the above identified items be considered “leveraged support,” the Administration will continue to be transparent by clearly identifying these items in the City’s budget. Therefore, for FY 2024, the Administration will update the presentation of expenditure information in the Operating Budget Update section of the City’s budget to clearly identify these expenditures, as well as expenditures on other strategic priorities.

Recommended Leveraged Support Application Process

Eligibility Criteria

The City Administration recommends establishing minimum eligibility criteria and request parameters as follows:

1. **Existing Organization:** The applicant must be an existing organization that has at minimum three years of audited financial statements or federal tax returns and must not be debarred from contracting or subcontracting with the City. Start-up organizations are not eligible to apply and should instead apply under the City’s Boots on the Ground program, administered by the Greater Cincinnati Foundation. Applications requesting funding for new programs of existing organizations are acceptable.
2. **Amount:** Applicants should not request more than \$500,000 or less than \$50,000. Only in extraordinary circumstances will an award be granted in excess of \$500,000.
3. **Services:** Applicants must be offering a service that directly benefits City residents under one of the categories identified below.

Categorization

Given the breadth of the types of activities and organizations offered leveraged support, the City Administration recommends reorganizing the categories of identified leveraged support to help streamline the application process and provide public transparency on the types of organizations and programs receiving funding.

In previous fiscal years, the City grouped leveraged support recipients and programs under three primary categories: 1) Neighborhood Support, 2) Economic Development, and 3) Human Services and Violence Prevention. Starting with the Recommended FY 2024-2025 Biennial Budget, the Administration recommends the following seven categories be used to organize recipients. Each category is designed to show priorities

within the community and how the City is addressing these needs. The seven categories are defined below:

1. **Arts:** Organizations that support artistry, creativity, and culture within Cincinnati.
2. **Economic Development and Neighborhood Support:** Organizations that invest in communities or specific neighborhoods within Cincinnati to develop the local economy or increase neighborhood vitality.
3. **Environment:** Organizations dedicated to addressing climate change and improving the local ecosystems in Cincinnati.
4. **Equity and Inclusion:** Organizations focused on combatting institutional discrimination, bolstering diversity, and uplifting all genders, sexual orientations, and races in economic pursuits.
5. **Homelessness and Eviction Prevention:** Organizations aimed at combatting the affordable housing crisis, providing tenant protections, maintaining homeownership and quality rentals, and preventing homelessness.
6. **Human Services and Violence Prevention:** Organizations aimed at improving public health, legal representation, and safety among Cincinnati residents.
7. **Workforce Programming and Poverty Reduction:** Organizations that assist residents in finding and maintaining gainful employment and reducing poverty.

The following table organizes Approved FY 2023 Budget Update leveraged support recipients by the seven new categories:

External Leveraged Support Category and Recipients	Approved FY 2023 Budget Update
Arts	
Artswave Black and Brown Artists Fund ^{1,2}	\$25,000
ArtWorks (Walnut Hills Creative Campus) ¹	\$150,000
Film Commission	\$56,250
Total Arts	\$231,250
Economic Development and Neighborhood Support	
CincyTech	\$250,000
Cintrifuse	\$250,000
Cintrifuse Hackathon	\$20,000
Homebase Cincinnati (formerly CDC Association of Greater Cincinnati)	\$143,000
Invest in Neighborhoods	\$50,000
Keep Cincinnati Beautiful	\$475,000
Neighborhood Games	\$10,000
Regional Economic Development Initiative (REDI)	\$250,000
Total Economic Development and Neighborhood Support	\$1,448,000
Environment	
Green Umbrella (formerly Greater Cincinnati Energy Alliance)	\$87,000
Total Environment	\$87,000
Equity and Inclusion	
African American Chamber of Commerce ²	\$350,000
Chamber of Commerce - Immigration Center Partnership (COMPASS)	\$50,000
Hillman Accelerator ²	\$125,000
Immigrant and Refugee Law Center	\$50,000
MORTAR ²	\$90,000
The Urban League ¹	\$100,000
Total Equity and Inclusion	\$765,000
Homelessness and Eviction Prevention	
Bethany House	\$100,000
Shelterhouse (formerly Strategies to End Homelessness (Winter Shelter))	\$305,000
St. Vincent de Paul Society - Eviction Prevention Initiatives	\$250,000
Total Homelessness Prevention and Poverty Reduction	\$655,000
Human Services and Violence Prevention	
Center for Addiction Treatment	\$87,500
Center for Closing the Health Gap	\$750,000
Childcare Pilot Program	\$1,000,000
The University of Cincinnati's Legal Access Program	\$50,000
Total Human Services and Violence Prevention	\$1,887,500
Workforce Programming and Poverty Reduction	
Cincinnati Works	\$250,000
GeneroCity 513	\$75,000
Total Workforce Programming and Poverty Reduction	\$325,000
Grand Total External Leveraged Support	\$5,398,750

¹ Denotes one-time funding

² Denotes partial one-time funding. African American Chamber of Commerce, ArtsWave Black and Brown Artists Fund, Hillman Accelerator, and MORTAR are each allocated \$25,000 in one-time funding.

Application Process

The Administration recommends a new application process to increase transparency and performance among potential leveraged support partners. The application process will take place concurrently with the City's operating budget development process in the spring of each year with funding recommendations included in the City Manager's Recommended Budget.

Organizations can apply either on an organizational basis or for a specific program. Organizations will be asked to select one of the seven leveraged support categories that represents the best fit for their request as part of the application process.

Leveraged support applications will request the following information:

1. Organization Information

- Organization Name and/or Program Name (if applicable)
- Organization Mailing Address
- Organization Email Address
- Tax Identification Number
- Organization Description and/or Program Description (if applicable)
- Most recent audited financial statements or federal tax return

2. Leveraged Support Funding Request

- Leveraged support funding received in most recent fiscal year
- Leveraged support funding request for upcoming fiscal year

3. Revenue

- Breakdown of amount and percentage of each revenue source to total revenue on a programmatic basis or organization-wide
- Total revenue received from the City organization-wide

4. Expenses

- Total expenses on a programmatic or organization-wide basis—categorized as program service expenses and supporting service expenses
- Itemized budget of expenses for use of City funding

5. Performance Metrics

- Output Metrics – Organizations must choose three output metrics on either a programmatic or organization-wide basis.

- History of Performance – Organizations must provide three years of past performance, based on the three selected output metrics to the extent available.
- Projected Performance with City Funds – Organizations must provide annual performance goals for the requested City funds, using the three output metrics previously selected.

Eligibility Criteria and Recommended Awards

City Council appropriates all City funding; therefore, all leverage funding awards are subject to City Council approval. However, the City Administration will make recommendations of awards to City Council in the City Manager’s Recommended Budget. The City Manager will evaluate recommendations based on the following criteria:

1. **Leverage** – The extent that the City’s funds are being leveraged by other public or private sources generated by the applicant. The higher the amount of City funding requested, the higher the expectation will be for leveraging.
2. **Impact** – The historic and projected impact of the applicant’s services, the applicant’s demonstrated capacity to timely and effectively deliver the services, and the efficiency in use of funds to maximize funding committed to program delivery.
3. **Strategic Goal Alignment** – The extent that the applicant’s provided services align with the strategic goals of the City Administration and Elected Officials in addressing identified public needs or other gaps in services needed by City residents.

More specific details of the application process and selection criteria are forthcoming. At this time, an online form-based application is being developed. The Administration intends to begin messaging about the application process in January 2023 with a goal of opening the application process in February 2023. The application process will close towards the end of March 2023 to provide ample time to review submissions.

To ensure adequate public engagement and feedback before finalizing for the FY 2024 cycle, the Administration intends to continue to engage the City Council and other stakeholders before finalizing the above recommended application structure.

cc: William “Billy” Weber, Assistant City Manager
Virginia Tallent, Interim Assistant City Manager

Attachment

January 17, 2023

To: Members of the Budget and Finance Committee 202300363
From: Sheryl M. M. Long, City Manager
Subject: Presentation – Leveraged Funding Process Recommendation

Attached is the presentation on the Leveraged Funding Process Recommendation for the Budget and Finance Committee meeting on Tuesday, January 17, 2023 at 1 PM.

cc: Virginia Tallent, Interim Assistant City Manager
William “Billy” Weber, Assistant City Manager

Leveraged Funding Process Recommendation

Agenda

Background

Definition of Leveraged Support

Recommended Process

- Eligibility Criteria
- Categorization
- Application Process and Information
- Award Criteria and Recommendations to Council

Background

The City of Cincinnati provides financial support to specific programs or for the general operations of organizations that perform a service benefiting Cincinnati residents.

- Organizations are expected to leverage funding from the City with additional financial resources – either raised from other governmental or private entities or as earned revenue from providing a service.
- Approved FY 2023 Budget Update includes \$17.5 million in leveraged support funding in the following categories:
 - Neighborhood Support
 - Economic Development
 - Human Services and Violence Prevention
- No existing written criteria for what is considered “leveraged support”.

Recommended Definition of “Leveraged Support”

Financial support from the City of Cincinnati to an external organization (i) as general operating support to fund their work in the City or (ii) as funding for a specific program aimed at addressing a public need in the City.

Does not include City funding of third parties to perform elements of City Operations—managing city-owned assets or programs.

List of Programs or Services Considered City Operations = Not “Leveraged Support”

City Operations Programmatic Support and Recipients	Approved FY 2023 Budget Update
City Administered Programs	
Community Urban Agriculture	\$20,000
Green Cincinnati Fund	\$100,000
Needle Exchange Program	\$150,000
Neighborhood Business Districts	\$120,000
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Total Contracts for City Assets & Programs	\$10,018,540
Grand Total City Operations Programmatic Support and Recipients	\$12,083,540

Recommended Process:

1. Establish baseline eligibility criteria.
2. Re-categorize types of support to allow for more standardization, comparison, and tracking.
3. Create a simple application process to collect critical data.
4. Establish evaluation criteria and incorporate collected information into City Manager's Recommended Budget.

Eligibility Criteria

The City Administration recommends establishing minimum eligibility criteria and request parameters as follows:

- **The applicant must be an existing organization** that has at minimum three years of audited financial statements or federal tax returns and must not be debarred from contracting or subcontracting with the City.
 - Start-up organizations are not eligible to apply and should instead apply under the City's Boots on the Ground program.
 - Applications requesting funding for new programs of existing organizations are acceptable.
- **Applicants should not request more than \$500,000 or less than \$50,000.**
 - Only in extraordinary circumstances will an award be granted in excess of \$500,000.
- **Applicants must be offering a service that directly benefits City residents** under one of the categories identified by the Administration.

Categorization

Each new category is designed to show priorities within the community and how the City is addressing these needs.

1. **Arts:** Organizations that support artistry, creativity, and culture within Cincinnati.
2. **Economic Development and Neighborhood Support:** Organizations that invest in communities or specific neighborhoods within Cincinnati to develop the local economy or increase neighborhood vitality.
3. **Environment:** Organizations dedicated to addressing climate change and improving the local ecosystems in Cincinnati.
4. **Equity and Inclusion:** Organizations focused on combatting institutional discrimination, bolstering diversity, and uplifting all genders, sexual orientations, and races in economic pursuits.
5. **Homelessness and Eviction Prevention:** Organizations aimed at combatting the affordable housing crisis, providing tenant protections, maintaining homeownership and quality rentals, and preventing homelessness.
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Total Economic Development and Neighborhood Support	\$1,448,000
Environment	
Green Umbrella (formerly Greater Cincinnati Energy Alliance)	\$87,000
Total Environment	\$87,000

Equity and Inclusion	
African American Chamber of Commerce ²	\$350,000
Chamber of Commerce - Immigration Center Partnership (COMPASS)	\$50,000
Hillman Accelerator ²	\$125,000
Immigrant and Refugee Law Center	\$50,000
MORTAR ²	\$90,000
The Urban League ¹	\$100,000
Total Equity and Inclusion	\$765,000
Homelessness and Eviction Prevention	
Bethany House	\$100,000
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Center for Closing the Health Gap	\$750,000
Childcare Pilot Program	\$1,000,000
The University of Cincinnati's Legal Access Program	\$50,000
Total Human Services and Violence Prevention	\$1,887,500
Workforce Programming and Poverty Reduction	
Cincinnati Works	\$250,000
GeneroCity513	\$75,000
Total Workforce Programming and Poverty Reduction	\$325,000
Grand Total External Leveraged Support	\$5,398,750

¹ Denotes one-time funding

² Denotes partial one-time funding. African American Chamber of Commerce, ArtsWave Black and Brown Artists Fund, Hillman Accelerator, and MORTAR are each allocated \$25,000 in one-time funding.

Application Process

The Administration recommends a new application process to increase transparency and performance among potential leveraged support partners.

- The application process will take place concurrently with the City's operating budget development process in the spring of each year with funding recommendations included in the City Manager's Recommended Budget.
- Organizations can apply either on an organizational basis or for a specific program.
- Organizations will be asked to select one of the seven leveraged support categories.

Application Process

Leveraged support applications will request the following information:

1. Organization Information (description, address, financial statements or tax return, etc.)
2. Leveraged Support Funding Request
 - Leveraged support funding received in most recent fiscal year
 - Leveraged support funding request for upcoming fiscal year
3. Revenue
 - Breakdown of amount and percentage of each revenue source to total revenue (per program or organization-wide)
 - Total revenue received from the City organization-wide
4. Expenses
 - Total expenses, on a per-program or organization-wide basis, categorized into program and supporting services
 - Itemized budget of expenses for use of City funding

Application Process

5. Performance Metrics

- Output Metrics: Organizations must choose three output metrics, on either a programmatic or organization-wide basis
- History of Performance: Organizations must provide three years' past performance, based on the three selected output metrics to the extent available
- Projected Performance with City Funds: Organizations must provide annual goals for the requested City funds using the three selected output metrics

Recommended Awards

City Council appropriates all City funding; therefore, all leverage funding awards are subject to City Council approval. However, the Administration will make recommendations of awards to City Council in the City Manager's Recommended Budget. The City Manager will evaluate recommendations based on the following criteria:

- 1 Leverage**

The extent that the City's funds are being leveraged by other public or private sources generated by the applicant. The higher the amount of City funding requested, the higher the expectation will be for leveraging.
- 2 Impact**

The historic and projected impact of the applicant's services, the applicant's demonstrated capacity to timely and effectively deliver the services, and the efficiency in use of funds to maximize funding committed to program delivery.
- 3 Strategic Goal Alignment**

The extent that the applicant's provided services align with the strategic goals of the City Administration and Elected Officials in addressing identified public needs or other gaps in services needed by City residents.

Next Steps

The Administration intends to take the following next steps:

- An online form-based application is being developed
- Begin discussion about the application process in January 2023
 - Target to open application process: February 2023
 - Target to close application process: End of March 2023

Public engagement begins today and will continue at the next Committee meeting. The Administration will incorporate feedback received from the public and from Council in finalizing the process for FY24.

Questions?

January 11, 2023

To: Mayor and Members of City Council 202300262
From: Sheryl M. M. Long, City Manager
Subject: Ordinance – Police: FY 2023 Law Enforcement Recruitment Fund Grant

Attached is an Ordinance captioned:

AUTHORIZING the City Manager to apply for, accept, and appropriate a grant in the amount of up to \$168,053 in FY 2023 Office of Law Enforcement Recruitment funds from the State of Ohio, Department of Public Safety, Office of Criminal Justice Services, for the purpose of developing the Cincinnati Police Department recruiting process, specifically the Cadet Apprenticeship Program, to include emphasis on recruitment of women and minorities; and **AUTHORIZING** the Director of Finance to deposit the grant resources into Law Enforcement Grant Fund 368, project account no. 23LERF.

This Ordinance authorizes the City Manager to apply for, accept, and appropriate a grant in the amount of up to \$168,053 in FY 2023 Office of Law Enforcement Recruitment funds from the State of Ohio, Department of Public Safety (ODPS), Office of Criminal Justice Services (OCJS), for the purpose of developing the Cincinnati Police Department recruiting process, specifically the Cadet Apprenticeship Program, to include emphasis on recruitment of women and minorities. This Ordinance also authorizes the Finance Director to deposit the grant resources into Law Enforcement Grant Fund 368, project account no. 23LERF.

The FY 2023 Office of Law Enforcement Recruitment Fund Grant is available through the Ohio Department of Public Safety, Office of Criminal Justice Services, for the purpose of developing and improving the police recruiting process. The Cincinnati Police Department Cadet Apprenticeship Program recruitment process will aim to establish a foundation for the apprenticeship program model as well as increase female and minority officers within the Police Department.

The grant application deadline was December 16, 2022, and the Cincinnati Police Department applied for the grant prior to receiving City Council approval. Should this Ordinance not be approved, the grant award will not be accepted. The grant does not require matching funds and no new FTEs are associated with this grant.

Acceptance of this grant is accordance with the “Live” goal to “[c]reate a more livable community” as described on pages 156-163 of Plan Cincinnati (2012).

The Administration recommends passage of this Emergency Ordinance.

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



Attachment

AUTHORIZING the City Manager to apply for, accept, and appropriate a grant in the amount of up to \$168,053 in FY 2023 Office of Law Enforcement Recruitment funds from the State of Ohio, Department of Public Safety, Office of Criminal Justice Services, for the purpose of developing the Cincinnati Police Department recruiting process, specifically the Cadet Apprenticeship Program, to include emphasis on recruitment of women and minorities; and **AUTHORIZING** the Director of Finance to deposit the grant resources into Law Enforcement Grant Fund 368, project account no. 23LERF.

WHEREAS, there is a grant available in the amount of up to \$168,053 from the State of Ohio, Office of Criminal Justice Services, for the purpose of developing the Cincinnati Police Department (“CPD”) recruiting process, specifically the Cadet Apprenticeship Program, to include emphasis on the recruitment of women and minorities; and

WHEREAS, the CPD Cadet Apprenticeship Program recruiting process will aim to establish a foundation for the apprenticeship program model, as well as increase the number of female and minority officers within CPD; and

WHEREAS, CPD has applied for the grant because the deadline was December 16, 2022, but the City will not accept any funds without approval of Council; and

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

WHEREAS, acceptance of this grant is in accordance with the “Live” goal to “[c]reate a more livable community” as described on pages 156-163 of Plan Cincinnati (2012); now, therefore,

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

Section 1. That the City Manager is hereby authorized to apply for, accept, and appropriate a grant in the amount of up to \$168,053 in FY 2023 Office of Law Enforcement Recruitment funds from the State of Ohio, Department of Public Safety, Office of Criminal Justice Services, for the purpose of developing the Cincinnati Police Department recruiting process, specifically the Cadet Apprenticeship Program, to include emphasis on recruitment of women and minorities.

Section 2. That the Director of Finance is hereby authorized to deposit the grant resources into Law Enforcement Grant Fund 368, project account no. 23LERF.

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

Section 4. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed: _____, 2023

Aftab Pureval, Mayor

Attest: _____
Clerk

January 11, 2023

To: Mayor and Members of City Council 202300263

From: Sheryl M. M. Long, City Manager

**Subject: Emergency Ordinance – Buildings and Inspections: Moral
Obligation to Rainbow Environmental Services**

Attached is an Emergency Ordinance captioned:

AUTHORIZING a payment of \$86,904 to Rainbow Environmental Services as a moral obligation for outstanding charges related to asbestos abatement preparation services prior to the demolition of dangerous and unsafe buildings for the Department of Buildings and Inspections, to be paid from the Community Development Block Grant Fund 304 project account no. 304x161x0000x7656x30421136.

Approval of this Emergency Ordinance will authorize the payment of \$86,904 to Rainbow Environmental Services as a moral obligation for outstanding charges related to asbestos abatement preparation services prior to the demolition of dangerous and unsafe buildings for the Department of Buildings and Inspections, to be paid from the Community Development Block Grant Fund 304 project account no. 304x161x0000x7656x30421136.

Rainbow Environmental Services had a contract with the City that, unknown to Department of Buildings and Inspections staff, expired, so that when the Hazard Abatement team authorized the work, it was performed without an active contract.

The Department of Buildings and Inspections has since implemented a procurement and accounting review policy to ensure compliance in the future.

The reason for the emergency is the immediate need to make payment to Rainbow Environmental Services in a timely manner.

The Administration recommends passage of this Emergency Ordinance.

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

Attachment

EMERGENCY

KKF

- 2023

AUTHORIZING a payment of \$86,904 to Rainbow Environmental Services as a moral obligation for outstanding charges related to asbestos abatement preparation services prior to the demolition of dangerous and unsafe buildings for the Department of Buildings and Inspections, to be paid from Community Development Block Grant Fund 304 project account no. 304x161x0000x7656x30421136.

WHEREAS, Rainbow Environmental Services had a contract with the City to provide asbestos abatement preparation services, which contract expired; and

WHEREAS, the Department of Buildings and Inspections staff did not know the contract had expired, so when the Hazard Abatement team authorized Rainbow Environmental Services to do work, the work was done without an active contract; and

WHEREAS, the Department of Buildings and Inspections has since implemented a procurement and accounting review policy to ensure the City has active contracts before authorizing a vendor to provide services; and

WHEREAS, sufficient funds are available in Community Development Block Grant Fund 304 project account no. 304x161x0000x7656x30421136 to make this payment; and

WHEREAS, Council desires to provide payment to Rainbow Environmental Services in the amount of \$86,904; now, therefore,

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

Section 1. That the Finance Director is hereby authorized to make a payment of \$86,904 to Rainbow Environmental Services as a moral obligation for outstanding charges related to asbestos abatement preparation services prior to the demolition of dangerous and unsafe buildings for the Department of Buildings and Inspections, to be paid from Community Development Block Grant Fund 304 project account no. 304x161x0000x7656x30421136.

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

Section 3. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to make payment to Rainbow Environmental Services in a timely manner.

Passed: _____, 2023

Aftab Pureval, Mayor

Attest: _____
Clerk

January 11, 2023

To: Mayor and Members of City Council 202300265
From: Sheryl M. M. Long, City Manager
Subject: **Ordinance – Fernbank Park Lease and Operating Agreement**

Attached is an Ordinance captioned:

AUTHORIZING the City Manager to execute a *Lease and Operating Agreement* with Great Parks of Hamilton County pursuant to which Great Parks of Hamilton County will lease and operate the City-owned public park known as Fernbank Park in Sayler Park.

The City of Cincinnati owns Fernbank Park, consisting of approximately 58 acres located on Thornton Avenue along the Ohio River in Sayler Park which is under the control of the Board of Park Commissioners for the City of Cincinnati; and pursuant to a Lease and Operating Agreement authorized by Ordinance No. 327-2018, passed by Council on October 17, 2018, Great Parks of Hamilton County, operates and manages the Park, and the parties now desire to enter a new 5-year lease on the terms and conditions set forth in the Lease and Operating Agreement.

The Board of Park Commissioners at their **December 15, 2022**, meeting approved the new lease agreement.

cc: Jason Barron, Director of Parks
Jenny Mobley, Deputy Director of Parks

Attachment

AUTHORIZING the City Manager to execute a *Lease and Operating Agreement* with Great Parks of Hamilton County pursuant to which Great Parks of Hamilton County will lease and operate the City-owned public park known as Fernbank Park in Saylor Park.

WHEREAS, the City of Cincinnati owns Fernbank Park, consisting of approximately 58 acres located on Thornton Avenue along the Ohio River in Saylor Park (“Park”), which is under the control of the Board of Park Commissioners for the City of Cincinnati (“Park Board”); and

WHEREAS, pursuant to a *Lease and Operating Agreement* authorized by Ordinance No. 327-2018, passed by Council on October 17, 2018, Great Parks of Hamilton County, formerly known as the Hamilton County Park District, a political subdivision of the State of Ohio created and existing under Ohio Revised Code Chapter 1545 (“Great Parks”), operates and manages the Park, and the parties now desire to enter a new 5-year lease on the terms and conditions set forth in the *Lease and Operating Agreement* attached to this ordinance as Attachment A and incorporated herein by reference (“New Agreement”); and

WHEREAS, the City Manager, in consultation with the Park Board, has determined that (i) the Park is not needed for a municipal purpose for the duration of the New Agreement; and (ii) leasing the Park to Great Parks is not adverse to the City’s retained interest in the Park; and

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

WHEREAS, eliminating competitive bidding in connection with the City’s lease of the Park is in the best interest of the public because Great Parks is a governmental entity with extensive experience in operating public parks, and therefore the City and the Park Board desire for Great Parks to continue to operate the Park; and

WHEREAS, the City’s Real Estate Services Division has determined by professional appraisal that the fair market rental value of the Park is approximately \$40,000 per year, however the City has agreed to lease the Park to Great Park for less than its fair market rental value, namely, \$0.00, because the City will receive benefits from the New Agreement that equal or exceed the fair market rental value of the Park in that the City will be relieved of the expense and administrative burden of the management, operation, and maintenance of the Park through the term of the New Agreement; and

WHEREAS, the Park Board approved the New Agreement at its meeting on December 15, 2022; and

WHEREAS, the City Planning Commission, having the authority to approve the change in the use of City-owned property, approved the lease of the Park at its meeting on December 2, 2022; now, therefore,

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

Section 1. That the City Manager is hereby authorized to execute a *Lease and Operating Agreement* (“New Agreement”) with Great Parks of Hamilton County, a political subdivision of the State of Ohio created and existing under Ohio Revised Code Chapter 1545 (“Great Parks”), in substantially the form attached as Attachment A to this ordinance and incorporated herein by reference, pursuant to which the City of Cincinnati will lease certain real property commonly known as Fernbank Park, consisting of approximately 58 acres located on Thornton Avenue along the Ohio River in Saylor Park, as more particularly depicted in the New Agreement (“Park”), for a five-year term.

Section 2. That the Park is not needed for a municipal purpose for the duration of the New Agreement.

Section 3. That leasing the Park to Great Parks is not adverse to the City’s retained interest in the Park.

Section 4. That eliminating competitive bidding in connection with the City’s lease of the Park is in the best interest of the City because Great Parks is a governmental entity with extensive experience in operating public parks, and therefore the City and the Park Board desire for Great Parks to continue to operate the Park.

Section 5. That the City’s Real Estate Services Division has determined by professional appraisal that the fair market rental value of the Park is approximately \$40,000 per year, however the City will lease the Park to Great Parks for less than its fair market rental value, namely, \$0.00, because the City will receive benefits from the New Agreement that equal or exceed the

fair market rental value of the Park in that the City will be relieved of the expense and administrative burden of the management, operation, and maintenance of the Park through the term of the New Agreement.

Section 6. That the proper City officials are hereby authorized to take all necessary and proper actions to carry out the provisions and intent of this ordinance and the New Agreement, including, without limitation, executing any and all ancillary documents associated with the Agreement, such as amendments or supplements to the New Agreement deemed by the City Manager to be in the vital and best interests of the City.

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

Passed: _____, 2023

Aftab Pureval, Mayor

Attest: _____
Clerk

LEASE AND OPERATING AGREEMENT

This Lease and Operating Agreement (“**Agreement**”) is made and entered into effective as of January 1, 2023 (the “**Effective Date**”) by and between the **City of Cincinnati**, an Ohio municipal corporation, the address of which is 801 Plum Street, Cincinnati, OH 45202 (the “**City**”, as lessor), and **Great Parks of Hamilton County** (f/k/a Hamilton County Park District), a political subdivision of the State of Ohio created under Ohio Revised Code Section 1545 (*Park Districts*), the address of which is 10245 Winton Road, Cincinnati, OH 45231 (“**Operator**”, as lessee).

Recitals:

A. The City owns Fernbank Park on Thornton Avenue in Cincinnati, consisting of approximately 58 acres and various improvements thereon located along the Ohio River, as shown on Exhibit A (Site Map) hereto (the “**Property**”; also referred to herein as the “**Park**”), which is controlled by the Board of Park Commissioners for the City of Cincinnati (the “**Park Board**”).

B. The City has leased the Property to Operator, and Operator has operated the Property as a public park, pursuant to separate lease agreements dated April 18, 2003, and January 1, 2018, the term of the latter Lease expires on December 31, 2022 (the “**Prior Lease**”).

C. The parties desire to enter into a new agreement that is in general accordance with the Prior Lease, for an additional five (5) year period, ending December 31, 2027.

D. The City is leasing the Property to Operator at a base rent of \$0.00 because of the considerable expenses that will be incurred by Operator in operating the Property, at no cost to the City, for the benefit of the people of the City. There is no City funding being provided to Operator under this Agreement.

E. The City has determined that eliminating competitive bidding with respect to the City’s lease of the Property is in the best interest of the public because the City has determined that Operator, being a governmental entity with experience in managing public parks, is the most qualified and suitable operator of the Property.

F. The Park Board approved this Agreement at its meeting on _____, 2022.

G. City Planning Commission approved this Agreement at its meeting on December 2, 2022.

H. Cincinnati City Council approved this Agreement by Ordinance No. ____-2022, passed on _____, 2022.

NOW THEREFORE, the parties hereby agree as follows:

1. LEASE OF PROPERTY.

(A) Grant. On the terms and conditions set forth herein, the City does hereby lease the Property to Operator, and Operator does hereby lease the Property from the City, for the Term established under section 2 below. The City leases the Property to Operator subject to any and all easements, covenants, restrictions and other matters of record, matters that would be disclosed upon an ordinary inspection or survey of the Property, and any and all rights expressly reserved under this Agreement for the benefit of the City, utility companies, and other third parties. The City has not made any representations or warranties concerning the condition or characteristics of the Property or the suitability or fitness of the Property for the Permitted Use, and Operator is not relying upon any such representations or warranties from the City. On

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the Commencement Date (as defined in section 2 below), Operator shall accept the Property in “as is” condition. During the Term, Operator shall not grant any easements or otherwise encumber the title to the Property without the City’s prior written consent.

(B) City’s Right to Inspect Property & Use Lodge. The City hereby reserves the right for its employees and agents to enter upon the Property from time to time for any proper purpose, provided, however, that in exercising such rights, (i) the City shall not unreasonably disrupt Operator’s use of the Property for the Permitted Use, and (ii) except in emergencies, the City shall give Operator reasonable written notice prior to entering the Property. The Park Board shall have the right to use the lodge at the Property from time to time (not exceeding once per month), at no charge, and upon no less than 30 days prior notice to Operator, provided Operator shall not have previously rented out the lodge to someone else on the designated date/time.

(C) Access by Utility Companies. Operator shall ensure continuous access to the Property (24 hours/day, 7 days/week, 52 weeks/year) by any and all utility companies that have existing utility facilities within the Property for the maintenance, repair and replacement thereof, and Operator shall not undertake any action or construct any improvements within the Property that may interfere with any such utility company’s rights without having first obtained such utility company’s consent. If Operator, its employees, agents, contractors, subcontractors, licensees or invitees cause damage to such utility companies’ facilities, Operator shall promptly reimburse the affected utility company for the cost of repairing such damage. The City and the Park Board shall ensure that Operator is notified of any work to be performed on the Property by City-owned or City-managed utility companies so that Great Parks can ensure the safety and security of the work site; *provided*, however, the City and the Park Board shall not be required to provide advance notice to Operator in case of an emergency that poses an immediate threat to the operations of the City-owned or City-managed public utility facilities. In case of an emergency, the City and the Park Board shall use best efforts to notify Operator of its entry upon the Property as soon as possible following the emergency event. In the event that the operation, maintenance, repair, construction, reconstruction or replacement of existing City-owned or City-managed public utility facilities requires the cutting, clearing, trimming, or removal of any trees, shrubs, overhanging branches, and/or other vegetation, the City and the Park Board shall notify the Operator in advance of such entry upon the Property to review the scope of such vegetative clearance to determine if any of Operator’s donor-funded, legacy plantings will be impacted; *provided*, however, the City and the Park Board shall not be required to provide advance notice to Operator in case of an emergency that poses an immediate threat to the operations of the City-owned or City-managed public utility facilities. In case of an emergency, the City and the Park Board shall use best efforts to notify Operator of its entry upon the Property for vegetative clearance as soon as possible following the emergency event. The City shall cause all vegetative clearance performed by City-owned or City-managed public utility operators to be conducted and completed to the satisfaction of Operator as set forth by standards and specifications established by Operator. The City shall, at its own cost, minimize damage to the Property related to vegetative clearance, and shall promptly repair and restore any and all damage to the Property and existing improvements thereon related to vegetative clearance to the satisfaction of Operator. The City agrees to compensate Operator for damage to, or removal of, Operator’s donor-funded, legacy trees/ vegetation caused by the City, its employees, agents, or contractors upon receipt of an appraisal performed by a certified arborist, identifying the impacted plantings and evidencing the amount due

2. TERM (5 years). The term (“**Term**”) of this Agreement shall commence on the Effective Date (also referred to herein as the “**Commencement Date**”), and, unless extended or sooner terminated in accordance with the provisions of this Agreement, shall continue for a term of five (5) years, expiring on **December 31, 2027**. The Term of this Agreement may be extended for successive renewal periods of five (5) years each upon the mutual written agreement of Operator, the City Manager and the Park Board (no additional approval of Cincinnati City Council being required).

3. PERMITTED USE; OPERATING STANDARDS; REPORTS

(A) Permitted Use. Operator shall use the Property solely for the operation of a public park (the “**Permitted Use**”) and for no other purpose.

(B) Operating Standards. Operator shall operate the Park in accordance with ORC Section 1545 and in a manner comparable to other parks managed by Operator and the Park Board and shall render the usual and customary services incidental thereto in a professional businesslike and efficient manner. Operator shall not enforce its motor vehicle permit at the Park (i.e., Operator shall not require visitors to the Park to pay a permit fee). Operator shall have the right, however, to charge reasonable fees for special uses, permits, programs and reserved areas as may be appropriate and as consistent with Operator's normal operations. Operator shall be responsible for the operation, maintenance, safety, security and park law enforcement of the Property, at no cost to the City or Park Board, in accordance with Operator's Code of By-Laws and in compliance with all applicable federal, state and local laws, codes, ordinances and other governmental requirements. Operator shall refer to the Park as "Fernbank Park" or such other name as may be designated by the Park Board from time to time.

(C) Reports. Operator shall submit an annual operating report to the Director of the Park Board by **March 31** of each year during the Term of this Agreement (the "**Annual Report**"), documenting (i) the major events and activities occurring at the Park during the calendar year then just ended, (ii) the estimated park attendance, (iii) expenditures incurred for park maintenance, repairs, and capital costs, and (iv) income received from shelter and lodge rentals and any other income generated from the operation of the Park.

4. RENT. \$0.00/year

5. REAL ESTATE TAXES. The parties acknowledge that the Property is exempt from real property taxes.

6. MAINTENANCE AND REPAIRS. During the Term of this Agreement, Operator shall assume all responsibility for the maintenance and repair of the Property and shall maintain the same in a continuous state of good and safe condition and repair, whether such maintenance or repairs are routine or non-routine. Except as otherwise expressly provided in this Agreement, the City shall not have any maintenance or repair obligations or any obligation to provide services for the benefit of the Property under this Agreement. The foregoing notwithstanding, Operator shall not be responsible for maintaining or repairing the public sewer facilities located on the Property (which the parties acknowledge shall remain the responsibility of the Metropolitan Sewer District of Greater Cincinnati).

7. ALTERATIONS; SIGNS; NO LIENS.

(A) Alterations. Operator shall not make any material alterations, additions or other changes to the Property without the prior written consent of the Park Board, which approval shall not be unreasonably withheld or delayed provided the proposed alterations, additions or changes are consistent with the Permitted Use and will not diminish the fair market value or aesthetic appeal of the Property. Operator shall have the right to make all minor and cosmetic-type alterations to the Property without having to obtain the City's prior consent. All alterations made by Operator shall be made in a good and workmanlike manner, in compliance with all applicable legal requirements, shall not diminish the fair market value of the Property, and shall be consistent with the quality, design, functionality, and aesthetic appeal of the Property. Once installed, Operator shall not remove such alterations (unless such removal shall have been consented to in writing by the City), and Operator shall surrender the same to the City at the end of the Term.

(B) Signs. Operator shall maintain the existing directional, informational, advertising and other outdoor signs at the Property and shall ensure that the same comply with all applicable zoning and other legal requirements. Operator shall, at its expense, keep all signs in good condition and repair. The foregoing notwithstanding, in the event the Park Board determines that the content of any signs is inappropriate given the use of the Property by children or would otherwise reflect negatively upon the City, the City shall notify Operator of such objection in writing, whereupon Operator shall promptly either address such objection to the Park Board's satisfaction or remove the objectionable sign(s).

(C) No Liens. If any mechanics' lien or other similar lien is filed against the Property as a result of labor or material furnished at Operator's request, Operator shall cause the lien to be released or bonded off within forty-five (45) days following the filing of such lien.

8. INSURANCE; INDEMNITY.

(A) Insurance. Throughout the Term, Operator shall maintain, or shall cause to be maintained, the following insurance:

(i) special peril (formerly known as “all-risk”) full replacement cost insurance on the buildings on the Property, naming the City and Operator as their respective interests may appear;

(ii) property insurance on all personal property of Operator from time to time located at the Property in such amount as Operator shall from time to time determine to be commercially reasonable;

(iii) Commercial General Liability insurance covering claims for bodily injury, personal injury or death, and property damage occurring at the Property in an amount not less than \$2,000,000 per occurrence, combined single limit/\$4,000,000 aggregate, or such additional amount as the City or its insurance or risk advisors may determine from time to time to be customary for comparable facilities in the Cincinnati area, naming the City as an additional insured;

(iv) Automobile Liability Insurance in the amount of not less than \$1,000,000 per occurrence, naming the City as an additional insured; and

(v) Workers Compensation insurance as required by law.

Operator shall be permitted to satisfy the above-specified liability insurance coverages through a combination of primary and umbrella and/or excess liability policies.

(B) Policy Requirements. Operator shall be permitted to satisfy the insurance requirements set forth above through primary and umbrella and/or excess liability policies under a self-insurance program authorized pursuant to ORC Section 2744.08 or a joint self-insurance pool authorized pursuant to ORC Section 2744.081 operated by or on behalf of Operator or 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, provided that the insurance/coverage (i) may not be canceled or modified without at least thirty (30) days prior written notice to the City, and (ii) is primary with respect to insurance maintained by the City. On the Commencement Date and thereafter on an annual basis, Operator shall provide the Park Board with a certificate of insurance evidencing the insurance required to be maintained by Operator hereunder.

(C) Handling of Claims. 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; and similarly, Operator assumes no responsibility for any acts, errors or omissions of the City or any employee, agent, representative or any other person acting or purporting to act for or on behalf of the City. In the event of third-party claims filed against either party pertaining to the Property, each party shall handle its own claims in accordance with its internal policies and procedures. (The parties acknowledge that, as governmental entities, the parties are not legally permitted under Ohio law to contractually agree to indemnify each other.)

9. CASUALTY. If the Property is damaged or destroyed by fire or other casualty, then, unless otherwise agreed by the parties in writing, Operator shall repair and restore the Property, as expeditiously as possible, and to the extent practicable, to substantially the same condition in which the Property was in immediately 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. Operator shall handle all construction in accordance with plans and specifications approved by the City. Operator shall not be relieved of any obligations, financial or otherwise, under this Agreement during any period in which the Property is being repaired or restored.

10. DEFAULT; REMEDIES.

(A) Default. If either party fails to perform or observe any of the covenants, terms or conditions contained in this Agreement, and such failure to perform continues for longer than sixty (60) days after the defaulting party receives written notice thereof from the non-defaulting party; provided, however, that if such failure is not reasonably susceptible of being cured within such sixty (60) day period, an event of default shall not be deemed to have occurred if defaulting party commences to cure such failure within such sixty (60) day period and thereafter diligently pursues such cure to completion and, in fact, cures such failure within one hundred twenty (120) days after the defaulting party receives written notice of the default from the non-defaulting party. The foregoing notwithstanding, if the failure creates a dangerous condition or otherwise constitutes an emergency as determined by the non-defaulting party, an event of default shall be deemed to have occurred if defaulting party fails to take corrective action immediately upon discovering such dangerous condition or emergency.

(B) Remedies. Upon the occurrence of an event of default that continues beyond the applicable notice and cure period provided for under paragraph (A) above, the non-defaulting party shall be entitled to: (i) terminate this Agreement by giving the defaulting party written notice thereof, (ii) take such actions in the way of "self help" as the non-defaulting party determines to be reasonably necessary or appropriate to cure or lessen the impact of such default, and (iii) exercise any and all other rights and remedies under this Agreement or available at law or in equity. The failure of either party to insist upon the strict performance of any covenant or duty or to pursue any remedy under this Agreement shall not constitute a waiver of the breach of such covenant or of such remedy.

11. ASSIGNMENT AND SUBLETTING. Operator shall not assign its interests under this Agreement, or sublet all or any portion of the Property, without the prior written consent of the City. Operator acknowledges that the City is entering into this Agreement because of the City's confidence that Operator has the financial resources, experience, and community support that are necessary to carry out the operation of the Property and that therefore the City shall not be expected to consent to a proposed assignment or sublease to any individual or entity in which the City does not have similar confidence. No assignment or sublease by Operator of its rights or obligations under this Agreement to a third party shall relieve Operator from any liability to the City under this Agreement.

12. ESTOPPEL CERTIFICATES. Within fifteen (15) days after written request from the other party (or, with respect to certificates from the City of Cincinnati, within such longer period of time as may be reasonably needed in order to obtain all required governmental authorizations and signatures), each party shall execute and deliver to the requesting party an estoppel certificate: (i) certifying that this Agreement 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 Agreement, and, if so, specifying the nature of such default, and (iii) covering such other matters pertaining to this Agreement as the requesting party may reasonably request.

13. SURRENDER; HOLDOVER.

(A) Surrender. On the last day of the Term of this Agreement, Operator shall surrender the Property to the City in good condition and repair and free and clear of all liens and other encumbrances created by Operator (if any). On or before the last day of the Term, 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 affixed equipment used in connection with the Property unless the City approves of such removal in writing. Operator shall promptly repair any and all damage to the Property caused by its removal of any items under this paragraph.

(B) Holdover. If Operator fails to surrender possession of the Property to the City at the end of the Term, such holdover shall be deemed as creating a tenancy-at-will on all of the same terms and conditions as set forth herein (except for the duration of the Term), terminable by either party at any time by giving written notice thereof to the other party.

(C) Documents to be Delivered to City. At the end of the Term, Operator shall deliver to the City originals of all operating manuals, warranty information, books and records, contracts with third parties, and {00373883-4}

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 Property.

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

To the City:

Director, Cincinnati Parks
950 Eden Park Drive
Cincinnati, OH 45202

To Operator:

CEO, Great Parks of Hamilton County
10245 Winton Road
Cincinnati, OH 45231
Attention: Chief Executive Officer

If Operator sends a notice to the City alleging that the City is in breach of this Agreement, 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, OH 45202.

15. GENERAL PROVISIONS.

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

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

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

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

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

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

(G) No Recording. This Agreement shall not be recorded in the Hamilton County Recorder's office. At the request of either party, the parties shall execute a memorandum of Agreement for recording purposes.

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

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

(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 Agreement.

(K) Official Capacity. All representations, warranties, covenants, agreements and obligations of the City and the Operator 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 member, officer, agent or employee of the City or the Operator in other than his or her official capacity. No official executing or approving the City's or the Operator's participation in this Agreement shall be personally liable under this Agreement.

(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 Agreement without the consent of anyone who is not a party to this Agreement, and that the execution and performance of this Agreement have been duly authorized by all necessary actions on the part of the performing party.

(M) Appropriation of Funds. Notwithstanding anything in this Agreement, the City, the Park Board, or Operator's performance of their respective obligations under the Agreement that require the expenditure of money is subject to the appropriation of funds for such purposes by their respective legislative authorities and governing boards. No party shall be in breach of this Agreement if for any reason their legislative authorities or governing boards do not pass any and all ordinances or resolutions as may be necessary for the respective parties to carry out the terms of this Agreement, but in the event such ordinances or resolutions are not passed, the remaining parties may terminate this Agreement with sixty (60) days' notice to the other parties.

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

Exhibit A - *Site Map*

This Agreement is executed by the parties on the dates indicated below their respective signatures, effective as of the Effective Date.

CITY OF CINCINNATI

GREAT PARKS OF HAMILTON COUNTY

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

By: _____
Todd Palmeto, Chief Executive Officer

Date: _____, 2022

Date: _____, 2022

Recommended By:

Jason Barron
Director, Cincinnati Park Board

Approved as to Form:

Assistant City Solicitor

Certified Date: _____

Fund/Code: _____

Amount: _____

By: _____
Karen Alder, City Finance Director

EXHIBIT A
to Lease and Operating Agreement

SITE MAP



Date: January 11, 2023

202300267

To: Mayor and Members of City Council
From: Sheryl M. M. Long, City Manager
Subject: ORDINANCE – GRANT OF EASEMENT – PANCOAST ALLEY AND CROW ALLEY –
CENTRAL BUSINESS DISTRICT

Attached is an ordinance captioned as follows:

AUTHORIZING the City Manager to execute a Grant of Easement in favor of Barrister Apartments, LLC, pursuant to which the City of Cincinnati will grant encroachment easements upon portions of Pancoast Alley and Crow Alley in the Central Business District.

Barrister Apartments, LLC (“Grantee”) owns the property located at 214-216 East Ninth Street in the Central Business District, and has requested an easement from the City for encroachments upon portions of Pancoast Alley and Crow Alley for two fire escapes, as depicted in Attachment A.

The City has determined that granting the easement to Grantee is not averse to the City’s retained interest in the public right-of-way, and that the easement will not have an adverse effect on the usability or accessibility of any existing transportation facilities located on Pancoast Alley and Crow Alley.

The City has determined the fair market value of the easement is approximately \$1,700, which Grantee has agreed to pay.

The City Planning Commission approved the easements at its meeting on November 18, 2022.

The Administration recommends passage of the attached ordinance.

Attachment I – Grant of Easements

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

City of Cincinnati

CHM

EESW

An Ordinance No. _____ - 2023

AUTHORIZING the City Manager to execute a Grant of Easement in favor of Barrister Apartments, LLC, pursuant to which the City of Cincinnati will grant encroachment easements upon portions of Pancoast Alley and Crow Alley in the Central Business District.

WHEREAS, Barrister Apartments, LLC, an Ohio limited liability company ("Grantee"), owns certain real property located at 214-216 East Ninth Street in the Central Business District; and

WHEREAS, the City of Cincinnati owns the adjoining real property designated as the public rights-of-way known as Pancoast Alley and Crow Alley ("Property"), which Property is under the management of the City's Department of Transportation and Engineering ("DOT"); and

WHEREAS, Grantee has requested easements from the City for encroachments upon portions of the Property, namely, two fire escapes, as more particularly depicted and described in the Grant of Easement attached to this ordinance as Attachment A and incorporated herein by reference ("Easement"); and

WHEREAS, the City Manager, in consultation with DOTE, has determined (i) that granting the Easement to Grantee is not adverse to the City's retained interest in the Property and; (ii) that granting the Easement will not have an adverse effect on the usability or accessibility of any existing transportation facilities located on the Property; and

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

WHEREAS, the City's Real Estate Services Division has determined by a professional appraisal that the fair market value of the Easement is approximately \$1,700, which Grantee has agreed to pay; and

WHEREAS, the City Planning Commission, having the authority to approve the change in the use of City-owned property, approved the Easement at its meeting on November 18, 2022; now, therefore,

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

Section 1. That the City Manager is hereby authorized to execute a *Grant of Easement* in favor of Barrister Apartments, LLC, an Ohio limited liability company (“Grantee”), owner of the property located at 214-216 East Ninth Street in the Central Business District, in substantially the form attached to this ordinance as Attachment A and incorporated herein by reference, pursuant to which the City of Cincinnati will grant to Grantee easements to install and maintain two encroachments (“Easement”) upon portions of certain real property designated as the public rights-of-way known as Pancoast Alley and Crow Alley (“Property”), as more particularly described on Attachment A.

Section 2. That granting the Easement to Grantee (i) is not adverse to the City’s retained interest in the Property; and (ii) will not have an adverse effect on the usability or accessibility of any existing transportation facilities located on the Property.

Section 3. That it is in the best interest of the City to grant the Easement without competitive bidding because, as a practical matter, no one other than Grantee, an adjoining property owner, would have any use for the Easement.

Section 4. That the fair market value of the Easement, as determined by a professional appraisal by the City’s Real Estate Services Division, is approximately \$1,700, which Grantee has agreed to pay.

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

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

Section 7. That the City Manager and other City officials are authorized to take all necessary and proper actions to carry out the provisions of this ordinance and to fulfill the terms of the *Grant of Easement*; including, without limitation, executing any and all ancillary agreements, plats, and other real estate documents.

Section 8. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed: _____, 2023

Aftab Pureval, Mayor

Attest: _____
Clerk

ATTACHMENT A

[SPACE ABOVE FOR RECORDER'S USE]

GRANT OF EASEMENT

(encroachment upon portions of Pancoast Alley and Crow Alley)

This Grant of Easement is granted as of the Effective Date (as defined on the signature page hereof) by the **CITY OF CINCINNATI**, an Ohio municipal corporation, 801 Plum Street, Cincinnati, OH 45202 (the "**City**"), in favor of **BARRISTER APARTMENTS, LLC**, an Ohio limited liability company, with a tax mailing address of 114 W 14th Street, Cincinnati, OH 45202 ("**Grantee**").

Recitals:

A. By virtue of a *General Warranty Deed* recorded on August 26, 2022, in OR 14739, Page 303, Hamilton County, Ohio Records, Grantee holds title to certain real property located at 214-216 E. 9th Street, Cincinnati, OH 45202, as more particularly described on Exhibit A (*Legal Description – Benefitted Properties*) and depicted on Exhibit B (*Survey*) hereto (the "**Benefitted Properties**").

B. The City owns certain real property abutting the Benefitted Properties designated as the public rights-of-way known as Pancoast Alley and Crow Alley, as more particularly depicted on Exhibit B hereto (the "**Property**"). The Property is under the management of the City's Department of Transportation and Engineering ("**DOT**").

C. Grantee has requested the City to grant encroachment easements for two fire escape encroachments above portions of the Property, as more particularly depicted on Exhibit B and described on Exhibit C (*Legal Description – Easement Areas*) hereto (the "**Encroachments**").

D. The City Manager, in consultation with DOTE, has determined that (i) the easements will not have an adverse effect on the City's retained interest in the Property, and (ii) granting the easements will not have an adverse effect on the usability or accessibility of any existing public right-of-way facilities.

E. The City's Real Estate Services Division has determined that the fair market value of the easement, as determined by professional appraisal, is \$1,700, which Grantee has agreed to pay.

F. City Planning Commission, having the authority to approve the change in the use of City-owned property, approved the easements at its meeting on November 18, 2022.

G. Cincinnati City Council approved the easement by Ordinance No. [____]-2022, passed on [____], 2022.

NOW THEREFORE, the parties do hereby agree as follows:

1. Grant of Easement. The City does hereby grant to Grantee, on the terms and conditions set forth herein, as an appurtenance to and for the benefit of the Benefitted Properties, two non-exclusive easements to construct, install, use, maintain, repair, reconstruct, replace, and remove the Encroachments, as more particularly identified and depicted on Exhibit B and described on Exhibit C hereto (the "Easements" or the "Easement Areas", as applicable). Once installed, Grantee shall not make any alterations, additions, enlargements, or modifications to the Encroachments within the Easement Areas without the prior written consent of the City. Grantee acknowledges and agrees that it has conducted its own due diligence to familiarize itself with the condition and characteristics of the Easement Areas. The City has not made any representations or warranties concerning the title, condition, or characteristics of the Easement Areas or the suitability or fitness of the Easement Areas for any purpose. Grantee acknowledges and agrees that it 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 Easement Areas.

2. Permitted Use. Grantee, its agents, tenants, licensees, and invitees shall have the non-exclusive right to use the Easement Areas for the sole and limited purpose of emergency pedestrian ingress and egress from the Benefitted Properties to the adjoining public rights-of-way. Grantee shall not use or permit the use of the Easement Areas in any manner that is inconsistent with the rights granted herein or in a manner that impairs or unreasonably interferes with the rights of the City or others permitted by the City to the full use and enjoyment of the Property, as determined by the City.

3. Termination. Notwithstanding anything herein to the contrary, the Easements shall automatically terminate (i) upon the complete or respective partial demolition, without rebuilding within 1 year of such demolition, of the Encroachments within the Easement Areas, such that the Easements would be rendered unnecessary; (ii) upon written notice from the City if the City determines that it needs the Easement Area or any portion thereof for a municipal purpose, including, without limitation, to comply with Americans with Disabilities Act ("ADA") regulations or accessibility standards; or (iii) upon written notice from the City if the City determines that the Encroachments are creating a public safety issue, such as noncompliance with ADA accessibility regulations, or contributing to adverse impacts on the usability or accessibility of the Property, if Grantee does not abate or begin to take efforts to mitigate the public safety issue in a timely manner consistent with the degree of harm posed by the public safety issue.

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

5. Insurance: Indemnification. At all times, and in addition to whatever other insurance and bond requirements the City may from time to time require, Grantee shall maintain or cause to be maintained a policy of Commercial General Liability insurance, with an insurance company reasonably acceptable to the City and naming the City as an additional insured, in an amount not less than \$1,000,000 per occurrence, combined single limit/\$1,000,000 aggregate, or in such greater amount as the City may from time to time require. Grantee shall furnish to the City a certificate of insurance evidencing such insurance upon the City's request and, in any event, prior to undertaking any construction activities within the Easement Areas. Grantee hereby waives all claims and rights of recovery against the City, and on behalf

of Grantee's insurers, rights of subrogation, in connection with any damage to the Encroachments, no matter how caused. Grantee shall defend (with counsel reasonably acceptable to the City), indemnify, and hold the City harmless from and against any and all claims, actions, losses, costs (including, without limitation, reasonable attorneys' fees), liability and damages suffered or incurred by, or asserted against, the City in connection with the use, construction, maintenance, repair, and all other matters associated with the Encroachments.

6. Access by City Departments. Grantee shall ensure continuous, unrestricted access to the Easement Areas (24 hours/day, 7 days/week, 52 weeks/year) for DOTE for inspection and any other purpose, and for the City's Police and Fire Departments.

7. No Liens. Grantee shall not permit any mechanics liens to attach to the Easement Areas in connection with the construction, installation, use, operation, maintenance, repair, reconstruction, removal, or replacement of the Encroachments.

8. Default. If Grantee, its successors-in-interest, or assigns fail to perform any required work under this instrument and fail to address the same to DOTE's satisfaction within thirty (30) days after receiving written notice thereof from DOTE, the City shall have right to perform such work, at Grantee's expense, payable within ten (10) days after receiving an invoice from DOTE evidencing the amount due. Grantee, its successors-in-interest, or assigns shall be liable to DOTE for the payment of such work. Any outstanding amount due under this instrument shall create a lien on the respective Benefitted Properties until fully paid. At the City's option, the City may file an affidavit in the Hamilton County, Ohio Recorder's office to memorialize any outstanding amounts due under this instrument.

9. Covenants Running with the Land. The provisions hereof shall run with the land and shall inure to the benefit of and be binding upon the City, Grantee, and their respective successors-in-interest and assigns.

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

11. Notices. All notices given hereunder shall be in writing and shall be sent by U.S. certified or registered mail, return receipt requested, or delivered by a recognized courier service, or by personal delivery, to the parties at their respective addresses set forth in the introductory paragraph hereof, or such other address as either party may specify from time to time by notice given in the manner prescribed herein. All notices to the City shall be addressed to the Office of the City Manager, and a copy of each such notice shall simultaneously be delivered to: Department of Transportation and Engineering, Attn: Director, Room 450. In the event of an alleged breach by the City of this instrument, a copy of each notice of breach shall simultaneously be delivered to the Office of the City Solicitor, 801 Plum Street, Room 214, Cincinnati, OH 45202.

12. Coordinated Report Conditions (CR #37-2022). The following additional conditions shall apply:

a. DOTE:

i. Construction drawings for the Encroachments must be prepared and sealed by a professional engineer or architect registered in the State of Ohio. The design loads must be in accordance with the appropriate Building Code standards and be stated on the drawings. Drawings must include mounting and framing details.

- ii. The Encroachments must be:
 - a. vertically at least 14 feet above the sidewalk;
 - b. within the curb area, not to extend into street pavement area;
 - c. fully supported from the building with no supports extending below;
 - d. compliant with clearance requirements for overhead utility lines;
 - e. horizontally no closer than five feet from a utility pole.
 - iii. Prior to installation of the Encroachments, Grantee must obtain all applicable permits and permissions from the Department of Buildings and Inspection, without limitation to a Certificate of Appropriateness from the Urban Conservator or Historic Conservation Board, as applicable.
- b. GCWW: Grantee shall be solely responsible for the replacement or repair of all improvements within the Easement Areas if they are damaged by the failure, repair, operation, or replacement of the existing public water system within the public rights-of-way.
 - c. Altafiber: Altafiber has existing underground telephone facilities located within the public rights-of-way. The existing facilities must remain in place, in service, and able to be accessed. Any damage done to the facilities, or any work done to relocate the facilities as result of the Encroachments will be handled entirely at Grantee's cost.

13. Counterparts and Electronic Signatures. This instrument may be executed by the parties hereto in two or more counterparts and each executed counterpart shall be considered an original. This instrument may be executed and delivered by electronic signature; any original signatures that are initially delivered electronically shall be physically delivered as soon as reasonably possible.

- 14. Exhibits. The following exhibits are attached hereto and made a part hereof:
 - Exhibit A – *Legal Description - Benefitted Properties*
 - Exhibit B – *Survey*
 - Exhibit C – *Legal Description—Easement Areas*

Executed by the parties on the respective date of acknowledgement listed below, effective as the later of such dates (the "Effective Date").

CITY OF CINCINNATI

By: _____

Printed Name: _____

Title: _____

Date: _____, 2022

STATE OF OHIO)
) ss:
COUNTY OF HAMILTON)

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

Notary Public
My commission expires: _____

Approved by:

John S. Brazina, Director
Department of Transportation and Engineering

Approved as to Form by:

Assistant City Solicitor

[Grantee Signature Page Follows]

ACCEPTED AND AGREED TO BY:

BARRISTER APARTMENTS, LLC,
an Ohio limited liability company

By: _____

Printed Name: _____

Title: _____

Date: _____, 2022

STATE OF OHIO)
) ss:
COUNTY OF HAMILTON)

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

Notary Public
My commission expires: _____

This instrument prepared by:
City of Cincinnati Law Department
801 Plum Street, Suite 214
Cincinnati, OH 45202

EXHIBIT A
to Grant of Easement
LEGAL DESCRIPTION - BENEFITTED PROPERTIES

Property Address: 214-216 E. 9th Street
Auditor's Parcel No.: 079-0002-0005

Situated in the County of Hamilton, State of Ohio, and in the City of Cincinnati, and being a Part of Out Lot 17 of The City of Cincinnati as platted in Deed Book R1, Pages 23-24 and Plat at E2, Page 62, and bounded and described as follows: Beginning at a point in intersection of the north line of Ninth Street and the east line of the first alley east of Main Street (Pancost), thence eastwardly with Ninth Street 50 feet; thence northwardly at right angles to Ninth Street 80 feet and three inches to an alley; thence westwardly and parallel to Ninth street 50 feet to an alley; thence southwardly with said alley 80 feet and three inches to Ninth Street, the Place of beginning.

Property Address: 214-216 E. 9th Street
Auditor's Parcel No.: 079-0002-0006

Situated in the City of Cincinnati, Hamilton County, Ohio and being a part of Out Lot 17 of the City of Cincinnati as shown at Plat in Deed Book R1, Pages 23-24 and Plat at E2, Page 62, and being more particularly described as follows: Beginning at a point in the north side of Ninth Street 50 feet of the first alley (Pancost) east of Main Street in the City of Cincinnati, County of Hamilton and State of Ohio. Thence east with the north line of Ninth Street 50 feet to an alley; thence north with said alley 80 feet, more or less, to an alley; thence west with the last mentioned alley 50 feet; thence south at right alley to Ninth Street 80 feet, more or less, to Ninth Street and the place of beginning.

EXHIBIT B
to Grant of Easement
Survey

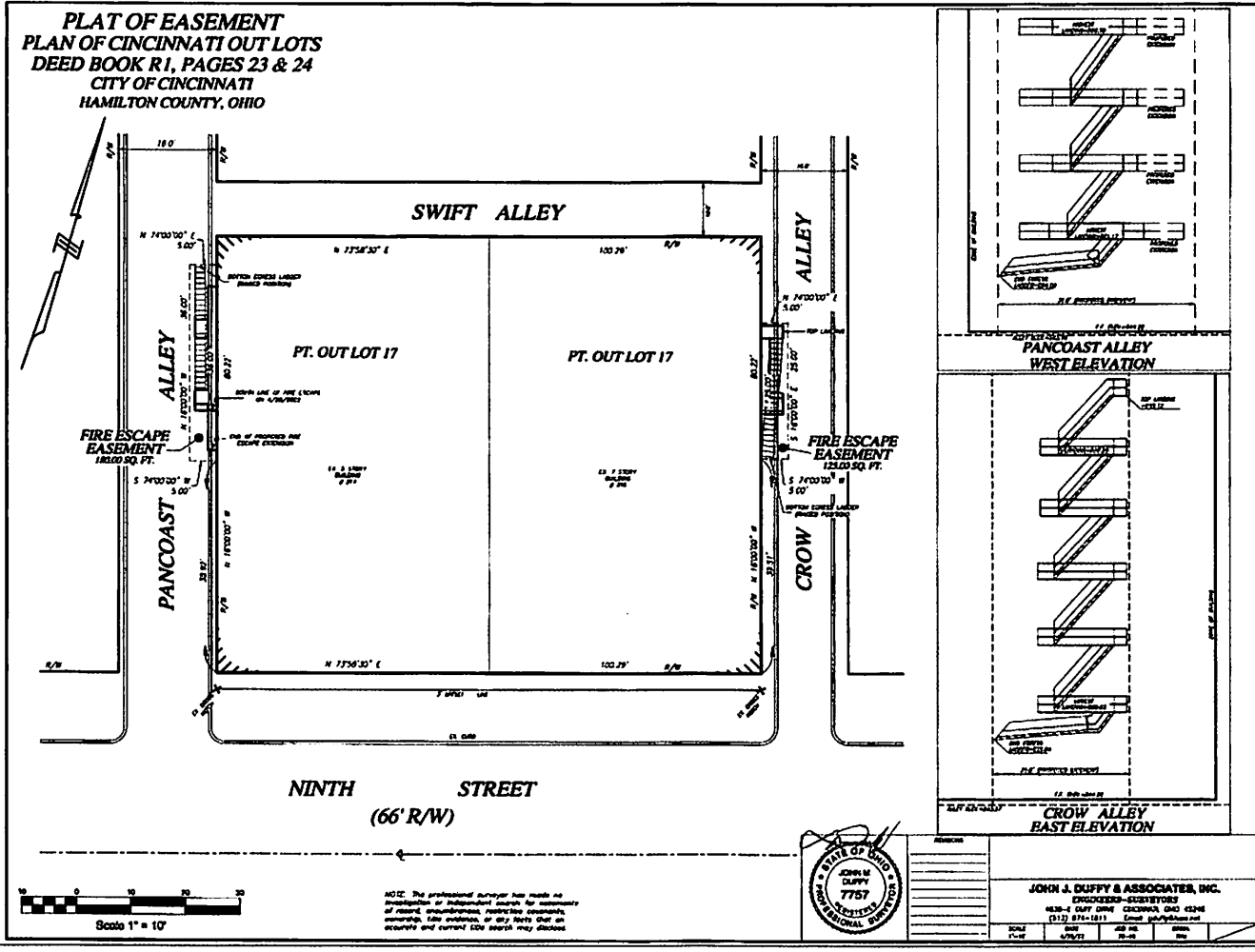


EXHIBIT C
to Grant of Easement
LEGAL DESCRIPTION—EASEMENT AREAS

Crow Alley Easement Area

Situate in the Plan of Cincinnati Out Lots as recorded in Deed Book R1, Pages 23 & 24 of the Hamilton County, Ohio Deed Records, being an easement for fire escape purposes over Crow Alley and being more particularly described as follows:

Commencing at the intersection of the westerly right of way line of Crow Alley and the northerly right of way line of Ninth Street; thence North 16° 00' 00" West along said westerly right of way line of Crow Alley, a distance of 39.51 feet to the REAL PLACE OF BEGINNING for the following described easement; thence continuing North 16° 00' 00" West along said westerly right of way line, a distance of 25.00 feet; thence through said Crow Alley the following courses and distances:

North 74° 00' 00" East, a distance of 5.00 feet;

South 16° 00' 00" East, a distance of 25.00 feet and

South 74° 00' 00" West, a distance of 5.00 feet to the place of beginning.

Containing 125.00 square feet of land.

The lowest elevation of the fire escape is 543.27 A.M.S.L. The elevation of the highest landing of said fire escape is 618.12 A.M.S.L.

EXHIBIT C
to Grant of Easement
LEGAL DESCRIPTION-EASEMENT AREAS (CONT.)

Pancoast Alley Easement Area

Situate in the Plan of Cincinnati Out Lots as recorded in Deed Book R1, Pages 23 & 24 of the Hamilton County, Ohio Deed Records, being an easement for fire escape purposes over Pancoast Alley and being more particularly described as follows:

Commencing at the intersection of the easterly right of way line of said Pancoast Alley and the northerly right of way line of Ninth Street; thence North 16° 00' 00" West along said easterly right of way line of Pancoast Alley, a distance of 38.92 feet to the **REAL PLACE OF BEGINNING** for the following described easement; thence through said Pancoast Alley the following courses and distances:
South 74° 00' 00" West, a distance of 5.00 feet;
North 16° 00' 00" West, a distance of 36.00 feet and
North 74° 00' 00" East, a distance of 5.00 feet to the aforementioned easterly right of way line of Pancoast Alley; thence South 16° 00' 00" East along said easterly right of way line, a distance of 36.00 feet to the place of beginning.
Containing 180.00 square feet of land.

The lowest elevation of the fire escape is 543.76 A.M.S.L. The elevation of the highest landing of said fire escape is 598.70 A.M.S.L.

[SPACE ABOVE FOR RECORDER'S USE]

GRANT OF EASEMENT

(encroachment upon portions of Pancoast Alley and Crow Alley)

This Grant of Easement is granted as of the Effective Date (as defined on the signature page hereof) by the **CITY OF CINCINNATI**, an Ohio municipal corporation, 801 Plum Street, Cincinnati, OH 45202 (the "**City**"), in favor of **BARRISTER APARTMENTS, LLC**, an Ohio limited liability company, with a tax mailing address of 114 W 14th Street, Cincinnati, OH 45202 ("**Grantee**").

Recitals:

A. By virtue of a *General Warranty Deed* recorded on August 26, 2022, in OR 14739, Page 303, Hamilton County, Ohio Records, Grantee holds title to certain real property located at 214-216 E. 9th Street, Cincinnati, OH 45202, as more particularly described on Exhibit A (*Legal Description – Benefitted Properties*) and depicted on Exhibit B (*Survey*) hereto (the "**Benefitted Properties**").

B. The City owns certain real property abutting the Benefitted Properties designated as the public rights-of-way known as Pancoast Alley and Crow Alley, as more particularly depicted on Exhibit B hereto (the "**Property**"). The Property is under the management of the City's Department of Transportation and Engineering ("**DOT**").

C. Grantee has requested the City to grant encroachment easements for two fire escape encroachments above portions of the Property, as more particularly depicted on Exhibit B and described on Exhibit C (*Legal Description – Easement Areas*) hereto (the "**Encroachments**").

D. The City Manager, in consultation with DOTE, has determined that (i) the easements will not have an adverse effect on the City's retained interest in the Property, and (ii) granting the easements will not have an adverse effect on the usability or accessibility of any existing public right-of-way facilities.

E. The City's Real Estate Services Division has determined that the fair market value of the easement, as determined by professional appraisal, is \$1,700, which Grantee has agreed to pay.

F. City Planning Commission, having the authority to approve the change in the use of City-owned property, approved the easements at its meeting on November 18, 2022.

G. Cincinnati City Council approved the easement by Ordinance No. [____]-2022, passed on [____], 2022.

NOW THEREFORE, the parties do hereby agree as follows:

1. Grant of Easement. The City does hereby grant to Grantee, on the terms and conditions set forth herein, as an appurtenance to and for the benefit of the Benefitted Properties, two non-exclusive easements to construct, install, use, maintain, repair, reconstruct, replace, and remove the Encroachments, as more particularly identified and depicted on Exhibit B and described on Exhibit C hereto (the “**Easements**” or the “**Easement Areas**”, as applicable). Once installed, Grantee shall not make any alterations, additions, enlargements, or modifications to the Encroachments within the Easement Areas without the prior written consent of the City. Grantee acknowledges and agrees that it has conducted its own due diligence to familiarize itself with the condition and characteristics of the Easement Areas. The City has not made any representations or warranties concerning the title, condition, or characteristics of the Easement Areas or the suitability or fitness of the Easement Areas for any purpose. Grantee acknowledges and agrees that it 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 Easement Areas.

2. Permitted Use. Grantee, its agents, tenants, licensees, and invitees shall have the non-exclusive right to use the Easement Areas for the sole and limited purpose of emergency pedestrian ingress and egress from the Benefitted Properties to the adjoining public rights-of-way. Grantee shall not use or permit the use of the Easement Areas in any manner that is inconsistent with the rights granted herein or in a manner that impairs or unreasonably interferes with the rights of the City or others permitted by the City to the full use and enjoyment of the Property, as determined by the City.

3. Termination. Notwithstanding anything herein to the contrary, the Easements shall automatically terminate (i) upon the complete or respective partial demolition, without rebuilding within 1 year of such demolition, of the Encroachments within the Easement Areas, such that the Easements would be rendered unnecessary; (ii) upon written notice from the City if the City determines that it needs the Easement Area or any portion thereof for a municipal purpose, including, without limitation, to comply with Americans with Disabilities Act (“**ADA**”) regulations or accessibility standards; or (iii) upon written notice from the City if the City determines that the Encroachments are creating a public safety issue, such as noncompliance with ADA accessibility regulations, or contributing to adverse impacts on the usability or accessibility of the Property, if Grantee does not abate or begin to take efforts to mitigate the public safety issue in a timely manner consistent with the degree of harm posed by the public safety issue.

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

5. Insurance; Indemnification. At all times, and in addition to whatever other insurance and bond requirements the City may from time to time require, Grantee shall maintain or cause to be maintained a policy of Commercial General Liability insurance, with an insurance company reasonably acceptable to the City and naming the City as an additional insured, in an amount not less than \$1,000,000 per occurrence, combined single limit/\$1,000,000 aggregate, or in such greater amount as the City may from time to time require. Grantee shall furnish to the City a certificate of insurance evidencing such insurance upon the City’s request and, in any event, prior to undertaking any construction activities within the Easement Areas. Grantee hereby waives all claims and rights of recovery against the City, and on behalf

of Grantee's insurers, rights of subrogation, in connection with any damage to the Encroachments, no matter how caused. Grantee shall defend (with counsel reasonably acceptable to the City), indemnify, and hold the City harmless from and against any and all claims, actions, losses, costs (including, without limitation, reasonable attorneys' fees), liability and damages suffered or incurred by, or asserted against, the City in connection with the use, construction, maintenance, repair, and all other matters associated with the Encroachments.

6. Access by City Departments. Grantee shall ensure continuous, unrestricted access to the Easement Areas (24 hours/day, 7 days/week, 52 weeks/year) for DOTE for inspection and any other purpose, and for the City's Police and Fire Departments.

7. No Liens. Grantee shall not permit any mechanics liens to attach to the Easement Areas in connection with the construction, installation, use, operation, maintenance, repair, reconstruction, removal, or replacement of the Encroachments.

8. Default. If Grantee, its successors-in-interest, or assigns fail to perform any required work under this instrument and fail to address the same to DOTE's satisfaction within thirty (30) days after receiving written notice thereof from DOTE, the City shall have right to perform such work, at Grantee's expense, payable within ten (10) days after receiving an invoice from DOTE evidencing the amount due. Grantee, its successors-in-interest, or assigns shall be liable to DOTE for the payment of such work. Any outstanding amount due under this instrument shall create a lien on the respective Benefitted Properties until fully paid. At the City's option, the City may file an affidavit in the Hamilton County, Ohio Recorder's office to memorialize any outstanding amounts due under this instrument.

9. Covenants Running with the Land. The provisions hereof shall run with the land and shall inure to the benefit of and be binding upon the City, Grantee, and their respective successors-in-interest and assigns.

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

11. Notices. All notices given hereunder shall be in writing and shall be sent by U.S. certified or registered mail, return receipt requested, or delivered by a recognized courier service, or by personal delivery, to the parties at their respective addresses set forth in the introductory paragraph hereof, or such other address as either party may specify from time to time by notice given in the manner prescribed herein. All notices to the City shall be addressed to the Office of the City Manager, and a copy of each such notice shall simultaneously be delivered to: Department of Transportation and Engineering, Attn: Director, Room 450. In the event of an alleged breach by the City of this instrument, a copy of each notice of breach shall simultaneously be delivered to the Office of the City Solicitor, 801 Plum Street, Room 214, Cincinnati, OH 45202.

12. Coordinated Report Conditions (CR #37-2022). The following additional conditions shall apply:

a. DOTE:

i. Construction drawings for the Encroachments must be prepared and sealed by a professional engineer or architect registered in the State of Ohio. The design loads must be in accordance with the appropriate Building Code standards and be stated on the drawings. Drawings must include mounting and framing details.

- ii. The Encroachments must be:
 - a. vertically at least 14 feet above the sidewalk;
 - b. within the curb area, not to extend into street pavement area;
 - c. fully supported from the building with no supports extending below;
 - d. compliant with clearance requirements for overhead utility lines;
 - e. horizontally no closer than five feet from a utility pole.
 - iii. Prior to installation of the Encroachments, Grantee must obtain all applicable permits and permissions from the Department of Buildings and Inspection, without limitation to a Certificate of Appropriateness from the Urban Conservator or Historic Conservation Board, as applicable.
- b. GCWW: Grantee shall be solely responsible for the replacement or repair of all improvements within the Easement Areas if they are damaged by the failure, repair, operation, or replacement of the existing public water system within the public rights-of-way.
- c. Altafiber: Altafiber has existing underground telephone facilities located within the public rights-of-way. The existing facilities must remain in place, in service, and able to be accessed. Any damage done to the facilities, or any work done to relocate the facilities as result of the Encroachments will be handled entirely at Grantee's cost.

13. Counterparts and Electronic Signatures. This instrument may be executed by the parties hereto in two or more counterparts and each executed counterpart shall be considered an original. This instrument may be executed and delivered by electronic signature; any original signatures that are initially delivered electronically shall be physically delivered as soon as reasonably possible.

14. Exhibits. The following exhibits are attached hereto and made a part hereof:
Exhibit A – *Legal Description - Benefitted Properties*
Exhibit B – *Survey*
Exhibit C – *Legal Description—Easement Areas*

Executed by the parties on the respective date of acknowledgement listed below, effective as the later of such dates (the "Effective Date").

CITY OF CINCINNATI

By: _____

Printed Name: _____

Title: _____

Date: _____, 2022

STATE OF OHIO)
) ss:
COUNTY OF HAMILTON)

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

Notary Public
My commission expires: _____

Approved by:

John S. Brazina, Director
Department of Transportation and Engineering

Approved as to Form by:

Assistant City Solicitor

[Grantee Signature Page Follows]

ACCEPTED AND AGREED TO BY:

BARRISTER APARTMENTS, LLC,
an Ohio limited liability company

By: _____

Printed Name: _____

Title: _____

Date: _____, 2022

STATE OF OHIO)
) ss:
COUNTY OF HAMILTON)

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

Notary Public
My commission expires: _____

This instrument prepared by:
City of Cincinnati Law Department
801 Plum Street, Suite 214
Cincinnati, OH 45202

EXHIBIT A
to Grant of Easement
LEGAL DESCRIPTION - BENEFITTED PROPERTIES

Property Address: 214-216 E. 9th Street
Auditor's Parcel No.: 079-0002-0005

Situated in the County of Hamilton, State of Ohio, and in the City of Cincinnati, and being a Part of Out Lot 17 of The City of Cincinnati as platted in Deed Book R1, Pages 23-24 and Plat at E2, Page 62, and bounded and described as follows: Beginning at a point in intersection of the north line of Ninth Street and the east line of the first alley east of Main Street (Pancost), thence eastwardly with Ninth Street 50 feet; thence northwardly at right angles to Ninth Street 80 feet and three inches to an alley; thence westwardly and parallel to Ninth street 50 feet to an alley; thence southwardly with said alley 80 feet and three inches to Ninth Street, the Place of beginning.

Property Address: 214-216 E. 9th Street
Auditor's Parcel No.: 079-0002-0006

Situated in the City of Cincinnati, Hamilton County, Ohio and being a part of Out Lot 17 of the City of Cincinnati as shown at Plat in Deed Book R1, Pages 23-24 and Plat at E2, Page 62, and being more particularly described as follows: Beginning at a point in the north side of Ninth Street 50 feet of the first alley (Pancost) east of Main Street in the City of Cincinnati, County of Hamilton and State of Ohio. Thence east with the north line of Ninth Street 50 feet to an alley; thence north with said alley 80 feet, more or less, to an alley; thence west with the last mentioned alley 50 feet; thence south at right alley to Ninth Street 80 feet, more or less, to Ninth Street and the place of beginning.

EXHIBIT B
to Grant of Easement
Survey

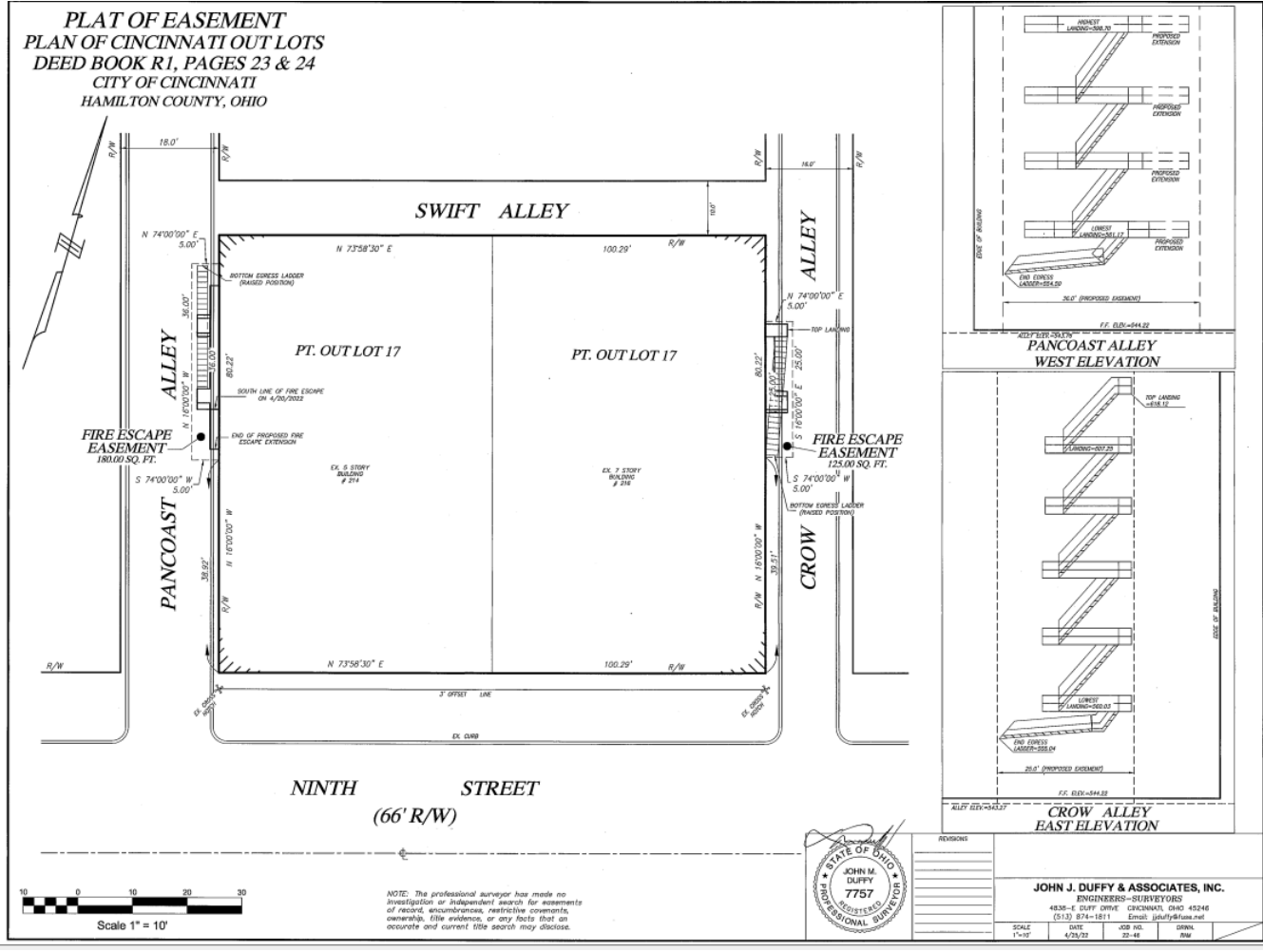


EXHIBIT C
to Grant of Easement
LEGAL DESCRIPTION—EASEMENT AREAS

Crow Alley Easement Area

Situate in the Plan of Cincinnati Out Lots as recorded in Deed Book R1, Pages 23 & 24 of the Hamilton County, Ohio Deed Records, being an easement for fire escape purposes over Crow Alley and being more particularly described as follows:

Commencing at the intersection of the westerly right of way line of Crow Alley and the northerly right of way line of Ninth Street; thence North 16° 00' 00" West along said westerly right of way line of Crow Alley, a distance of 39.51 feet to the **REAL PLACE OF BEGINNING** for the following described easement; thence continuing North 16° 00' 00" West along said westerly right of way line, a distance of 25.00 feet; thence through said Crow Alley the following courses and distances:

North 74° 00' 00" East, a distance of 5.00 feet;

South 16° 00' 00" East, a distance of 25.00 feet and

South 74° 00' 00" West, a distance of 5.00 feet to the place of beginning.

Containing 125.00 square feet of land.

The lowest elevation of the fire escape is 543.27 A.M.S.L. The elevation of the highest landing of said fire escape is 618.12 A.M.S.L.

EXHIBIT C
to Grant of Easement
LEGAL DESCRIPTION-EASEMENT AREAS (CONT.)

Pancoast Alley Easement Area

Situate in the Plan of Cincinnati Out Lots as recorded in Deed Book R1, Pages 23 & 24 of the Hamilton County, Ohio Deed Records, being an easement for fire escape purposes over Pancoast Alley and being more particularly described as follows:

Commencing at the intersection of the easterly right of way line of said Pancoast Alley and the northerly right of way line of Ninth Street; thence North 16° 00' 00" West along said easterly right of way line of Pancoast Alley, a distance of 38.92 feet to the **REAL PLACE OF BEGINNING** for the following described easement; thence through said Pancoast Alley the following courses and distances:

South 74° 00' 00" West, a distance of 5.00 feet;

North 16° 00' 00" West, a distance of 36.00 feet and

North 74° 00' 00" East, a distance of 5.00 feet to the aforementioned easterly right of way line of Pancoast Alley; thence South 16° 00' 00" East along said easterly right of way line, a distance of 36.00 feet to the place of beginning.

Containing 180.00 square feet of land.

The lowest elevation of the fire escape is 543.76 A.M.S.L. The elevation of the highest landing of said fire escape is 598.70 A.M.S.L.