



# City of Cincinnati

801 Plum Street  
Cincinnati, OH 45202

## Agenda - Final-revised

### Budget and Finance Committee

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

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Monday, February 5, 2024

1:00 PM

Council Chambers, Room 300

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#### AGENDA

#### TRANSFERS AND APPROPRIATIONS

1. [202400295](#) **ORDINANCE (EMERGENCY)** submitted by Sheryl M. M. Long, City Manager, on 1/24/2024, **AUTHORIZING** the transfer and return to source of \$410,000 from capital improvement program project account no. 980x164x221616, "King Records Building Restoration," to unappropriated surplus of General Fund 050; **AUTHORIZING** the transfer and appropriation of \$410,000 from the unappropriated surplus of General Fund 050 to the Department of Community and Economic Development FY 2024 non-personnel operating budget account no. 050x164x7200 to provide resources for professional services and operating support to allow King Records Legacy, Inc. d/b/a King Records Legacy Foundation to undertake pre-development activities related to the eventual renovation of the former King Records building; and **DECLARING** that the King Records Legacy, Inc. d/b/a King Records Legacy Foundation's pre-development activities related to the eventual renovation of the former King Records building serve a public purpose because the eventual renovation of the former King Records building will foster local improvements and investment and increase neighborhood vitality.

**Sponsors:** City Manager

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

#### PAYMENTS

2. [202400385](#) **ORDINANCE (EMERGENCY)** submitted by Sheryl M. M. Long, City Manager, on 1/31/2024, **Authorizing** the payment of \$17,324.59 from the Department of Public Services Street Construction Maintenance and Repair Fund non-personnel operating budget account no. 301x252x6000x7399 to Neenah Foundry Company, pursuant to the

attached certificate from the Director of Finance, for outstanding charges for foundry materials used by the Traffic and Road Operations Division to replace stormwater inlet grates in October 2023.

**Sponsors:** City Manager

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

3. [202400386](#) **ORDINANCE (EMERGENCY)** submitted by Sheryl M. M. Long, City Manager, on 1/31/2024, **Authorizing** the payment of \$90,000 from the Cincinnati Police Department Criminal Activities Forfeiture State Fund non-personnel operating budget account no. 369x227x4010x7299 as a moral obligation to Joy Outdoor Education Center Foundation, Inc. dba Camp Joy, for outstanding charges related to services rendered for two camps, in June 2023 and November 2023, funded by the Cincinnati Police Department Community Preventive Education Grant.

**Sponsors:** City Manager

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

## GRANTS AND DONATIONS

4. [202400383](#) **ORDINANCE** submitted by Sheryl M. M. Long, City Manager, on 1/31/2024, **AUTHORIZING** the City Manager to apply for and accept a technical assistance grant valued at up to \$2,500,000 from the Bloomberg Philanthropies American Sustainable Cities Grant program to assist with green workforce development, minority-owned business support, energy poverty reduction via energy efficiency upgrades and community-owned renewable energy projects, and climate resilience adaptations.

**Sponsors:** City Manager

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

5. [202400382](#) **ORDINANCE (EMERGENCY)** submitted by Sheryl M. M. Long, City Manager, on 1/31/2024, **AUTHORIZING** the City Manager to apply for, accept, and appropriate a grant of up to \$2,000,000 from the Ohio Department of Development Lead Safe Ohio Program (ALN 21.027) to provide resources to the Cincinnati Health Department to assist with lead-free building certification, screening and testing for lead poisoning, education and outreach, and early intervention for children and families impacted by lead; and **AUTHORIZING** the Director of Finance to deposit the grant funds into Public Health Research Fund revenue account no. 350x8556.

**Sponsors:** City Manager

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

6. [202400387](#) **ORDINANCE (EMERGENCY)** submitted by Sheryl M. M. Long, City Manager, on 1/31/2024, **AUTHORIZING** the City Manager to apply for, accept, and appropriate a grant of up to \$96,717.12 from the Ohio Department of Public Safety, Office of Criminal Justice Services, FY 2024 State of Ohio Violent Crime Reduction Grant, to enhance targeted enforcement for the existing Crime Gun Intelligence Center; and **AUTHORIZING** the Director of Finance to deposit the grant funds into Law Enforcement Grant Fund 368, project account no. 24SVCR.

**Sponsors:** City Manager

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

7. [202400409](#) **ORDINANCE (EMERGENCY)**, submitted by Vice Mayor Kearney from Emily Smart Woerner, City Solicitor, **AUTHORIZING** the City Manager to accept an in-kind donation of catering services valued at \$1,104.95 from Union Savings Bank and Guardian Savings Bank to support the homeownership workshop held at the Price Hill Recreation Center on January 27, 2024.

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

8. [202400412](#) **ORDINANCE (EMERGENCY)** submitted by Vice Mayor Kearney from Emily Smart Woerner, City Solicitor, **AUTHORIZING** the City Manager to accept an in-kind donation of banners valued at \$600 from TriHealth to promote pedestrian safety in the City of Cincinnati.

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

9. [202400413](#) **ORDINANCE (EMERGENCY)** submitted by Sheryl M. M. Long, City Manager, on 2/5/2024, **AUTHORIZING** the City Manager to accept an in-kind donation of radio advertising from Superior Credit Union, valued at approximately \$800, to inform the public of the Mayor's Youth Job Exposition to be held at the Duke Energy Convention Center on February 24, 2024.

**Sponsors:** City Manager

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

### **CONVENTION CENTER**

10. [202400399](#) **ORDINANCE (EMERGENCY)** submitted by Sheryl M. M. Long, City Manager, on 1/31/2024, **PLEDGING** a portion of the City's transient occupancy tax (the "City TOT") to secure obligations of the Port of Greater Cincinnati Development Authority (the "Port Authority") to be issued to refinance existing obligations and to finance the costs to renovate, expand, improve, and develop the City-owned Duke Energy Convention Center and related properties; **ESTABLISHING** the priority of the City's pledge of the City TOT relative to other authorized pledges and uses of the City TOT; and **AUTHORIZING** the City Manager to enter into and execute a Cooperative Agreement with

Hamilton County, Ohio (the "County"), the Port Authority, and, for limited purposes, the Convention Facilities Authority for Hamilton County, Ohio (the "CFA"), and the Greater Cincinnati Convention and Visitors Bureau, Inc. (the "GCCVB"); and a Residual TOT Fund Cooperative Agreement with the County, and, for limited purposes, the CFA and the GCCVB; and authorizing and approving related matters.

**Sponsors:** City Manager

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

11. [202400421](#) **ORDINANCE (B VERSION) (EMERGENCY)** submitted by Sheryl M. M. Long, City Manager, on 2/5/2024, **PLEDGING** a portion of the City's transient occupancy tax (the "City TOT") to secure obligations of the Port of Greater Cincinnati Development Authority (the "Port Authority") to be issued to refinance existing obligations and to finance the costs to renovate, expand, improve, and develop the City-owned Duke Energy Convention Center and related properties; **ESTABLISHING** the priority of the City's pledge of the City TOT relative to other authorized pledges and uses of the City TOT; and **AUTHORIZING** the City Manager to enter into and execute a Cooperative Agreement with Hamilton County, Ohio (the "County"), the Port Authority, and, for limited purposes, the Convention Facilities Authority for Hamilton County, Ohio (the "CFA"), and the Greater Cincinnati Convention and Visitors Bureau, Inc. (the "GCCVB"); and a Residual TOT Fund Cooperative Agreement with the County, and, for limited purposes, the CFA and the GCCVB; and authorizing and approving related matters.

**Sponsors:** City Manager

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

12. [202400397](#) **ORDINANCE (EMERGENCY)** submitted by Sheryl M. M. Long, City Manager, on 1/31/2024, **PROVIDING FOR THE ISSUANCE, SALE, AND DELIVERY OF NOT TO EXCEED \$23,000,000 OF ECONOMIC DEVELOPMENT REVENUE BONDS (CONVENTION CENTER RENOVATION URBAN RENEWAL PROJECT), OR NOTES IN ANTICIPATION THEREOF, OF THE CITY OF CINCINNATI, COUNTY OF HAMILTON, STATE OF OHIO, FOR THE PURPOSE OF PROVIDING FUNDS FOR THE IMPROVEMENT OF THE DUKE ENERGY CONVENTION CENTER AND ADJACENT PROPERTIES; AUTHORIZING A PLEDGE AND LIEN ON CERTAIN REVENUES AND OTHER CITY RESOURCES, AS APPROPRIATE, TO SECURE SUCH BONDS OR NOTES; AND AUTHORIZING NECESSARY DOCUMENTS TO SECURE SUCH BONDS OR NOTES.**

**Sponsors:** City Manager

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

13. [202400398](#) **ORDINANCE (EMERGENCY)** submitted by Sheryl M. M. Long, City Manager, on 1/31/2024, **AUTHORIZING** the City Manager to execute a Development Agreement with 3CDC Development Manager LLC and the Board of County Commissioners of Hamilton County, Ohio, acting for and on behalf of Hamilton County, Ohio, pertaining to the major renovation and expansion of the City-owned property known as Duke Energy Convention Center (the "DECC"), and other adjacent properties, all in the Central Business District; **ESTABLISHING** new capital improvement program project account no. 980x164x241620, "Convention Center District Urban Renewal TIF," to provide resources for improvements to the DECC and other adjacent properties; **AUTHORIZING** the transfer and appropriation of \$23,000,000 from the unappropriated surplus of Urban Renewal - Tax Increment Bond Fund 852 to newly established capital improvement program project account no. 980x164x241620, "Convention Center District Urban Renewal TIF," to provide resources for the improvements to the DECC and other adjacent properties as required by the Development Agreement between the City of Cincinnati, 3CDC Development Manager LLC, and the Board of County Commissioners of Hamilton County, Ohio, acting for and on behalf of Hamilton County, Ohio; and **DECLARING** this capital improvement project an urban renewal project located in an urban renewal area, each as defined in Ohio Revised Code Chapter 725.

**Sponsors:** City Manager

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

### **EASEMENTS**

14. [202400388](#) **ORDINANCE** submitted by Sheryl M. M. Long, City Manager, on 1/31/2024, **AUTHORIZING** the City Manager to execute a plat entitled WSL No. 3462 Watermain Easement Vacation Plat, Springdale Commerce Park, E-718Q to release and quitclaim a portion of a public utility easement held by the City of Cincinnati for the use and benefit of Greater Cincinnati Water Works for a water main and associated appurtenances located in and upon certain real property located in the City of Springdale, Hamilton County, Ohio.

**Sponsors:** City Manager

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

15. [202400389](#) **ORDINANCE** submitted by Sheryl M. M. Long, City Manager, on 1/31/2024,

**AUTHORIZING** the City Manager to execute a plat entitled WSL No. 3462 Watermain Easement Vacation Plat, Springdale Commerce Park, E-710Q to release and quitclaim a portion of a public utility easement held by the City of Cincinnati for the use and benefit of Greater Cincinnati Water Works for a water main and associated appurtenances located in and upon certain real property located in the City of Springdale, Hamilton County, Ohio.

**Sponsors:** City Manager

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

16. [202400390](#) **ORDINANCE** submitted by Sheryl M. M. Long, City Manager, on 1/31/2024, **AUTHORIZING** the City Manager to execute a plat entitled Water Main Easement Vacation Plat E1107-Q to release and quitclaim a portion of a public utility easement held by the City of Cincinnati for the use and benefit of Greater Cincinnati Water Works for a water main and associated appurtenances located in and upon certain real property located in the J. Eggleston Military Survey No. 609, Anderson Township, Hamilton County, Ohio.

**Sponsors:** City Manager

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

17. [202400394](#) **ORDINANCE** submitted by Sheryl M. M. Long, City Manager, on 1/31/2024, **ACCEPTING AND CONFIRMING** the grant of a public utility easements in favor of the City of Cincinnati for water mains and related fixtures, equipment, and appurtenances through certain real property in Green Township, Hamilton County, Ohio in accordance with the plat entitled Watermain Easement Dedication Plat, WSL #3688, E1096, Rybolt Run Subdivision, as recorded in Plat Book 492, Page 37, Hamilton County, Ohio Recorder's Office.

**Sponsors:** City Manager

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

18. [202400423](#) **PRESENTATION** submitted by Sheryl M. M. Long, City Manager, dated 2/5/2024, regarding the Convention Center District Ordinances.

**Sponsors:** City Manager

**Attachments:** [Transmittal](#)  
[Presentation](#)

ADJOURNMENT



January 24, 2024

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

202400295

**From:** Sheryl M. M. Long, City Manager

**Subject: Emergency Ordinance – DCED: King Records Project**

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Attached is an Emergency Ordinance captioned:

**AUTHORIZING** the transfer and return to source of \$410,000 from capital improvement program project account no. 980x164x221616, “King Records Building Restoration,” to unappropriated surplus of General Fund 050; **AUTHORIZING** the transfer and appropriation of \$410,000 from the unappropriated surplus of General Fund 050 to the Department of Community and Economic Development FY 2024 non-personnel operating budget account no. 050x164x7200 to provide resources for professional services and operating support to allow King Records Legacy, Inc. d/b/a King Records Legacy Foundation to undertake pre-development activities related to the eventual renovation of the former King Records building; and **DECLARING** that the King Records Legacy, Inc. d/b/a King Records Legacy Foundation’s pre-development activities related to the eventual renovation of the former King Records building serve a public purpose because the eventual renovation of the former King Records building will foster local improvements and investment and increase neighborhood vitality.

Approval of this Emergency Ordinance authorizes the transfer and return to source of \$410,000 from capital improvement program project account no. 980x164x221616, “King Records Building Restoration,” to the unappropriated surplus of General Fund 050. Additionally, the Emergency Ordinance authorizes the transfer and appropriation of \$410,000 from the unappropriated surplus of General Fund 050 to the Department of Community and Economic Development FY 2024 non-personnel operating budget account no. 050x164x7200 to provide resources for professional services and operating support to allow King Records Legacy, Inc. /b/a King Records Legacy Foundation’s to undertake pre-development activities related to the eventual renovation of the former King Records building. Finally, this Emergency Ordinance declares that the King Records Legacy, Inc. d/b/a King Records Legacy Foundation’s pre-development activities related to the eventual renovation of the former King Records building serve a public purpose.

Ordinance No. 0369-2021 authorized the transfer and appropriation of \$1,000,000 to capital improvement program project account no. 980x164x221616, “King Records Building Restoration,” to provide resources to preserve, restore, and renovate the former King Records building in the Evanston neighborhood. King Records Legacy, Inc. made a request that the City provide up to \$410,000 in resources to support professional services and operational support to allow King Records Legacy, Inc. to undertake further fundraising, project planning, and community engagement related to the renovation of the former King Records property.



Providing resources for the renovation of the former King Records building is in accordance with the “Sustain” goal to “[p]reserve our natural and built environment” and strategy to “[p]reserve our built history” as described on pages 193-198 of Plan Cincinnati (2012).

The reason for the emergency is the immediate need to deploy funding to allow the pre-development activities related to the eventual renovation of the former King Records building to remain on schedule.

The Administration recommends passage of this Emergency Ordinance.

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

Attachment



**EMERGENCY**

**LES**

**- 2024**

**AUTHORIZING** the transfer and return to source of \$410,000 from capital improvement program project account no. 980x164x221616, “King Records Building Restoration,” to the unappropriated surplus of General Fund 050; **AUTHORIZING** the transfer and appropriation of \$410,000 from the unappropriated surplus of General Fund 050 to the Department of Community and Economic Development FY 2024 non-personnel operating budget account no. 050x164x7200 to provide resources for professional services and operating support to allow King Records Legacy, Inc. d/b/a King Records Legacy Foundation to undertake pre-development activities related to the eventual renovation of the former King Records building; and **DECLARING** that the King Records Legacy, Inc. d/b/a King Records Legacy Foundation’s pre-development activities related to the eventual renovation of the former King Records building serve a public purpose because the eventual renovation of the former King Records building will foster local improvements and investment and increase neighborhood vitality.

WHEREAS, on September 22, 2021, Council passed Ordinance No. 369-2021 authorizing the transfer and appropriation of \$1,000,000 to capital improvement program project account no. 980x164x221616, “King Records Building Restoration,” to provide resources to preserve, restore, and renovate the former King Records building in the Evanston neighborhood; and

WHEREAS, King Records Legacy, Inc. requested that the City provide up to \$410,000 in resources to support professional services and operations to allow King Records Legacy, Inc. to undertake further fundraising, project planning, and community engagement related to the renovation of the former King Records property; and

WHEREAS, providing resources for the renovation of the former King Records building is in accordance with the “Sustain” goal to “[p]reserve our natural and built environment” and strategy to “[p]reserve our built history” as described on pages 193-198 of Plan Cincinnati (2012); now, therefore,

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

Section 1. That the transfer and return to source of \$410,000 from capital improvement program project account no. 980x164x221616, “King Records Building Restoration,” to the unappropriated surplus of General Fund 050 is authorized.

Section 2. That \$410,000 is transferred and appropriated from the unappropriated surplus of General Fund 050 to the Department of Community and Economic Development FY 2024 non-personnel operating budget account no. 050x164x7200 to provide resources for professional

services and operating support to allow King Records Legacy, Inc. d/b/a King Records Legacy Foundation to undertake pre-development activities related to the eventual renovation of the former King Records building.

Section 3. That the King Records Legacy, Inc. d/b/a King Records Legacy Foundation's pre-development activities related to the eventual renovation of the former King Records building serve a public purpose because the eventual renovation of the former King Records building will foster local improvements and investment and increase neighborhood vitality.

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

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 deploy funding to allow the pre-development activities related to the eventual renovation of the former King Records building to remain on schedule.

Passed: \_\_\_\_\_, 2024

\_\_\_\_\_  
Aftab Pureval, Mayor

Attest: \_\_\_\_\_  
Clerk

January 31, 2024

**To:** Mayor and Members of City Council  
**From:** Sheryl M. M. Long, City Manager  
**Subject:** **Emergency Ordinance – Public Services: Then and Now Payment to Neenah Foundry Company**

202400385

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Attached is an Emergency Ordinance captioned:

**AUTHORIZING** the payment of \$17,324.59 from the Department of Public Services Street Construction Maintenance and Repair Fund non-personnel operating budget account no. 301x252x6000x7399 to Neenah Foundry Company, pursuant to the attached certificate from the Director of Finance, for outstanding charges for foundry materials used by the Traffic and Road Operations Division to replace stormwater inlet grates in October 2023.

This Emergency Ordinance authorizes the payment of \$17,324.59 from the Department of Public Services Street Construction Maintenance and Repair Fund non-personnel operating budget account no. 301x252x6000x7399 to Neenah Foundry Company, pursuant to the attached certificate from the Director of Finance, for outstanding charges related to foundry materials used by the Traffic and Road Operations Division (TROD) to replace stormwater inlet grates in October 2023.

In January 2023, Neenah Foundry Company provided a quote to the Department of Public Services (DPS) for materials to replace stormwater inlet grates. In April 2023, DPS requested a modified quote because additional materials were needed. DPS received a revised quote that was in addition to the original quote, not in lieu of it, but inadvertently adjusted the certification for the original quote to match the revised quote. Neenah provided all ordered materials, but funds were only certified for the amount of the additional materials.

Pursuant to Ohio Revised Code Section 5705.41(D)(1), the Director of Finance issued a Then and Now certificate, verifying that at the time the contract was executed and at the time the attached certificate was issued, a sufficient sum was appropriated and in the City Treasury for the purpose of paying for charges for materials under the contract.

The reason for the emergency is the immediate need to pay Neenah Foundry Company for the outstanding charges in a timely manner.

The Administration recommends passage of this Emergency Ordinance.

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

Attachment

**EMERGENCY**

MSS

- 2024

**AUTHORIZING** the payment of \$17,324.59 from the Department of Public Services Street Construction Maintenance and Repair Fund non-personnel operating budget account no. 301x252x6000x7399 to Neenah Foundry Company, pursuant to the attached certificate from the Director of Finance, for outstanding charges for foundry materials used by the Traffic and Road Operations Division to replace stormwater inlet grates in October 2023.

WHEREAS, in January 2023 Neenah Foundry Company (“Neenah”) provided a quote to the Department of Public Services (“DPS”) under a master services agreement for materials to replace stormwater inlet grates; and

WHEREAS, in April 2023 DPS requested a revised quote because additional materials were needed; and

WHEREAS, Neenah provided an additional quote, not a revised quote, only for the additional materials, to be added to the original quote, but DPS inadvertently adjusted the certification for the order to match the quote for just the additional materials; and

WHEREAS, Neenah provided all the ordered materials, but funds were certified only for amount of the additional materials; and

WHEREAS, pursuant to Ohio Revised Code Section 5705.41(D)(1), the Director of Finance has issued a certificate, attached to this ordinance, verifying that a sufficient sum was appropriated and in the City Treasury for the purpose of paying for such charges under the contract both at the time the order was executed under the master services agreement and at the time the attached certificate was issued; and

WHEREAS, Council desires to provide payment to Neenah for its outstanding obligation of \$17,324.59 for the materials delivered pursuant to the original quote; now, therefore,

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

Section 1. That the Finance Director is authorized to make a payment of \$17,324.59 from the Department of Public Services Street Construction Maintenance and Repair Fund non-personnel operating budget account no. 301x252x6000x7399 to Neenah Foundry Company, pursuant to the attached certificate from the Director of Finance, for outstanding charges related to foundry materials used by the Traffic and Road Operations Division to replace stormwater inlet grates in October 2023.

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

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 pay Neenah Foundry Company for the outstanding charges in a timely manner.

Passed: \_\_\_\_\_, 2024

\_\_\_\_\_  
Aftab Pureval, Mayor

Attest: \_\_\_\_\_  
Clerk

**CITY OF CINCINNATI**  
**DIRECTOR OF FINANCE**  
**THEN AND NOW CERTIFICATE**

I, Karen Alder, Director of Finance for the City of Cincinnati, state the following:

WHEREAS, the City of Cincinnati (“City”) and Neenah Foundry Company (“Neenah”) entered into a Master Services and Purchasing Agreement (“Agreement”) on September 24, 2020, for the purchase of materials by the Department of Public Services; and

WHEREAS, in January 2023, pursuant to the Agreement the City ordered certain materials from Neenah, for which Neenah provided a quote; and

WHEREAS, the City required additional materials and asked for a revised quote in April 2023, which Neenah provided; and


WHEREAS, the revised quote was for the additional materials only, and not for the entire order, but the City inadvertently updated the certified funds request on May 26, 2023, to reflect the lower amount in the revised quote for just the additional materials; and

WHEREAS, Neenah provided all of the materials to the City under the scope of work set forth by the Agreement, including the materials in the original and revised quote, in August and October 2023; and

WHEREAS, Neenah therefore has not been compensated for the original materials in the amount of \$17,324.59;

NOW, THEREFORE,

1. As of May 26, 2023, and as of the date this certificate was executed, I hereby verify that the City Treasury held a sufficient sum that was appropriated and available for the purpose of paying for goods and services rendered under the Agreement and all orders thereunder, including but not limited to the order made on June 15, 2023. This verification is conditioned upon and subject to Council’s approval of an ordinance authorizing the drawing of a warrant in payment of amount due to Neenah under the Agreement and order.

Signed,   
\_\_\_\_\_  
Karen Alder, Director of Finance  
City of Cincinnati

Date: 1/24/2024

January 31, 2024

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

202400386

**From:** Sheryl M. M. Long, City Manager

**Subject: Emergency Ordinance – Police: Moral Obligation Payment to Joy Outdoor Education Center Foundation, Inc.**

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Attached is an Emergency Ordinance captioned:

**AUTHORIZING** the payment of \$90,000 from the Cincinnati Police Department Criminal Activities Forfeiture State Fund non-personnel operating budget account no. 369x227x4010x7299 as a moral obligation to Joy Outdoor Education Center Foundation, Inc. dba Camp Joy, for outstanding charges related to services rendered for two camps, in June 2023 and November 2023, funded by the Cincinnati Police Department Community Preventive Education Grant.

This Emergency Ordinance authorizes the payment of \$90,000 from the Cincinnati Police Department Criminal Activities Forfeiture State Fund non-personnel operating budget account no. 369x227x4010x7299 as a moral obligation to Joy Outdoor Education Center Foundation, Inc. dba Camp Joy, for outstanding charges related to services rendered for two camps funded by the Cincinnati Police Department (CPD) Community Preventive Education Grant.

In November 2023, Camp Joy was notified that they had been awarded the Community Preventive Education Grant for two camps. The Summer Police Youth Live-In Camp took place on June 19-23, 2023, and the Fall Reunion Camp took place on November 10-12, 2023.

These two camps took place before CPD was able to execute a contract for the grant award. CPD has informed Camp Joy that a fully executed contract is required before a camp can occur. CPD has also informed Camp Joy of the dates that future applications should be submitted for grant funding to ensure that a fully executed contract is in place before a camp occurs.

The reason for the emergency is the immediate need to pay Joy Outdoor Education Center Foundation, Inc. for the outstanding charges for the services rendered.

The Administration recommends passage of this Emergency Ordinance.

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

Attachment



**EMERGENCY**

**AKS**

**- 2024**

**AUTHORIZING** the payment of \$90,000 from the Cincinnati Police Department Criminal Activities Forfeiture State Fund non-personnel operating budget account no. 369x227x4010x7299 as a moral obligation to Joy Outdoor Education Center Foundation, Inc. dba Camp Joy, for outstanding charges related to services rendered for two camps, in June 2023 and November 2023, funded by a Cincinnati Police Department Community Preventive Education Grant.

WHEREAS, in November 2023, Joy Outdoor Education Center Foundation, Inc. (“Camp Joy”), was notified that they had been awarded a Community Preventive Education Grant to hold two camps; and

WHEREAS, the Summer Police Youth Live-In Camp took place on June 19-23, 2023 and the Fall Reunion Camp took place on November 10-12, 2023; and

WHEREAS, these two camps took place before the Cincinnati Police Department (“CPD”) was able to execute a contract for the grant award; and

WHEREAS, CPD has informed Camp Joy that a fully executed contract is required before a camp can occur; and

WHEREAS, CPD has informed Camp Joy of the dates that future applications should be submitted for grant funding to ensure that a fully executed contract is in place before a camp occurs; and

WHEREAS, Council desires to provide payment for such services in an amount totaling \$90,000; now, therefore,

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

Section 1. That the Director of Finance is authorized to make a payment of \$90,000 from the Cincinnati Police Department Criminal Activities Forfeiture State Fund non-personnel operating budget account no. 369x227x4010x7299 as a moral obligation to Joy Outdoor Education Center Foundation, Inc. dba Camp Joy, for outstanding charges related to services rendered for two camps in June 2023 and November 2023, funded by a Community Preventive Education Grant.

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

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 pay Joy Outdoor Education Center Foundation, Inc. for the outstanding charges for the services rendered.

Passed: \_\_\_\_\_, 2024

\_\_\_\_\_  
Aftab Pureval, Mayor

Attest: \_\_\_\_\_  
Clerk

January 31, 2024

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

202400383

**From:** Sheryl M. M. Long, City Manager

**Subject: Ordinance – OES: Bloomberg Philanthropies American Sustainable Cities Technical Assistance Grant**

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Attached is an Ordinance captioned:

**AUTHORIZING** the City Manager to apply for and accept a technical assistance grant valued at up to \$2,500,000 from the Bloomberg Philanthropies American Sustainable Cities Grant program to assist with green workforce development, minority-owned business support, energy poverty reduction via energy efficiency upgrades and community-owned renewable energy projects, and climate resilience adaptations.

This Ordinance authorizes the City Manager to apply for and accept a technical assistance grant valued at up to \$2,500,000 from the Bloomberg Philanthropies American Sustainable Cities Grant program to assist with green workforce development, minority-owned business support, energy poverty reduction via energy efficiency upgrades and community-owned renewable energy projects, and climate resilience adaptations.

This technical assistance grant does not require matching funds or new FTEs/full-time equivalents.

The grant application deadline was September 1, 2023, and the City already applied for the grant. The grant will not be accepted without approval by the City Council.

This Ordinance is in accordance with the “Live” goal to “[p]rovide a full spectrum of housing options and improve housing equity and affordability,” as well as the “Sustain” goal to “[b]ecome a healthier Cincinnati” and strategy to “[c]reate a healthy environment and reduce energy consumption” as described on pages 164 and 181 – 186 of Plan Cincinnati (2012).

The Administration recommends passage of this Ordinance.

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



Attachment

**AUTHORIZING** the City Manager to apply for and accept a technical assistance grant valued at up to \$2,500,000 from the Bloomberg Philanthropies American Sustainable Cities Grant program to assist with green workforce development, minority-owned business support, energy poverty reduction via energy efficiency upgrades and community-owned renewable energy projects, and climate resilience adaptations.

WHEREAS, a nonmonetary grant valued at up to \$2,500,000 is available from the Bloomberg Philanthropies American Sustainable Cities grant program to provide technical assistance in the form of added capacity, technical training, and access to professional services which the City will utilize for green workforce development, minority-owned business support, energy poverty reduction via energy efficiency upgrades, and community-owned renewable energy projects, and climate resilience adaptations; and

WHEREAS, this grant does not require matching funds, and there are no new FTEs/full-time equivalents associated with this grant; and

WHEREAS, the grant application deadline was September 1, 2023, and the City has already applied for the grant, but no grant resources will be accepted without approval by Council; and

WHEREAS, this ordinance is in accordance with the “Live” goal to “[p]rovide a full spectrum of housing options and improve housing quality and affordability” as well as the “Sustain” goal to “[b]ecome a healthier Cincinnati” and strategy to “[c]reate a healthy environment and reduce energy consumption” as described on pages 164 and 181-186 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 authorized to apply for and accept a technical assistance grant valued at up to \$2,500,000 from the Bloomberg Philanthropies American Sustainable Cities Grant program to assist with green workforce development, minority-owned business support, energy poverty reduction via energy efficiency upgrades and community-owned renewable energy projects, and climate resilience adaptations.

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

Section 3. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed: \_\_\_\_\_, 2024

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Aftab Pureval, Mayor

Attest: \_\_\_\_\_  
Clerk

January 31, 2024

**To:** Mayor and Members of City Council  
**From:** Sheryl M. M. Long, City Manager  
**Subject:** **Emergency Ordinance – Health: Ohio Department of Development (ODOD) Lead Safe Ohio Program Grant**

202400382

Attached is an Emergency Ordinance captioned:

**AUTHORIZING** the City Manager to apply for, accept, and appropriate a grant of up to \$2,000,000 from the Ohio Department of Development Lead Safe Ohio Program (ALN 21.027) to provide resources to the Cincinnati Health Department to assist with lead-free building certification, screening and testing for lead poisoning, education and outreach, and early intervention for children and families impacted by lead; and **AUTHORIZING** the Director of Finance to deposit the grant funds into Public Health Research Fund revenue account no. 350x8556.

Approval of this Emergency Ordinance authorizes the City Manager to apply for, accept, and appropriate a grant of up to \$2,000,000 from the Ohio Department of Development Lead Safe Ohio Program (ALN 21.027) to provide resources to the Cincinnati Health Department to assist with lead-free building certification, screening and testing for lead poisoning, education and outreach, and early intervention for children and families impacted by lead. This Emergency Ordinance further authorizes the Finance Director to deposit the grant funds into Public Health Research Fund revenue account no. 350x8556.

The City already applied for this grant on September 13, 2023, but no grant funds will be accepted without the approval of the City Council.

No additional FTEs/full time equivalents or local matching funds are required to accept this grant.

Acceptance of this grant is in accordance with the “Sustain” goal to “[b]ecome a healthier Cincinnati” as described on pages 181-192 of Plan Cincinnati (2012).

The reason for the emergency is the immediate need to accept and appropriate the grant funds as the grant program began on December 1, 2023.

The Administration recommends passage of this Emergency Ordinance.

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

Attachment



**EMERGENCY**

**AKS**

**-2024**

**AUTHORIZING** the City Manager to apply for, accept, and appropriate a grant of up to \$2,000,000 from the Ohio Department of Development Lead Safe Ohio Program (ALN 21.027) to provide resources to the Cincinnati Health Department to assist with lead-free building certification, screening and testing for lead poisoning, education and outreach, and early intervention for children and families impacted by lead; and **AUTHORIZING** the Director of Finance to deposit the grant funds into Public Health Research Fund revenue account no. 350x8556.

WHEREAS, a grant of up to \$2,000,000 is available from the Ohio Department of Development Lead Safe Ohio Program (ALN 21.027) to provide resources to the Cincinnati Health Department to assist with lead-free building certification, screening and testing for lead poisoning, education and outreach, and early intervention for children and families impacted by lead; and

WHEREAS, the City already applied for this grant on September 13, 2023, but no grant funds will be accepted without approval by Council; and

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

WHEREAS, acceptance of this grant is in accordance with the “Sustain” goal to “[b]ecome a healthier Cincinnati” as described on pages 181-192 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 authorized to apply for, accept, and appropriate a grant of up to \$2,000,000 from the Ohio Department of Development Lead Safe Ohio Program to provide resources to the Cincinnati Health Department to assist with lead-free building certification, screening and testing for lead poisoning, education and outreach, and early intervention for children and families impacted by lead.

Section 2. That the Director of Finance is authorized to deposit the funds into Public Health Research Fund revenue account no. 350x8556.

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 Sections 1 and 2.

Section 4. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to accept and appropriate the grant funds as the grant program began on December 1, 2023.

Passed: \_\_\_\_\_, 2024

\_\_\_\_\_  
Aftab Pureval, Mayor

Attest: \_\_\_\_\_  
Clerk



January 31, 2024

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

**From:** Sheryl M. M. Long, City Manager

202400387

**Subject: Emergency Ordinance – Police: FY 2024 Violent Crime Reduction Grant**

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Attached is an Emergency Ordinance captioned:

**AUTHORIZING** the City Manager to apply for, accept, and appropriate a grant of up to \$96,717.12 from the Ohio Department of Public Safety, Office of Criminal Justice Services, FY 2024 State of Ohio Violent Crime Reduction Grant, to enhance targeted enforcement for the existing Crime Gun Intelligence Center; and **AUTHORIZING** the Director of Finance to deposit the grant funds into Law Enforcement Grant Fund 368, project account no. 24SVCR.

This Emergency Ordinance authorizes the City Manager to apply for, accept, and appropriate a grant of up to \$96,717.12 from the Ohio Department of Public Safety (ODPS), Office of Criminal Justice Services (OCJS), FY 2024 State of Ohio Violent Crime Reduction Grant, to enhance targeted enforcement for the existing Crime Gun Intelligence Center (CGIC). This Emergency Ordinance also authorizes the Director of Finance to deposit the grant funds into Law Enforcement Grant Fund 368, project account no. 24SVCR.

The grant will provide resources for four hours of overtime per week per position for one year, to cover one supervisory sergeant and six police officers. The Cincinnati Police Department (CPD) officers will focus on pre-determined PIVOT (Place-based Investigations of Violent Offender Territories) zones throughout the city in an effort to reduce violent crime. The grant will also provide resources for SQL database training.

The grant application deadline was January 4, 2024, and the City has already applied for the grant, but no grant funds will be accepted without approval by the City Council. The grant does not require matching funds, and there are no new FTEs/full time equivalents associated with the 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 reason for the emergency is the immediate need to ensure timely acceptance of the grant funds.

The Administration recommends passage of this Emergency Ordinance.

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

Attachment



**EMERGENCY**

**KKF**

**-2024**

**AUTHORIZING** the City Manager to apply for, accept, and appropriate a grant of up to \$96,717.12 from the Ohio Department of Public Safety, Office of Criminal Justice Services, FY 2024 State of Ohio Violent Crime Reduction Grant, to enhance targeted enforcement for the existing Crime Gun Intelligence Center; and **AUTHORIZING** the Director of Finance to deposit the grant funds into Law Enforcement Grant Fund 368, project account no. 24SVCR.

WHEREAS, a grant of up to \$96,717.12 is available from the State of Ohio, Office of Criminal Justice Services, FY 2024 State of Ohio Violent Crime Reduction Grant, to enhance targeted enforcement for the existing Crime Gun Intelligence Center (“CGIC”); and

WHEREAS, the grant will provide resources for four hours of overtime per week per position for one year, to cover one supervisory sergeant and six police officers; and

WHEREAS, Cincinnati Police Department officers will focus on pre-determined PIVOT (Place-Based Investigations of Violent Offender Territories) zones throughout the city in an effort to reduce violent crime; and

WHEREAS, the grant will also provide resources for SQL database training; and

WHEREAS, the grant application deadline was January 4, 2024, and the City has already applied for the grant, but no grant funds will be accepted without approval by Council; and

WHEREAS, this grant does not require matching funds, and there are no new FTEs/full time equivalents associated with the grant; 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 authorized to apply for, accept, and appropriate a grant of up to \$96,717.12 from the Ohio Department of Public Safety, Office of Criminal Justice Services, FY 2024 State of Ohio Violent Crime Reduction Grant, to enhance targeted enforcement for the existing Crime Gun Intelligence Center.

Section 2. That the Director of Finance is authorized to deposit the grant funds into Law Enforcement Grant Fund 368, project account no. 24SVCR.

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.

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

Passed: \_\_\_\_\_, 2024

\_\_\_\_\_  
Aftab Pureval, Mayor

Attest: \_\_\_\_\_  
Clerk

**EMERGENCY**

**City of Cincinnati**

IMD

EEW

**An Ordinance No. \_\_\_\_\_**

- 2024

**AUTHORIZING** the City Manager to accept an in-kind donation of catering services valued at \$1,104.95 from Union Savings Bank and Guardian Savings Bank to support the homeownership workshop held at the Price Hill Recreation Center on January 27, 2024.

**WHEREAS**, the City hosted a free homeownership workshop at the Price Hill Recreation Center on January 27, 2024 (the “Workshop”); and

**WHEREAS**, Union Savings Bank and Guardian Savings Bank donated catering services from 1 More Bite, LLC to the City for the Workshop; and

**WHEREAS**, the catered meals included a breakfast of coffee, tea, and pastries as well as boxed lunches; and

**WHEREAS**, the invoiced total for the catering services was \$1,104.95; and

**WHEREAS**, the Workshop was held before the effective date of this ordinance, but the donation supporting the Workshop will not be accepted without Council approval; and

**WHEREAS**, accepting a donation to support the Workshop is in accordance with the “Collaborate” goal to “[w]ork in synergy with the Cincinnati Community” as described on page 209 of Plan Cincinnati (2012); now, therefore,

**BE IT RESOLVED** by the Council of the City of Cincinnati:

Section 1. The City Manager is authorized to accept an in-kind donation of catering services valued at \$1,104.95 from Union Savings Bank and Guardian Savings Bank to support the homeownership workshop held at the Price Hill Recreation Center on January 27, 2024 (the “Workshop”).

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

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 accept an in-kind donation to support the Workshop.

Passed: \_\_\_\_\_, 2024

\_\_\_\_\_  
Aftab Pureval, Mayor

Attest: \_\_\_\_\_  
Clerk

**Date:** February 5, 2024

**To:** Vice Mayor Jan-Michele Lemon Kearney  
**From:** Emily Smart Woerner, City Solicitor *EESW*  
**Subject:** **Emergency Ordinance – Homeownership Workshop Catering Services Donation**

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Transmitted herewith is an ordinance captioned as follows:

**AUTHORIZING** the City Manager to accept an in-kind donation of catering services valued at \$1,104.95 from Union Savings Bank and Guardian Savings Bank to support the homeownership workshop held at the Price Hill Recreation Center on January 27, 2024.

EESW/IMD(dmm)  
Attachment  
396833

**Date:** February 5, 2024

**To:** Vice Mayor Jan-Michele Lemon Kearney  
**From:** Emily Smart Woerner, City Solicitor *EESW*  
**Subject:** **Emergency Ordinance –Donated Banners from TriHealth to Promote Pedestrian Safety**

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Transmitted herewith is an ordinance captioned as follows:

**AUTHORIZING** the City Manager to accept an in-kind donation of banners valued at \$600 from TriHealth to promote pedestrian safety in the City of Cincinnati.

EESW/IMD(dmm)  
Attachment  
396833

**EMERGENCY**

**City of Cincinnati**

CMZ

10/31/24

**An Ordinance No. \_\_\_\_\_**

- 2024

**AUTHORIZING** the City Manager to accept an in-kind donation of banners valued at \$600 from TriHealth to promote pedestrian safety in the City of Cincinnati.

WHEREAS, TriHealth offered to donate banners to the City that contain the winning slogan from the Slow Down to Save Lives contest and that are valued at \$600; and

WHEREAS, the Slow Down to Save Lives contest was organized by the Center for Closing the Health Gap in 2023 to promote pedestrian safety and accepted submissions from Cincinnati students in kindergarten through twelfth grade; and

WHEREAS, the City will display the donated banners at appropriate locations in the City to encourage drivers to slow down as they drive on City streets and to promote pedestrian safety; and

WHEREAS, displaying banners to promote pedestrian safety is in accordance with the “Live” goal to “[c]reate a more livable community” and strategy to “[b]ecome more walkable” as described on pages 156 – 159 of Plan Cincinnati (2012); now, therefore,

**BE IT RESOLVED** by the Council of the City of Cincinnati:

Section 1. The City Manager is authorized to accept an in-kind donation of banners valued at \$600 from TriHealth to promote pedestrian safety in the City of Cincinnati.

Section 2. That the proper City officials are hereby authorized to do all things necessary and proper to implement Section 1.

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 accept and display the donated banners.

Passed: \_\_\_\_\_, 2024

\_\_\_\_\_  
Aftab Pureval, Mayor

Attest: \_\_\_\_\_  
Clerk

February 5, 2024

**To:** Members of the Budget and Finance Committee

202400413

**From:** Sheryl M. M. Long, City Manager

**Subject: Emergency Ordinance - Human Resources: In-Kind Radio Advertising Donation**

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Attached is an Emergency Ordinance captioned:

**AUTHORIZING** the City Manager to accept an in-kind donation of radio advertising from Superior Credit Union, valued at approximately \$800, to inform the public of the Mayor's Youth Job Exposition to be held at the Duke Energy Convention Center on February 24, 2024.

Approval of this Emergency Ordinance will authorize the City Manager to accept an in-kind donation of radio advertising from Superior Credit Union, valued at approximately \$800, to inform the public of the Mayor's Youth Job Exposition to be held at the Duke Energy Convention Center on February 24, 2024.

The Department of Human Resources (HR) is currently piloting a program to increase youth employment and financial empowerment through the Career Pathways Initiative (CPI). In September 2023, HR partnered with Superior Credit Union to support the CPI by promoting financial literacy and the benefits of banking. Superior Credit Union has generously offered to donate some of their existing radio timeslots to promote the Mayor's Youth Job Exposition, which is a component of the CPI.

Acceptance of this in-kind donation does not require new FTEs/full time equivalents or matching funds.

Acceptance of this in-kind donation is in accordance with the "Collaborate" goal to "[w]ork in synergy with the Cincinnati community" as described on pages 209-212 of Plan Cincinnati (2012).

The reason for the emergency is the need for the City to use this radio advertisement opportunity to reach as many people as possible prior to the Mayor's Youth Job Exposition to be held at the Duke Energy Convention Center on February 24, 2024.

The Administration recommends passage of this Emergency Ordinance.

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

Attachment



**EMERGENCY**

**IMD**

**-2024**

**AUTHORIZING** the City Manager to accept an in-kind donation of radio advertising from Superior Credit Union, valued at approximately \$800, to inform the public of the Mayor’s Youth Job Exposition to be held at the Duke Energy Convention Center on February 24, 2024.

WHEREAS, the Department of Human Resources (“HR”) currently is piloting a program to increase youth employment and financial empowerment through the Career Pathways Initiative (the “Initiative”); and

WHEREAS, in September 2023, HR partnered with Superior Credit Union to support the Initiative by promoting financial literacy and the benefits of banking; and

WHEREAS, Superior Credit Union generously has offered to donate some of its existing radio timeslots to promote the Mayor’s Youth Job Exposition, which is a component of the Initiative that is taking place at the Duke Energy Convention Center on February 24, 2024; and

WHEREAS, there are no matching funds required to accept this donation, and there are no new FTEs/full time equivalents associated with this donation; and

WHEREAS, acceptance of in-kind donations is in accordance with the “Collaborate” goal to “[w]ork in synergy with the Cincinnati community” as set forth on pages 209-212 of Plan Cincinnati (2012); now, therefore,

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

Section 1. That the City Manager is authorized to accept an in-kind donation of radio advertising from Superior Credit Union, valued at approximately \$800, to inform the public of the Mayor’s Youth Job Exposition to be held at the Duke Energy Convention Center on February 24, 2024.

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

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 need for the City to use this radio advertisement opportunity to reach as many people as possible prior to the Mayor's Youth Job Exposition to be held at the Duke Energy Convention Center on February 24, 2024.

Passed: \_\_\_\_\_, 2024

\_\_\_\_\_  
Aftab Pureval, Mayor

Attest: \_\_\_\_\_  
Clerk

January 31, 2024

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

202400399

**From:** Sheryl M. M. Long, City Manager

**Subject:** Emergency Ordinance – Convention Center TOT Financing

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Transmitted is an Emergency Ordinance captioned:

**PLEDGING** a portion of the City’s transient occupancy tax (the “City TOT”) to secure obligations of the Port of Greater Cincinnati Development Authority (the “Port Authority”) to be issued to refinance existing obligations and to finance the costs to renovate, expand, improve, and develop the City-owned Duke Energy Convention Center and related properties; **ESTABLISHING** the priority of the City’s pledge of the City TOT relative to other authorized pledges and uses of the City TOT; and **AUTHORIZING** the City Manager to enter into and execute a Cooperative Agreement with Hamilton County, Ohio (the “County”), the Port Authority, and, for limited purposes, the Convention Facilities Authority for Hamilton County, Ohio (the “CFA”), and the Greater Cincinnati Convention and Visitors Bureau, Inc. (the “GCCVB”); and a Residual TOT Fund Cooperative Agreement with the County, and, for limited purposes, the CFA and the GCCVB; and authorizing and approving related matters.

The Administration Recommends Passage of this Emergency Ordinance.

cc: William “Billy” Weber, Assistant City Manager

**EMERGENCY**

**City of Cincinnati**

JESW

**An Ordinance No. \_\_\_\_\_**

- 2024

**PLEDGING** a portion of the City's transient occupancy tax (the "City TOT") to secure obligations of the Port of Greater Cincinnati Development Authority (the "Port Authority") to be issued to refinance existing obligations and to finance the costs to renovate, expand, improve, and develop the City-owned Duke Energy Convention Center and related properties; **ESTABLISHING** the priority of the City's pledge of the City TOT relative to other authorized pledges and uses of the City TOT; and **AUTHORIZING** the City Manager to enter into and execute a Cooperative Agreement with Hamilton County, Ohio (the "County"), the Port Authority, and, for limited purposes, the Convention Facilities Authority for Hamilton County, Ohio (the "CFA"), and the Greater Cincinnati Convention and Visitors Bureau, Inc. (the "GCCVB"); and a Residual TOT Fund Cooperative Agreement with the County, and, for limited purposes, the CFA and the GCCVB; and authorizing and approving related matters.

WHEREAS, the City of Cincinnati (the "City") owns the Duke Energy Convention Center (the "DECC") located at 525 Elm Street, on real property generally bounded by Elm Street, Fifth Street, Sixth Street, and Central Avenue in the Central Business District of Cincinnati; and

WHEREAS, despite regular maintenance and repairs, and necessary periodic capital improvements, the DECC has deteriorated and requires substantial renovation and capital improvements; and

WHEREAS, the City, the County of Hamilton, Ohio (the "County"), the Port of Greater Cincinnati Development Authority (the "Port Authority"), the Convention Facilities Authority for Hamilton County, Ohio (the "CFA"), the Greater Cincinnati Convention and Visitors Bureau, Inc. (the "GCCVB"), and Cincinnati Center City Development Corporation ("3CDC") have determined to cooperatively advance the renovation, expansion, improvement, and development of the DECC and related properties in the Central Business District (altogether the "DECC Project"); and

WHEREAS, the City, the County, and the CFA are parties to a Cooperative Agreement, effective January 14, 2004, (as amended, and supplemented by a total of ten supplements, the "2004 Original Cooperative Agreement"), pursuant to and in accordance with which the CFA issued its \$69,890,000 Revenue Refunding and Improvement Bonds, Series 2014 (the "2014 CFA Bonds"), and the Port Authority issued its \$53,265,000 Refunding Revenue Bonds, Series 2023 (Convention Center Hotel Acquisition and Demolition Project) (the "2023 Millennium Bonds"); and

WHEREAS, the City anticipates the Port Authority's issuance of bonds in a maximum principal amount of three hundred seventy million dollars (\$370,000,000) (the "TOT Bonds") to refinance the 2014 CFA Bonds and the 2023 Millennium Bonds, and to finance a portion of the costs of the DECC Project; and

WHEREAS, pursuant to Section 5739.08(A) of the Ohio Revised Code (“R.C.”) and Ordinance No. 89-1969, as amended, supplemented, renewed, or restated, the City has levied an excise tax of one and one-half percent (1.50%) on transactions by which lodging by a hotel is or is to be furnished to transient guests within Cincinnati (including the revenues therefrom, the “City 1969 1.50% TOT”); and

WHEREAS, pursuant to R.C. Section 5739.08(A) and Ordinance No. 41-2002, as amended, supplemented, renewed, or restated, the City has levied an excise tax of one and one-half percent (1.50%) on transactions by which lodging by a hotel is or is to be furnished to transient guests within Cincinnati (including the revenues therefrom, the “City 2002 1.50% TOT”); and

WHEREAS, pursuant to R.C. Section 5739.09(B)(2) and Ordinance No. 311-2002, as amended, supplemented, renewed, or restated, the City has levied an excise tax of one percent (1.00%) on transactions by which lodging by a hotel is or is to be furnished to transient guests within Cincinnati (including the revenues therefrom, the “City 2002 1.00% TOT”); and

WHEREAS, the City has previously committed the City 1969 1.50% TOT toward the costs to operate and maintain the DECC (the “DECC O&M Costs”), and the City has determined it is in its best interest to continue to apply the City 1969 1.50% TOT toward payment of the DECC O&M Costs in accordance with a Cooperative Agreement (the “Cooperative Agreement”) by and among the City, the County, the Port Authority, and, for limited purposes, the CFA, and the GCCVB, which Cooperative Agreement will amend and restate in its entirety the 2004 Original Cooperative Agreement; and

WHEREAS, the City previously pledged the City 2002 1.50% TOT toward the payment of the Port Authority’s \$18,445,000 Tax-Exempt Development Revenue Bonds, Series 2021 (FC Cincinnati Public Improvements Project TOT Bonds) (the “FCC TOT Bonds”) pursuant to the Cooperative Agreement dated as of March 1, 2021, by and among the Port Authority, the City, West End Ventures LLC, and Fussball Club Cincinnati, LLC, and acknowledged by The Huntington National Bank, as Trustee (the “FCC TOT Bonds Cooperative Agreement”); and

WHEREAS, pursuant to the Cooperative Agreement, the City will pledge the City 2002 1.50% TOT to secure repayment of the TOT Bonds on a subordinate basis relative to the City’s pledge of the City 2002 1.50% TOT toward the repayment of the FCC TOT Bonds, as required by the terms of the FCC TOT Bonds Cooperative Agreement; and

WHEREAS, the City has determined to pledge the City 2002 1.00% TOT to secure repayment of the TOT Bonds on a senior basis; and

WHEREAS, the City has determined to further secure repayment of the TOT Bonds through a monetary contribution from the City in an amount not to exceed \$650,000 annually, subject to the annual appropriation of such amount by the City for such purpose; and

WHEREAS, the City has determined that it is in its best interest to apply the portion of the City 2002 1.50% TOT and the City 2002 1.00% TOT that are (a) pledged toward to the repayment of the TOT Bonds, but (b) not used to pay debt service and related costs of the TOT Bonds (the “City Residual TOT”), to fund the purposes and efforts of the GCCVB and to be available to pay

a portion of the costs of necessary future capital improvements to the DECC and related properties;  
and

WHEREAS, the City has determined to enter into a Residual TOT Fund Cooperative Agreement with the County, and, for limited purposes, the CFA and the GCCVB (the “Residual TOT Agreement”), to document the required application of the City Residual TOT and the portion of the County transient occupancy tax that is (a) pledged toward repayment of the TOT Bonds, but (b) not used to pay debt service and related costs of the TOT Bonds; and

WHEREAS, the City considers the DECC Project to be in the vital and best interests of the City and the health, safety, and welfare of its residents, and in accordance with the public purposes and provisions of applicable federal, state, and local laws and requirements, and for this reason the City desires to facilitate the DECC Project by applying the City 1969 1.50% TOT towards the DECC O&M Costs, pledging the City 2002 1.50% TOT and the City 2002 1.00% TOT toward repayment of the TOT Bonds pursuant to the Cooperative Agreement, and applying the City Residual TOT pursuant to and in accordance with the Residual TOT Agreement; now, therefore,

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

Section 1. Definitions. That when used in this ordinance, the following words shall have the indicated meanings:

“2014 CFA Bonds” means the CFA’s \$69,890,000 Revenue Refunding and Improvement Bonds, Series 2014, dated December 4, 2014.

“2023 Millennium Bonds” means the Port Authority’s \$53,265,000 Refunding Revenue Bonds, Series 2023 (Convention Center Hotel Acquisition and Demolition Project), dated April 27, 2023.

“City” means the City of Cincinnati, Ohio, a municipal corporation and political subdivision of the State, duly organized and validly existing under the laws of the State.

“City 1969 1.50% TOT” means the excise tax of one and one-half percent (1.50%) on transactions by which lodging by a hotel is or is to be furnished to transient guests within Cincinnati, levied by the City pursuant to Section 5739.08(A) of the Ohio Revised Code (“R.C.”) and Ordinance No. 89-1969 of the City enacted on March 5, 1969, as amended, supplemented, renewed, or restated from time to time, including the revenues therefrom.



“City 2002 1.50% TOT” means the excise tax of one and one-half percent (1.50%) on transactions by which lodging by a hotel is or is to be furnished to transient guests within Cincinnati, levied by the City pursuant to R.C. Section 5739.08(A) and Ordinance No. 41-2002 of the City enacted on February 13, 2002, as amended, supplemented, renewed, or restated from time to time, including the revenues therefrom.

“City 2002 1.00% TOT” means the excise tax of one percent (1.00%) on transactions by which lodging by a hotel is or is to be furnished to transient guests within Cincinnati, levied by the City pursuant to R.C. Section 5739.09(B)(2) (now R.C. Section 5739.08(C)) and Ordinance No. 311-2002 of the City enacted on September 30, 2002, as amended, supplemented, renewed, or restated from time to time, including the revenues therefrom.

“City Residual TOT” means, during a given calendar year, the portion of the City 2002 1.50% TOT and the City 2002 1.00% TOT that are pledged toward the repayment of the TOT Bonds, but are not used to pay debt service or related costs of the TOT Bonds in such calendar year.

“Cooperative Agreement” means an Amended and Restated Cooperative Agreement among the County, the City, the Port Authority, and the Trustee, and, for certain limited purposes, the CFA and the GCCVB.

“CFA” means the Convention Facilities Authority for Hamilton County, Ohio, a body corporate and politic, duly organized and validly existing under the laws of the State.

“County” means the County of Hamilton, Ohio, a county and political subdivision of the State, duly organized and validly existing under the laws of the State.

“DECC” means the Duke Energy Convention Center, currently owned by the City and located at 525 Elm Street, and located on real property generally bounded by Elm Street, Fifth Street, Sixth Street, and Central Avenue in the Central Business District of the City.

“DECC Project” means the renovation, expansion, improvement, and development of the DECC and related properties in the Central Business District.

“FCC TOT Bonds” means the Port Authority’s \$18,445,000 Tax-Exempt Development Revenue Bonds, Series 2021 (FC Cincinnati Public Improvements Project TOT Bonds).

“GCCVB” means the Greater Cincinnati Convention and Visitors Bureau, Inc., a not-for-profit corporation, duly organized and existing under the laws of the State.

“Port Authority” means the Port of Greater Cincinnati Development Authority, a port authority and political subdivision and body corporate and politic duly organized and validly existing under the laws of the State.

“Residual TOT Agreement” means a Residual TOT Fund Cooperative Agreement between the City and the County, and for certain limited purposes, the CFA and the GCCVB.

“State” means the state of Ohio.

“TOT Bonds” means bonds to be issued by the Port Authority in a principal amount not to exceed three hundred seventy million dollars (\$370,000,000), the proceeds of which shall be used to pay debt service of and redeem all of the outstanding 2014 CFA Bonds and all of the outstanding 2023 Millennium Bonds and to pay a portion of the costs to renovate, expand, improve, and develop the DECC and related properties.

“Trustee” means a trust company or bank (having trust powers) in good standing, within or outside the State, approved by the City, the County, and the Port Authority, willing, qualified and able to accept the trust upon reasonable and customary terms.

Section 2. Cooperative Agreement. That the City Manager is hereby authorized to execute the Cooperative Agreement, pursuant to which Cooperative Agreement, the City shall (a) apply the City 1969 1.50% TOT towards the payment of costs to operate and maintain the DECC, (b)

pledge the City 2002 1.50% TOT toward repayment of the TOT Bonds, which pledge shall be subordinate to the City's pledge of the City 2002 1.50% TOT towards repayment of any outstanding FCC TOT Bonds; (c) pledge on a senior basis the City 2002 1.00% TOT toward repayment of the TOT Bonds; and (d) further secure repayment of the TOT Bonds through a monetary contribution from the City in an amount not to exceed \$650,000 annually, subject to the annual appropriation of such amounts by the City for such purpose.

Section 3. Residual TOT Agreement. That the City Manager is hereby authorized to execute the Residual TOT Agreement, pursuant to which the City Residual TOT shall be applied to fund the purposes and efforts of the GCCVB and to make available funding to pay a portion of the costs of necessary future capital improvements to the DECC and related properties, which costs, among other costs, shall be paid in part with transient occupancy taxes of the County pledged toward the repayment of the TOT Bonds but not used to pay debt service and related costs of the TOT Bonds in a given calendar year.

Section 4. That the appropriate City officials are hereby authorized to do all things necessary and proper to carry out the provisions of Sections 2 and 3 of this ordinance, including, without limitation, entering into the Cooperative Agreement, entering into the Residual TOT Agreement and any other agreements, amendments, and other instruments pertaining to the TOT Bonds and the DECC Project.

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 to enable the City to execute the Cooperative Agreement and the Residual TOT Agreement at the

February 5, 2024

**To:** Members of the Budget and Finance Committee

202400421

**From:** Sheryl M. M. Long, City Manager

**Subject:** Emergency Ordinance – Convention Center TOT Financing (B Version)

---

Transmitted is an Emergency Ordinance captioned:

**PLEDGING** a portion of the City’s transient occupancy tax (the “City TOT”) to secure obligations of the Port of Greater Cincinnati Development Authority (the “Port Authority”) to be issued to refinance existing obligations and to finance the costs to renovate, expand, improve, and develop the City-owned Duke Energy Convention Center and related properties; **ESTABLISHING** the priority of the City’s pledge of the City TOT relative to other authorized pledges and uses of the City TOT; and **AUTHORIZING** the City Manager to enter into and execute a Cooperative Agreement with Hamilton County, Ohio (the “County”), the Port Authority, and, for limited purposes, the Convention Facilities Authority for Hamilton County, Ohio (the “CFA”), and the Greater Cincinnati Convention and Visitors Bureau, Inc. (the “GCCVB”); and a Residual TOT Fund Cooperative Agreement with the County, and, for limited purposes, the CFA and the GCCVB; and authorizing and approving related matters.

The Administration Recommends Passage of this Emergency Ordinance.

cc: William “Billy” Weber, Assistant City Manager

## EMERGENCY

/B

- 2024

**PLEDGING** a portion of the City’s transient occupancy tax (the “City TOT”) to secure obligations of the Port of Greater Cincinnati Development Authority (the “Port Authority”) to be issued to refinance existing obligations and to finance the costs to renovate, expand, improve, and develop the City-owned Duke Energy Convention Center and related properties; **ESTABLISHING** the priority of the City’s pledge of the City TOT relative to other authorized pledges and uses of the City TOT; and **AUTHORIZING** the City Manager to enter into and execute a Cooperative Agreement with Hamilton County, Ohio (the “County”), the Port Authority, and, for limited purposes, the Convention Facilities Authority for Hamilton County, Ohio (the “CFA”), and the Greater Cincinnati Convention and Visitors Bureau, Inc. (the “GCCVB”); and a Residual TOT Fund Cooperative Agreement with the County, and, for limited purposes, the CFA and the GCCVB; and authorizing and approving related matters.

WHEREAS, the City of Cincinnati (the “City”) owns the Duke Energy Convention Center (the “DECC”) located at 525 Elm Street, on real property generally bounded by Elm Street, Fifth Street, Sixth Street, and Central Avenue in the Central Business District of Cincinnati; and

WHEREAS, despite regular maintenance and repairs, and necessary periodic capital improvements, the DECC has deteriorated and requires substantial renovation and capital improvements; and

WHEREAS, the City, the County of Hamilton, Ohio (the “County”), the Port of Greater Cincinnati Development Authority (the “Port Authority”), the Convention Facilities Authority for Hamilton County, Ohio (the “CFA”), the Greater Cincinnati Convention and Visitors Bureau, Inc. (the “GCCVB”), and Cincinnati Center City Development Corporation (“3CDC”) have determined to cooperatively advance the renovation, expansion, improvement, and development of the DECC and related properties in the Central Business District (altogether the “DECC Project”); and

WHEREAS, the City, the County, and the CFA are parties to a Cooperative Agreement, effective January 14, 2004, (as amended, and supplemented by a total of ten supplements, the “2004 Original Cooperative Agreement”), pursuant to and in accordance with which the CFA issued its \$69,890,000 Revenue Refunding and Improvement Bonds, Series 2014 (the “2014 CFA Bonds”), and the Port Authority issued its \$53,265,000 Refunding Revenue Bonds, Series 2023 (Convention Center Hotel Acquisition and Demolition Project) (the “2023 Millennium Bonds”); and

WHEREAS, the City anticipates the Port Authority’s issuance of bonds in a maximum principal amount of three hundred seventy million dollars (\$370,000,000) (the “TOT Bonds”) to refinance the 2014 CFA Bonds and the 2023 Millennium Bonds, and to finance a portion of the costs of the DECC Project; and

WHEREAS, pursuant to Section 5739.08(A) of the Ohio Revised Code (“R.C.”) and Ordinance No. 89-1969, as amended, supplemented, renewed, or restated, the City has levied an excise tax of one and one-half percent (1.50%) on transactions by which lodging by a hotel is or is to be furnished to transient guests within Cincinnati (including the revenues therefrom, the “City 1969 1.50% TOT”); and

WHEREAS, pursuant to R.C. Section 5739.08(A) and Ordinance No. 41-2002, as amended, supplemented, renewed, or restated, the City has levied an excise tax of one and one-half percent (1.50%) on transactions by which lodging by a hotel is or is to be furnished to transient guests within Cincinnati (including the revenues therefrom, the “City 2002 1.50% TOT”); and

WHEREAS, pursuant to R.C. Section 5739.09(B)(2) and Ordinance No. 311-2002, as amended, supplemented, renewed, or restated, the City has levied an excise tax of one percent (1.00%) on transactions by which lodging by a hotel is or is to be furnished to transient guests within Cincinnati (including the revenues therefrom, the “City 2002 1.00% TOT”); and

WHEREAS, the City has previously committed the City 1969 1.50% TOT toward the costs to operate and maintain the DECC (the “DECC O&M Costs”), and the City has determined it is in its best interest to continue to apply the City 1969 1.50% TOT toward payment of the DECC O&M Costs in accordance with a Cooperative Agreement (the “Cooperative Agreement”) by and among the City, the County, the Port Authority, and, for limited purposes, the CFA, and the GCCVB, which Cooperative Agreement will amend and restate in its entirety the 2004 Original Cooperative Agreement; and

WHEREAS, the City previously pledged the City 2002 1.50% TOT toward the payment of the Port Authority’s \$18,445,000 Tax-Exempt Development Revenue Bonds, Series 2021 (FC Cincinnati Public Improvements Project TOT Bonds) (the “FCC TOT Bonds”) pursuant to the Cooperative Agreement dated as of March 1, 2021, by and among the Port Authority, the City, West End Ventures LLC, and Fussball Club Cincinnati, LLC, and acknowledged by The Huntington National Bank, as Trustee (the “FCC TOT Bonds Cooperative Agreement”); and

WHEREAS, pursuant to the Cooperative Agreement, the City will pledge the City 2002 1.50% TOT to secure repayment of the TOT Bonds on a subordinate basis relative to the City’s pledge of the City 2002 1.50% TOT toward the repayment of the FCC TOT Bonds, as required by the terms of the FCC TOT Bonds Cooperative Agreement; and

WHEREAS, the City has determined to pledge the City 2002 1.00% TOT to secure repayment of the TOT Bonds on a senior basis; and

WHEREAS, the City has determined to further secure repayment of the TOT Bonds through a monetary contribution from the City in an amount not to exceed \$650,000 annually, subject to the annual appropriation of such amount by the City for such purpose; and

WHEREAS, the City has determined that it is in its best interest to apply the portion of the City 2002 1.50% TOT and the City 2002 1.00% TOT that are (a) pledged toward to the repayment of the TOT Bonds, but (b) not used to pay debt service and related costs of the TOT Bonds (the

“City Residual TOT”), to fund the purposes and efforts of the GCCVB and to be available to pay a portion of the costs of necessary future capital improvements to the DECC and related properties; and

WHEREAS, the City has determined to enter into a Residual TOT Fund Cooperative Agreement with the County, and, for limited purposes, the CFA and the GCCVB (the “Residual TOT Agreement”), to document the required application of the City Residual TOT and the portion of the County transient occupancy tax that is (a) pledged toward repayment of the TOT Bonds, but (b) not used to pay debt service and related costs of the TOT Bonds; and

WHEREAS, the City considers the DECC Project to be in the vital and best interests of the City and the health, safety, and welfare of its residents, and in accordance with the public purposes and provisions of applicable federal, state, and local laws and requirements, and for this reason the City desires to facilitate the DECC Project by applying the City 1969 1.50% TOT towards the DECC O&M Costs, pledging the City 2002 1.50% TOT and the City 2002 1.00% TOT toward repayment of the TOT Bonds pursuant to the Cooperative Agreement, and applying the City Residual TOT pursuant to and in accordance with the Residual TOT Agreement; now, therefore,

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

Section 1. Definitions. That when used in this ordinance, the following words shall have the indicated meanings:

“2014 CFA Bonds” means the CFA’s \$69,890,000 Revenue Refunding and Improvement Bonds, Series 2014, dated December 4, 2014.

“2023 Millennium Bonds” means the Port Authority’s \$53,265,000 Refunding Revenue Bonds, Series 2023 (Convention Center Hotel Acquisition and Demolition Project), dated April 27, 2023.

“City” means the City of Cincinnati, Ohio, a municipal corporation, and political subdivision of the State, duly organized and validly existing under the laws of the State.

“City 1969 1.50% TOT” means the excise tax of one and one-half percent (1.50%) on transactions by which lodging by a hotel is or is to be furnished to transient guests within Cincinnati, levied by the City pursuant to Section 5739.08(A) of the Ohio Revised Code (“R.C.”) and Ordinance No. 89-1969 of the City enacted on March 5, 1969, as amended, supplemented, renewed, or restated from time to time, including the revenues therefrom.

“City 2002 1.50% TOT” means the excise tax of one and one-half percent (1.50%) on transactions by which lodging by a hotel is or is to be furnished to transient guests within Cincinnati, levied by the City pursuant to R.C. Section 5739.08(A) and Ordinance No. 41-2002 of the City enacted on February 13, 2002, as amended, supplemented, renewed, or restated from time to time, including the revenues therefrom.

“City 2002 1.00% TOT” means the excise tax of one percent (1.00%) on transactions by which lodging by a hotel is or is to be furnished to transient guests within Cincinnati, levied by the City pursuant to R.C. Section 5739.09(B)(2) (now R.C. Section 5739.08(C)) and Ordinance No. 311-2002 of the City enacted on September 30, 2002, as amended, supplemented, renewed, or restated from time to time, including the revenues therefrom.

“City Residual TOT” means, during a given calendar year, the portion of the City 2002 1.50% TOT and the City 2002 1.00% TOT that are pledged toward the repayment of the TOT Bonds, but are not used to pay debt service or related costs of the TOT Bonds in such calendar year.

“Cooperative Agreement” means an Amended and Restated Cooperative Agreement among the County, the City, the Port Authority, and the Trustee, and, for certain limited purposes, the CFA and the GCCVB.

“CFA” means the Convention Facilities Authority for Hamilton County, Ohio, a body corporate and politic, duly organized and validly existing under the laws of the State.

“County” means the County of Hamilton, Ohio, a county and political subdivision of the State, duly organized and validly existing under the laws of the State.

“DECC” means the Duke Energy Convention Center, currently owned by the City, and located at 525 Elm Street, and located on real property generally bounded by Elm Street, Fifth Street, Sixth Street, and Central Avenue in the Central Business District of the City.



“DECC Project” means the renovation, expansion, improvement, and development of the DECC and related properties in the Central Business District.

“FCC TOT Bonds” means the Port Authority’s \$18,445,000 Tax-Exempt Development Revenue Bonds, Series 2021 (FC Cincinnati Public Improvements Project TOT Bonds).

“GCCVB” means the Greater Cincinnati Convention and Visitors Bureau, Inc., a not-for-profit corporation, duly organized and existing under the laws of the State.

“Port Authority” means the Port of Greater Cincinnati Development Authority, a port authority and political subdivision and body corporate and politic duly organized and validly existing under the laws of the State.

“Residual TOT Agreement” means a Residual TOT Fund Cooperative Agreement, substantially in the form attached hereto as Attachment A, between the City and the County, and for certain limited purposes, the CFA and the GCCVB.

“State” means the state of Ohio.

“TOT Bonds” means bonds to be issued by the Port Authority in a principal amount not to exceed three hundred seventy million dollars (\$370,000,000), the proceeds of which shall be used to pay debt service of and redeem all of the outstanding 2014 CFA Bonds and all of the outstanding 2023 Millennium Bonds and to pay a portion of the costs to renovate, expand, improve, and develop the DECC and related properties.

“Trustee” means a trust company or bank (having trust powers) in good standing, within or outside the State, approved by the City, the County, and the Port Authority, willing, qualified, and able to accept the trust upon reasonable and customary terms.

Section 2. Cooperative Agreement. That the City Manager is hereby authorized to execute the Cooperative Agreement, pursuant to which Cooperative Agreement, the City shall (a) apply the City 1969 1.50% TOT towards the payment of costs to operate and maintain the DECC, (b)

pledge the City 2002 1.50% TOT toward repayment of the TOT Bonds, which pledge shall be subordinate to the City's pledge of the City 2002 1.50% TOT towards repayment of any outstanding FCC TOT Bonds; (c) pledge on a senior basis the City 2002 1.00% TOT toward repayment of the TOT Bonds; and (d) further secure repayment of the TOT Bonds through a monetary contribution from the City in an amount not to exceed \$650,000 annually, subject to the annual appropriation of such amounts by the City for such purpose.

Section 3. Residual TOT Agreement. That the City Manager is hereby authorized to execute the Residual TOT Agreement, pursuant to which the City Residual TOT shall be applied to fund the purposes and efforts of the GCCVB and to make available funding to pay a portion of the costs of necessary future capital improvements to the DECC and related properties, which costs, among other costs, shall be paid in part with transient occupancy taxes of the County pledged toward the repayment of the TOT Bonds but not used to pay debt service and related costs of the TOT Bonds in a given calendar year.

Section 4. That the appropriate City officials are hereby authorized to do all things necessary and proper to carry out the provisions of Sections 2 and 3 of this ordinance, including, without limitation, entering into the Cooperative Agreement, entering into the Residual TOT Agreement and any other agreements, amendments, and other instruments pertaining to the TOT Bonds and the DECC Project.

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 to enable the City to execute the Cooperative Agreement and the Residual TOT Agreement at the

earliest possible time in order to facilitate the issuance of the TOT Bonds and completion of the DECC Project for the economic benefit of the people of the City of Cincinnati.

Passed: \_\_\_\_\_, 2024

---

Aftab Pureval, Mayor

Attest: \_\_\_\_\_  
Clerk

---

**RESIDUAL TOT FUND COOPERATIVE AGREEMENT**

**DATED \_\_\_\_\_, 2024**

*Among*

**COUNTY OF HAMILTON, OHIO**

*and*

**CITY OF CINCINNATI, OHIO,**

---

For certain limited purposes, the **Convention Facilities Authority for Hamilton County, Ohio** and the **Greater Cincinnati Convention and Visitors Bureau, Inc.** acknowledge and consent to certain matters as set forth herein.

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*All as such matters relate to the*

**CONVENTION CENTER**

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Acknowledgement and Consent (Convention Facilities Authority for Hamilton County, Ohio)  
Acknowledgement and Consent (Greater Cincinnati Convention and Visitors Bureau, Inc.)  
APPENDIX A-1 Certificate of Fiscal Officer (County)  
APPENDIX A-2 Certificate of Fiscal Officer (City)

**THIS RESIDUAL TOT FUND COOPERATIVE AGREEMENT** (this “Residual TOT Agreement”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2024, by and among (a) the **COUNTY OF HAMILTON, OHIO** (the “County”), a county and political subdivision of the State of Ohio (the “State”), duly organized and validly existing under the laws of the State, and (b) the **CITY OF CINCINNATI, OHIO** (the “City” and together with the County, the “Parties” or each in an individual capacity, a “Party”), a municipal corporation and political subdivision of the State, duly organized and validly existing under the laws of the State, in accordance with the terms and conditions set forth herein (all words and terms used herein with initial capital letters being used as defined in Article I of this Residual TOT Agreement). In addition, for certain limited purposes, the *Convention Facilities Authority for Hamilton County, Ohio* (the “CFA”), a body corporate and politic, duly organized and existing under the laws of the State, and the *Greater Cincinnati Convention and Visitors Bureau, Inc.* (the “GCCVB”), a not-for-profit corporation, duly organized and existing under the laws of the State, acknowledge and consent to certain matters as set forth herein.

**WHEREAS**, the County, the City, and the CFA entered into the 2004 Original Cooperative Agreement in order to facilitate and to prioritize the application of the County 3.50% Tax, the City 2002 1.50% Tax, and the City 2002 1.00% Tax, and to provide for the application of the City 1969 1.50% Tax to certain approved operating and maintenance expenses; and

**WHEREAS**, the County, the City, the Port Authority, and the Trustee entered into the Cooperative Agreement, dated the date hereof, thereby amending and restating the 2004 Original Cooperative Agreement for various purposes, including without limitation, to provide for the creation of the TOT Revenue Fund into which the County Net Tax Contribution and the City Net Tax Contribution shall be applied, contributed, and transferred; and

**WHEREAS**, pursuant to Sections 2.4(e) and 3.4(e) of the Cooperative Agreement, the County and the City have directed and instructed the Trustee to transfer to the County all moneys and related investments and funds remaining in the TOT Revenue Fund, including the portion of such moneys and related investments and funds consisting of amounts derived from the County Net Tax Contribution and the City Net Tax Contribution (as further described herein, the “Residual TOT Funds”), in accordance with this Residual TOT Agreement; and

**WHEREAS**, pursuant to Section 5.6 of the Cooperative Agreement, the Trustee has agreed to provide for the transfer of moneys in the TOT Revenue Fund, as Residual TOT Funds, in accordance with Sections 2.4(e) and 3.4(e) of the Cooperative Agreement; and

**WHEREAS**, the Parties desire to make such agreements, authorizations, representations, warranties, and covenants as are necessary and appropriate to transfer, deposit, apply, and allocate the Residual TOT Funds upon mutually agreeable terms and conditions; and accordingly, the Parties have determined to enter into this Residual TOT Agreement on the terms as hereinafter set forth;

**NOW, THEREFORE**, in consideration of the mutual agreements, authorizations, representations, warranties, and covenants hereinafter contained, the Parties agree as follows (provided that any obligation of the County and/or the City hereunder shall never constitute a general debt of the County or the City or give rise to any pecuniary liability of the County or the

City, but shall be payable solely from the Residual TOT Funds, all as provided in this Residual TOT Agreement):

[Remainder of this page intentionally left blank]



**ARTICLE I**  
**DEFINED TERMS; INTERPRETATION; CAPTIONS**

**SECTION 1.1. Use of Defined Terms.**

In addition to the words and terms defined elsewhere in this Residual TOT Agreement or by reference to another document, the words and terms set forth in Section 1.2 hereof shall have the meanings set forth therein unless the context or use clearly indicates another meaning or intent. Such definitions shall be equally applicable to both the singular and plural forms of any of the words and terms defined therein.

**SECTION 1.2. Definitions.**

“Authorized Representative” or “Authorized Representatives” means the Person or Persons at the time designated to act on behalf of each Party by written authorization furnished to one or more of the Parties containing the specimen signature of such authorized Person or Persons. Such certificate may designate an alternate or alternates who shall have the same authority, duties, and powers as the Authorized Representative or Authorized Representatives. In the event that all such incumbents become unavailable or otherwise unable to act and a Party fails to designate at least one alternate or replacement, then promptly after written notice is provided to the applicable Party or Parties of such unavailability or inability to act, the County Administrator of the County, the City Manager of the City, respectively, shall be the Authorized Representative for an affected Party or Parties.

“Business Day” means shall mean a day which is not (a) a Saturday or Sunday, (b) a day on which banking institutions in the State are authorized by law to close, or (c) a State holiday as defined in Section 124.19 of the Ohio Revised Code, as such section may be amended from time to time.

“Capital Improvement Reserve Amount” shall have the meaning set forth in the Cooperative Agreement.

“Capital Improvement Reserve Fund” shall have the meaning set forth in the Cooperative Agreement.

“City” means the “City” as defined in the preambles hereof.

“City Pro-Rata Portion of Residual TOT Funds” means the product of (a) the amount of Residual TOT Funds remaining in the Residual TOT Revenue Fund after the distributions described in Sections 2.3(c)(i) and 2.3(c)(ii) hereof, multiplied by (b) the ratio resulting from dividing the City Net Tax Contribution, as the numerator, by the sum of the City Net Tax Contribution plus the County Net Tax Contribution.

“City 1969 1.50% Tax” shall have the meaning set forth in the Cooperative Agreement.

“City 2002 1.50% Tax” shall have the meaning set forth in the Cooperative Agreement.

“City 2002 1.00% Tax” shall have the meaning set forth in the Cooperative Agreement.

“City Net Tax Contribution” shall have the meaning set forth in the Cooperative Agreement.

“CFA” means the “CFA” as defined in the preambles hereof.

“Convention Center” shall have the meaning set forth in the Cooperative Agreement.

“Cooperative Agreement” means the Amended and Restated Cooperative Agreement dated \_\_\_\_\_, 2024, by and among the County, the City, the Port Authority, and the Trustee (with the CFA and the GCCVB acknowledging and consenting to certain matters set forth therein).

“County” means the “County” as defined in the preambles hereof.

“County Net Tax Contribution” shall have the meaning set forth in the Cooperative Agreement.

“County Pro-Rata Portion of Residual TOT Funds” means the product of (a) the amount of Residual TOT Funds remaining in the Residual TOT Revenue Fund after the distributions described in Sections 2.3(c)(i) and 2.3(c)(ii) hereof, multiplied by (b) the ratio resulting from dividing the County Net Tax Contribution, as the numerator, by the sum of the City Net Tax Contribution plus the County Net Tax Contribution.

“County TOT” shall have the meaning set forth in the Cooperative Agreement.

“Effective Date” means the date of execution of this Residual TOT Agreement by the County and the City.

“GCCVB” means the “GCCVB” as defined in the preambles hereof.

“GCCVB Cumulative Deficit” means the amount, if any, by which (a) the cumulative GCCVB Residual Obligation since the Effective Date exceeds, (b) the cumulative GCCVB Residual Payment since the Effective Date, as determined as of December 31 of the immediately preceding calendar year, or if later the date on which the GCCVB Residual Amount is paid to the GCCVB with respect to such prior calendar year; provided, however, that the amount of the GCCVB Cumulative Deficit shall not increase at any time after the calendar year in which the GCCVB Residual Amount equals three million dollars (\$3,000,000). By way of example, if the amount of the GCCVB Residual Amount equals \$3,000,000 in calendar year 2027, the Cumulative Deficit may not increase in calendar year 2028, calendar year 2029, or any subsequent calendar year.

“GCCVB Residual Amount” means an amount in each calendar year not to exceed the lesser of (a) three million dollars (\$3,000,000), and (b) sixty-three percent (63%) of the Residual TOT Funds.

“GCCVB Residual Catch-Up Amount” means [an amount to be determined in each calendar year pursuant to a formula to be mutually agreed upon by the City, the County, and the GCCVB, which amount shall not exceed the GCCVB Cumulative Deficit at the time of the payment of any such amount.]

“GCCVB Residual Obligation” means an amount of \$3,000,000 per calendar year.

“GCCVB Residual Payment” means the sum of the GCCVB Residual Amount and the GCCVB Residual Catch-Up Amount, if any, distributed to the GCCVB in a particular calendar year.

“Northern Communities” means, collectively, suburban Hamilton County political subdivisions with substantial meeting, convention, and tourism infrastructure, as determined in the sole discretion of the County and which as of the Effective Date include the City of Sharonville, Ohio, and the City of Blue Ash, Ohio.

“Northern Communities Convention Facilities” means the convention facilities owned, operated, or controlled by one or more of the Northern Communities, including without limitation the Sharonville Convention Center, and the Cooper Creek Event Center.

“Northern Communities Initial Contribution Cap” means two million two hundred seventy thousand dollars (\$2,270,000).

“Northern Communities Convention Facilities Costs” means operating costs and capital costs of the Northern Convention Facilities to the extent such costs are eligible to be paid or reimbursed with County TOT Revenue.

“Parties” means “Parties” as defined in the preambles hereof.

“Party” means “Party” as defined in the preambles hereof.

“Permitted Investments” means investments which are consistent with investments and securities set forth in Chapter 135 of the Ohio Revised Code and not inconsistent with permitted investments pursuant to the City’s Municipal Charter, the City’s investment policy, and the County’s investment policy.

“Person” or words importing persons means, firms, associations, partnerships (including, without limitation, general, limited and limited liability partnerships), joint ventures, societies, estates, trusts, corporations, limited liability companies, public or governmental bodies, other legal entities, and natural persons.

“Port Authority” means the Port of Greater Cincinnati Development Authority, a port authority and political subdivision and body corporate and politic duly organized and validly existing under the laws of the State.

“Residual TOT Agreement” means this “Residual TOT Agreement” as defined in the preambles hereof, as amended, supplemented, restated, and/or renewed from time to time.

“Residual TOT Funds” shall have the meaning set forth in the Cooperative Agreement.

“Residual TOT Revenue Fund” means the Residual Transient Occupancy Tax Revenue Fund, a County-held fund created and administered pursuant to the terms of this Residual TOT Agreement, into which the Residual TOT Funds shall be deposited.

“TOT Revenue Fund” shall have the meaning set forth in the Cooperative Agreement.

“Trustee” shall have the meaning set forth in the Cooperative Agreement.

“2004 Original Cooperative Agreement” shall have the meaning set forth in the Cooperative Agreement.

**SECTION 1.3. Interpretation.**

Any reference herein to the County or the City, or to any governing authority member or officer thereof includes entities or officials succeeding to their respective functions, duties or responsibilities pursuant to or by operation of law or lawfully performing their functions.

Any reference to a section or provision of the Constitution of the State, or to a section, provision or chapter of the Ohio Revised Code, or to the City’s municipal code, or to any statute of the United States of America, includes that section, provision or chapter as amended, supplemented, renewed, restated, modified, revised, or superseded from time to time; provided, that no amendment, modification, revision, supplement or superseding section, provision or chapter shall be applicable solely by reason of this provision, if it constitutes in any way an impairment of the rights or obligations of the County or the City under this Residual TOT Agreement.

Unless the context indicates otherwise, words importing the singular number include the plural number, and vice versa; the terms “hereof”, “hereby”, “herein”, “hereto”, “hereunder” and similar terms refer to this Residual TOT Agreement; and the term “hereafter” means after, and the term “heretofore” means before, the Effective Date. Words of any gender include the correlative words of the other genders, unless the sense indicates otherwise.

**SECTION 1.4. Captions and Headings.**

The captions and headings in this Residual TOT Agreement are solely for convenience of reference and in no way define, limit, or describe the scope or intent of any Articles, Sections, subsections, paragraphs, subparagraphs or clauses hereof.

(End of Article I)

**ARTICLE II  
COUNTY REPRESENTATIONS AND COVENANTS**

**SECTION 2.1. Representations of County.**

The County represents that:

- (a) it is duly organized and validly existing under the laws of the State;
- (b) it has duly accomplished all conditions necessary to be accomplished by it prior to the execution and delivery of this Residual TOT Agreement;
- (c) it is not in violation of or in conflict with any provisions of the laws of the State which would impair its ability to carry out its obligations contained in this Residual TOT Agreement;
- (d) it is empowered to enter into the transactions contemplated by this Residual TOT Agreement;
- (e) it has duly authorized the execution, delivery and performance of this Residual TOT Agreement; and
- (f) it will do all things in its power in order to maintain its existence or assure the assumption of its obligations under this Residual TOT Agreement by any successor public body.

**SECTION 2.2. Covenant to Direct the Deposit of Residual TOT Funds.**

Other than as permitted by the terms of the Cooperative Agreement, the County hereby covenants not to take any action to repeal or rescind its direction to the Trustee to deliver the Residual TOT Funds to the County for deposit into the Residual TOT Revenue Fund to be invested, applied, allocated, and distributed in accordance with the terms of this Residual TOT Agreement.

**SECTION 2.3. Residual TOT Revenue Fund Establishment; Deposit to Residual TOT Revenue Fund; and Application and Allocation of Residual TOT Funds.**

- (a) ***Residual TOT Revenue Fund.*** The County agrees to create the Residual TOT Revenue Fund, which Residual TOT Revenue Fund shall be held by a financial institution determined by the County in its sole discretion, provided that the County shall promptly notify the City of the identity of such financial institution and any change in the institution with which any Residual TOT Funds are deposited. The Residual TOT Revenue Fund shall serve as the collective source of revenue resulting from the distribution of the Residual TOT Funds pursuant to the Cooperative Agreement for distribution as provided in this Residual TOT Agreement. Moneys in the Residual TOT Revenue Fund may be invested in a manner consistent with Permitted Investments in the sole discretion of the County after consultation with the City.

(b) ***Deposit to Residual TOT Revenue Fund.*** As directed by the County pursuant to Section 2.4(e) of the Cooperative Agreement, the Trustee shall transfer the Residual TOT Funds from the TOT Revenue Fund to the County on December 2 of each year, commencing on December 2, 20[24]. The County shall accept the Residual TOT Funds and deposit the Residual TOT Funds into the Residual TOT Revenue Fund upon receipt for application in a manner consistent with this Residual TOT Agreement.

(c) ***Application of Residual TOT Funds.*** Subject to the requirements of Section 2.4 hereof, each year after the deposit of the Residual TOT Funds into the Residual TOT Revenue Fund and prior to December 31 of each such year, the County agrees to and shall distribute all Residual TOT Funds held in the Residual TOT Revenue Fund in the amounts and in the order of priority as set forth below:

(i) to any institution with which the Residual TOT Funds have been deposited, the fees due and payable to such institution for services provided in connection with the deposit, application, and disbursement of Residual TOT Funds as described in this Residual TOT Agreement;

(ii) to the GCCVB an amount equal to the GCCVB Residual Amount;

(iii) during any year in which a GCCVB Cumulative Deficit exists, to the GCCVB the GCCVB Residual Catch-Up Amount;

(iv) to the City and the County in no particular order, the remainder of the Residual TOT Funds as follows:

(A) to the City the City Pro-Rata Portion of Residual TOT Funds;

(B) to the County the County Pro-Rata Portion of Residual TOT Funds other than amounts to be transferred to the Capital Improvement Reserve Fund pursuant to Section 2.3(d)(ii)(B)(II) hereof; and

(C) to the City seventeen percent (17%) of the County Pro-Rata Portion of Residual TOT Funds required to be deposited into the Capital Improvement Reserve Fund pursuant to Section 2.3(d)(ii)(B)(II) hereof.

(d) ***Application of County Pro-Rata Portion of Residual TOT Funds.*** The County agrees to distribute the County Pro-Rata Portion of Residual TOT Funds, on a pro-rata basis between the distributions to be made pursuant to Sections 2.3(d)(i) and (ii) hereof, as follows:

(i) Forty-five percent (45%) of the County Pro-Rata Portion of Residual TOT Funds shall be utilized by the County to advance initiatives, functions, and programs intended to generate additional County TOT revenue, as determined appropriate by the Board of County Commissioners of the County in consultation with the CFA, initially in the amounts and in the order of priority as set forth below:

(A) an amount up to but not to exceed three hundred fifty thousand dollars (\$350,000) annually shall be used to pay the costs to operate and maintain the Cincinnati Black Music Walk of Fame located within The Banks project within the City;

(B) an amount up to but not to exceed three hundred fifty thousand dollars (\$350,000) annually shall be used to pay the costs of marketing initiatives at the direction of the GCCVB;

(C) County Pro-Rata Portion of Residual TOT Funds to be distributed pursuant to Section 2.3(d)(i) and remaining unallocated after the allocations described in Sections 2.3(d)(i)(A) and (B) hereof shall be further allocated in equal amounts, and in no particular priority, to each of the purposes described in Sections 2.3(d)(i)(A) and (B) hereof to the extent the aggregate amount so allocated to each such purpose pursuant to Sections 2.3(d)(i)(A) through (C) hereof does not exceed \$500,000 respectively; and

(D) County Pro-Rata Portion of Residual TOT Funds to be distributed in accordance with Section 2.3(d)(i) hereof remaining unallocated after the allocations described in Section 2.3(d)(i)(C) hereof may be transferred to any other accounts and/or fund, and used by the County as permitted by law, as determined to be necessary and appropriate by the County in consultation with the CFA.

(ii) Fifty-five percent (55%) of the County Pro-Rata Portion of Residual TOT Funds shall be utilized by the County to pay Northern Convention Facilities Costs and operating and capital costs of the Convention Center, as determined necessary and appropriate by the Board of County Commissioners of the County, as set forth below:

(A) All amounts allocated and distributed in accordance with Section 2.3(d)(ii), equal to equal to fifty-five percent (55%) of the County Pro-Rata Portion of Residual TOT Funds, shall be distributed to or for the benefit of the Northern Communities for the payment of Northern Communities Convention Facilities Costs which are determined to be necessary and appropriate in the sole discretion of the County, until the aggregate amount distributed pursuant to this Section 2.3(d)(ii) equals the Northern Communities Initial Contribution Cap.

(B) All amounts allocated and distributed in accordance with Section 2.3(d)(ii) in excess of the Northern Communities Initial Contribution Cap, equal in the aggregate to fifty-five percent (55%) of the County Pro-Rata Portion of Residual TOT Funds, shall be allocated and distributed in the amounts and in the order of priority as follows:

(I) Thirty-eight percent (38%) of the County Pro-Rata Portion of Residual TOT Funds shall be distributed to or for the

benefit of the Northern Communities for the payment of Northern Communities Convention Facilities Costs which are determined to be necessary and appropriate in the sole discretion of the County;

(II) On or before December 31 of each applicable year, Seventeen percent (17%) of the County Pro-Rata Portion of Residual TOT Funds shall be transferred to the City for deposit into the Capital Improvement Reserve Fund pursuant to Section 2.3(c)(iv)(C) hereof. For the avoidance of doubt, the deposit to the Capital Improvement Reserve Fund pursuant to this Section 2.3(d)(ii)(B) shall be in addition to, and shall not constitute a portion of, the County's contribution towards funding the Capital Improvement Reserve Amount as described in the Cooperative Agreement.

(e) **Unconditional Obligation.** Provided adequate Residual TOT Funds exist, the obligations of the County under this Section 2.3 with respect to the Residual TOT Funds shall be absolute and unconditional. The County shall appropriate, make, and apply the Residual TOT Funds in the manner so directed herein and to the appropriate recipients, without abatement, diminution or deduction regardless of any cause or circumstances whatsoever, including but not limited to, any defense, setoff, recoupment or counterclaim that the County may have or assert against the City, any subsequent depositor of the Residual TOT Funds, the GCCVB, or any other Person.

**SECTION 2.4. Agreement Regarding Accounting and Reporting of Residual TOT Funds and County TOT.**

(a) No later than **[five (5) Business Days prior]** to each distribution of Residual TOT Funds pursuant to Section 2.3(c) hereof, the County shall submit to the City and the GCCVB written notice of the amounts to be distributed by or on behalf of the County pursuant to Section 2.3 hereof, along with the calculations supporting the County's determination of such amounts. Absent written objection from the City or the GCCVB **[within ten (10) days]** of the City and the GCCVB's written acknowledgment of receipt of such notice, the County may proceed with the distribution of Residual TOT Funds in accordance with Section 2.3(c) hereof.

(b) Upon receipt by the County of a timely objection by the City or the GCCVB to the amounts or recipients of the County's intended distributions as described in the notice provided to the City and the GCCVB pursuant to Section 2.4(a) hereof, the distributions to be made pursuant to Section 2.3(c) hereof shall not be made until the County, City, and GCCVB mutually agree upon the amounts and recipients of the Residual TOT Funds to be distributed; provided, however, that any City or GCCVB objections and agreements regarding the distribution of the Residual TOT Funds under this Section 2.4(b) shall be limited to the calculations of the amounts of such distributions and related quantifiable elements of Residual TOT Funds distributions.



(c) No later than ten (10) Business Days after the distributions to be made by or on behalf of the County pursuant to Section 2.3(c) hereof, the County shall provide to the City and the GCCVB written financial information detailing any distribution of Residual TOT Funds made by the County pursuant to Section 2.3(c) hereof.

(d) Upon the request of the City, the County shall provide to the City written financial information detailing amounts and timing of the receipt, application, and distribution by the County of the County TOT. Such financial information shall be provided by the County to the City in a reasonably prompt manner and no later than 10 Business Days upon receipt by the County of such request.

**SECTION 2.5. Agreements of County Subject to Enforcement by Mandamus.**

(a) All of the obligations under this Article II are established as duties specifically enjoined by law and resulting from an office, trust or station upon the County within the meaning of Ohio Revised Code Section 2731.01, providing for enforcement by writ of mandamus.

(End of Article II)

**ARTICLE III  
CITY REPRESENTATIONS AND COVENANTS**

**SECTION 3.1. Representations of City.**

The City represents that:

- (a) it is duly organized and validly existing under the laws of the State;
- (b) it has duly accomplished all conditions necessary to be accomplished by it prior to the execution and delivery of this Residual TOT Agreement;
- (c) it is not in violation of or in conflict with any provisions of the laws of the State which would impair its ability to carry out its obligations contained in this Residual TOT Agreement;
- (d) it is empowered to enter into the transactions contemplated by this Residual TOT Agreement;
- (e) it has duly authorized the execution, delivery and performance of this Residual TOT Agreement; and
- (f) it will do all things in its power in order to maintain its existence or assure the assumption of its obligations under this Residual TOT Agreement by any successor public body.

**SECTION 3.2. Covenant to Direct the Deposit of Residual TOT Funds.**

Other than as permitted by the terms of the Cooperative Agreement, the City hereby covenants not to take any action to repeal or rescind its direction to the Trustee to deliver the Residual TOT Funds to the County for deposit into the Residual TOT Revenue Fund to be invested, applied, allocated, and distributed in accordance with the terms of this Residual TOT Agreement.

**SECTION 3.3. Deposit to Residual TOT Revenue Fund; and Application and Allocation of Residual TOT Funds.**

- (a) ***Residual TOT Revenue Fund.*** The City recognizes and supports the establishment of the Residual TOT Revenue Fund by the County for the purpose of facilitating the arrangements under this Residual TOT Agreement and relies upon the ongoing existence and maintenance of the Residual TOT Revenue Fund, as well as the notification obligations of the County hereunder, for purposes of the City's ongoing compliance with the City's agreements and obligations under this Residual TOT Agreement.
- (b) ***Deposit to Residual TOT Revenue Fund.*** As directed by the City pursuant to Section 3.4(e) of the Cooperative Agreement, the Trustee shall transfer and the County shall accept the Residual TOT Funds from the TOT Revenue Fund to the Residual TOT Revenue Fund on December 2 of each year, commencing on December 2, 20[24].

(c) ***Application of Residual TOT Funds.*** Subject to Section 2.4 hereof, the City directs the County to distribute or cause to be distributed the Residual TOT Funds in accordance with Section 2.3(c) hereof and agrees to the distribution of Residual TOT Funds in the amounts and in the priority as set forth in Section 2.3(c) hereof.

(d) ***Application of City Pro-Rata Portion of Residual TOT Funds.*** Commencing on the Effective Date, the City hereby directs the County to remit one hundred percent (100%) of the City Pro-Rata Portion of Residual TOT Funds to the City for deposit into the Capital Improvement Reserve Fund. For the avoidance of doubt, the deposit to the Capital Improvement Reserve Fund pursuant to this Section 3.3(d) hereof shall be in addition to, and shall not constitute a portion of, the City's contribution towards funding the Capital Improvement Reserve Amount as described in the Cooperative Agreement.

(e) ***Remaining City Pro-Rata Portion of Residual TOT Funds.*** Other than the portion of the City Pro-Rata Portion of Residual TOT Funds required to be deposited in the Capital Improvement Reserve Fund pursuant to Section 3.3(d) hereof, the remaining City-Pro-Rata Portion of Residual TOT Funds may be used by the City as permitted by law in the sole discretion of the City.

(f) ***Unconditional Obligation.*** Provided adequate Residual TOT Funds exist, the obligations of and direction by the City under this Section 3.3 with respect to the Residual TOT Funds shall be absolute and unconditional. The City shall take all appropriate actions necessary to make available and apply the Residual TOT Funds in the manner so directed and described herein, without abatement, diminution or deduction regardless of any cause or circumstances whatsoever, including but not limited to, any defense, setoff, recoupment or counterclaim that the City may have or assert against the County, any subsequent depositor of the Residual TOT Funds, the GCCVB, or any other Person.

**SECTION 3.4. Agreement Regarding Acknowledgment of Notice and Reporting of City 2002 1.00% Tax and City 2002 1.50% Tax.**

(a) Upon receipt of written notice from the County pursuant to Section 2.4(a) hereof, the City shall promptly provide written acknowledgment of such notice to the County within five (5) Business Days of receipt, including any objection to the amounts to be distributed by or at the direction of the County pursuant to Section 2.3(c) hereof.

(b) Any written objection provided by the City to the County pursuant to Section 3.4 hereof shall include a quantitative basis for such objection, and the City agrees to cooperate with the County, and the GCCVB as applicable, to expeditiously resolve inconsistencies among the Parties regarding the amounts to be distributed under Section 2.3(c) hereof.

(c) Upon the request of the County, the City shall provide to the County written financial **[reports] [information]** detailing amounts and timing of the receipt, application, and distribution by the City of the City 2002 1.00% Tax and the City 2002 1.50% Tax. Such financial information shall be provided by the City to the County in a reasonably

prompt manner and no later than **[10 Business Days]** upon receipt by the City of such request.

**SECTION 3.5. Agreements of City subject to Enforcement by Mandamus.**

(a) All of the obligations under this Article III are established as duties specifically enjoined by law and resulting from an office, trust or station upon the City within the meaning of Ohio Revised Code Section 2731.01, providing for enforcement by writ of mandamus.

(End of Article III)

**ARTICLE IV  
MISCELLANEOUS**

**SECTION 4.1. Term of Agreement.**

This Residual TOT Agreement shall be and remain in full force and effect from the Effective Date until the date upon which (a) the Cooperative Agreement is no longer in effect, and (b) all funds on deposited in the Residual TOT Revenue Fund have been distributed in accordance with the terms of this Residual TOT Agreement.

**SECTION 4.2. Notices.**

All notices, certificates, requests or other communications hereunder shall be in writing and shall be deemed to be sufficiently given when mailed by registered or certified mail, postage prepaid, and addressed to the appropriate Notice Address. A duplicate copy of each notice, certificate, request or other communication given hereunder to the County, the City, or the GCCVB shall also be given to the others. The County, the City, or the GCCVB, by notice given hereunder, may designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent.

“Notice Address” means:

<i>As to the County:</i>	Board of County Commissioners of Hamilton County, Ohio County Administration Building 138 E. Court Street, Room 603 Cincinnati, Ohio 45202 Attention: President
<i>With a copy to:</i>	Hamilton County Administrator County Administration Building 138 E. Court Street, Room 603 Cincinnati, Ohio 45202
<i>And with a copy to:</i>	County Prosecuting Attorney of Hamilton County, Ohio William Howard Taft Center 230 East 9 <sup>th</sup> Street, Room 4000 Cincinnati, Ohio 45202
<i>As to the City:</i>	Office of the City Manager City of Cincinnati, Ohio City Hall 801 Plum Street, Room [150] Cincinnati, Ohio 45202 Attention: City Manager
<i>With a copy to:</i>	Department of Finance City of Cincinnati, Ohio City Hall 801 Plum Street, Room [250] Cincinnati, Ohio 45202 Attention: Director

<i>And with a copy to:</i>	Department of Law City of Cincinnati, Ohio City Hall 801 Plum Street, Room [214] Cincinnati, Ohio 45202 Attention: City Solicitor
<i>And with a copy to:</i>	Cincinnati Convention Center City of Cincinnati, Ohio 535 Elm Street Cincinnati, Ohio 45202 Attention: Manager
<i>As to the CFA:</i>	Hamilton County Convention Facilities Authority 138 E. Court Street, Room 603 Cincinnati, OH 45202 Attn: Chairperson
<i>With a copy to:</i>	Hamilton County Convention Facilities Authority 138 E. Court Street, Room 603 Cincinnati, OH 45202 Attn: Chairperson
<i>As to the GCCVB:</i>	_____ _____ _____
<i>With a copy to:</i>	_____ _____ _____

**SECTION 4.3. Binding Effect.**

This Residual TOT Agreement shall inure to the benefit of and shall be binding in accordance with its terms upon the County and the City and their respective permitted successors and assigns provided that this Residual TOT Agreement may not be assigned by the County or the City. This Residual TOT Agreement may be enforced only by the Parties, their assignees and others who may, by law, stand in their respective places.

**SECTION 4.4. Extent of Covenants; No Personal Liability.**

All covenants, obligations and agreements of the County and the City contained in this Residual TOT Agreement shall be effective to the extent authorized and permitted by applicable law. No such covenant, obligation or agreement shall be deemed to be a covenant, obligation or agreement of any present or future member, officer, agent or employee of the County or the City other than his or her official capacity.

**SECTION 4.5. Effective Date.**

This Residual TOT Agreement shall become effective and binding on the Effective Date.

**SECTION 4.6. Amendments, Supplements and Restatements.**

This Residual TOT Agreement may be amended, supplemented, renewed, and/or restated only by written agreement of the County and the City duly authorized by their respective governing bodies and signed by an Authorized Representative or Authorized Representatives; provided, however that provisions of this Residual TOT Agreement related to amounts payable to or for the benefit of the Northern Communities from the County Pro-Rata Portion of Residual TOT Funds are subject to approval by the CFA; and provided further, however, that the distributions described in Section 2.3(d) hereof may be altered in the discretion of the County, upon the approval of the CFA, without approval of the City so long as (a) prior to receipt of the entire Northern Communities Initial Contribution Cap by the Northern Communities, the percentage applied pursuant to Section 2.3(d)(ii) hereof is not reduced below fifty-five percent (55%) of the County Pro-Rata Portion of Residual TOT Funds, (b) regardless of whether the entire Northern Communities Initial Contribution Cap has been received by the Northern Communities, (i) the percentage applied pursuant to Section 2.3(d)(ii)(B)(I) hereof is not reduced below seventeen percent (17%) of the County Pro-Rata Portion of Residual TOT Funds, and (ii) regardless of whether the entire Northern Communities Initial Contribution Cap by the Northern Communities, the County Pro-Rata Portion of Residual TOT Funds applied pursuant to Section 2.3(d)(ii)(B)(I) continues to be deposited into the Capital Improvement Reserve Fund.

**SECTION 4.7. Execution Counterparts.**

This Residual TOT Agreement may be executed in several counterparts, each of which shall be an original and all of which together shall constitute but one and the same instrument. Executed counterparts transmitted electronically shall be binding on the parties hereto. The exchange of copies of this Residual TOT Agreement and of signature pages by facsimile or PDF transmission shall constitute effective execution and delivery of this Residual TOT Agreement as to the parties hereto and may be used in lieu of the original Residual TOT Agreement and signature pages for all purposes.

**SECTION 4.8. Severability.**

If any provision of this Residual TOT Agreement, or any covenant, obligation or agreement contained herein is determined by a court to be invalid or unenforceable, that determination shall not affect any other provision, covenant, obligation or agreement, each of which shall be construed and enforced as if the invalid or unenforceable portion were not contained herein. That invalidity or unenforceability shall not affect any valid and enforceable application thereof, and each such provision, covenant, obligation or agreement shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent permitted by law.

**SECTION 4.9. Limited Third-Party Beneficiaries.**

The provisions of this Residual TOT Agreement are for the exclusive benefit of the Parties hereto and not for the benefit of any third person, other than the CFA, the GCCVB, and the

Northern Communities to the extent that rights, title, interests, responsibilities, duties, obligations are accepted, acknowledged, conferred upon, consented to, or otherwise assigned, contributed, hypothecated, pledged, and/or transferred. In addition, this Residual TOT Agreement shall not be deemed to have conferred any rights, express or implied, upon any third person unless otherwise expressly provided for herein.

**SECTION 4.10. Governing Law.**

This Residual TOT Agreement shall be deemed to be a contract made under the laws of the State and for all purposes shall be governed by and construed in accordance with the laws of the State.

(End of Article VI)



[Signature page to Residual TOT Agreement]

**IN WITNESS WHEREOF**, the County and the City have caused this Residual TOT Agreement to be duly executed in their respective names on the dates written below.

**COUNTY OF HAMILTON, OHIO**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Approved as to form by the County Prosecutor

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**CITY OF CINCINNATI, OHIO**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Approved as to form by the City Solicitor

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**ACKNOWLEDGEMENT AND CONSENT  
(CONVENTION FACILITIES AUTHORITY FOR HAMILTON COUNTY, OHIO)**

The Convention Facilities Authority for Hamilton County, Ohio (“CFA”) hereby acknowledges and consents to the Residual TOT Agreement.

In consideration of responding to requests of the County to undertake certain responsibilities, while the Residual TOT Agreement remains in affect, the CFA hereby acknowledges and accepts its duties and responsibilities to advise the County on the allocation, distribution, and application of the County Pro-Rata Portion of Residual TOT Funds as described in the Residual TOT Agreement.

In addition, other than with respect to provisions of this Residual TOT Agreement related to amounts payable to or for the benefit of the Northern Communities from the County Pro-Rata Portion of Residual TOT Funds, which are subject to CFA approval, the CFA acknowledges and agrees that further amendments, supplements, and/or restatements of this Residual TOT Agreement may be made without its acknowledgement and/or consent.

**CONVENTION FACILITIES AUTHORITY  
FOR HAMILTON COUNTY, OHIO**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**ACKNOWLEDGEMENT AND CONSENT  
(GREATER CINCINNATI CONVENTION AND VISITORS BUREAU, INC.)**

The Greater Cincinnati Convention and Visitors Bureau, Inc. (“GCCVB”) acknowledges and consents to the Residual TOT Agreement.

For the purpose of providing adequate resources for the operation and maintenance of the Convention Center located a 525 Elm Street, Cincinnati, Ohio, the GCCVB hereby acknowledges and accepts the GCCVB Residual Payment to be distributed to the GCCVB as set forth in this Residual TOT Agreement. In addition, the GCCVB acknowledges and agrees that amendments, supplements, and/or restatements of this Residual TOT Agreement may be made without its acknowledgement and/or consent provided that any such amendments, supplements, and/or restatements do not have a Material Adverse Effect on the amount of the GCCVB Residual Payment.

**GREATER CINCINNATI CONVENTION AND  
VISITORS BUREAU, INC.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**APPENDIX A-1**  
**CERTIFICATE OF FISCAL OFFICER**  
**(COUNTY)**

Re: Residual TOT Fund Cooperative Agreement dated as of \_\_\_\_\_, 2024

The undersigned, County Auditor, as the fiscal officer of the County of Hamilton, Ohio (the "County") hereby certifies that the moneys required to meet the obligations of the County during the current fiscal year, as provided for in this Residual TOT Agreement have been lawfully appropriated by the County for such purposes and are in the treasury of the County or in the process of collection to the credit of an appropriate fund, free from any appropriation for any other purpose and from any previous encumbrances. This Certificate is given in compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.

\_\_\_\_\_  
County Auditor

Dated: \_\_\_\_\_, 2024

**APPENDIX A-2  
CERTIFICATE OF FISCAL OFFICER  
(CITY)**

Re: Residual TOT Fund Cooperative Agreement dated as of \_\_\_\_\_, 2024

The undersigned, Director of Finance, as the fiscal officer of the City of Cincinnati, Ohio (the "City") hereby certifies that the moneys required to meet the obligations of the City during the current fiscal year, as provided for in this Residual TOT Agreement have been lawfully appropriated by the City for such purposes and are in the treasury of the City or in the process of collection to the credit of an appropriate fund, free from any appropriation for any other purpose and from any previous encumbrances. This Certificate is given in compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.

\_\_\_\_\_  
Director of Finance

Dated: \_\_\_\_\_, 2024

0102791.0778755 4869-7924-4450v1

January 31, 2024

**To:** Mayor and Members of City Council 202400397  
**From:** Sheryl M. M. Long, City Manager  
**Subject:** Emergency Ordinance – **Convention Center 725 Bond Ordinance**

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Transmitted is an Emergency Ordinance captioned:

**PROVIDING FOR THE ISSUANCE, SALE, AND DELIVERY OF NOT TO EXCEED \$23,000,000 OF ECONOMIC DEVELOPMENT REVENUE BONDS (CONVENTION CENTER RENOVATION URBAN RENEWAL PROJECT), OR NOTES IN ANTICIPATION THEREOF, OF THE CITY OF CINCINNATI, COUNTY OF HAMILTON, STATE OF OHIO, FOR THE PURPOSE OF PROVIDING FUNDS FOR THE IMPROVEMENT OF THE DUKE ENERGY CONVENTION CENTER AND ADJACENT PROPERTIES; AUTHORIZING A PLEDGE AND LIEN ON CERTAIN REVENUES AND OTHER CITY RESOURCES, AS APPROPRIATE, TO SECURE SUCH BONDS OR NOTES; AND AUTHORIZING NECESSARY DOCUMENTS TO SECURE SUCH BONDS OR NOTES.**

The Administration Recommends Passage of this Emergency Ordinance.

cc: William “Billy” Weber, Assistant City Manager

EMERGENCY

City of Cincinnati

IESW

An Ordinance No. \_\_\_\_\_

- 2024

**PROVIDING FOR THE ISSUANCE, SALE, AND DELIVERY OF NOT TO EXCEED \$23,000,000 OF ECONOMIC DEVELOPMENT REVENUE BONDS (CONVENTION CENTER RENOVATION URBAN RENEWAL PROJECT), OR NOTES IN ANTICIPATION THEREOF, OF THE CITY OF CINCINNATI, COUNTY OF HAMILTON, STATE OF OHIO, FOR THE PURPOSE OF PROVIDING FUNDS FOR THE IMPROVEMENT OF THE DUKE ENERGY CONVENTION CENTER AND ADJACENT PROPERTIES; AUTHORIZING A PLEDGE AND LIEN ON CERTAIN REVENUES AND OTHER CITY RESOURCES, AS APPROPRIATE, TO SECURE SUCH BONDS OR NOTES; AND AUTHORIZING NECESSARY DOCUMENTS TO SECURE SUCH BONDS OR NOTES.**

WHEREAS, the City of Cincinnati (the “City”) seeks to create and preserve jobs and employment opportunities within the corporate boundaries of the City in order to improve the economic welfare of the people of the City and the State of Ohio in furtherance of the public purposes set forth in Article VIII, Section 13 of the Ohio Constitution (the “Authorized Purposes”); and

WHEREAS, the City owns the Duke Energy Convention Center (the “DECC”) located at 525 Elm Street, and generally bounded by Elm Street, Fifth Street, Sixth Street and Central Avenue in the Central Business District of Cincinnati (the “DECC Site”); and

WHEREAS, although the City has provided day-to-day maintenance and repairs and completed periodic capital improvements to the DECC, the DECC has deteriorated in recent years and is in need of substantial renovation, which will include significant capital repairs and improvements; and

WHEREAS, the City currently anticipates vacating a portion of Elm Street right-of-way located between Sixth Street and Fifth Street for potential consolidation with the parcel upon which the DECC is situated or to be owned as a standalone parcel by the City (the “Elm Street Parcel”); and

WHEREAS, the Port of Greater Cincinnati Development Authority currently owns certain real property upon which the former Millenium Hotel was located, generally bounded by Elm Street, Fifth Street, Sixth Street, and the 84.51 headquarters building (the “Millenium Site” and, collectively with the DECC Site and the Elm Street Parcel, the “Project Site”); and

WHEREAS, the City, the Board of Commissioners of Hamilton County, Ohio (the “County”) and 3CDC Development Manager, LLC (“Manager”) will enter into a Development Agreement, pursuant to which Manager has agreed to provide development management and project implementation services related to the management of the renovation of the DECC and the redevelopment of the Project Site (collectively, the “Project”); and

WHEREAS, the total estimated cost (including, without limitation, hard construction costs, soft costs, acquisition costs, and costs of issuance) of the Project is approximately \$200,000,000; and

WHEREAS, the Project Site constitutes an urban renewal area, and the Project constitutes an urban renewal project, each for purposes of Ohio Revised Code Chapter 725; and

WHEREAS, Council by this ordinance authorizes the issuance of urban renewal bonds or notes to finance a portion of the cost of the Project in furtherance of the Authorized Purposes; now, therefore,

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

Section 1. Definitions. That when used in this ordinance, and the Indenture (as hereinafter defined), if any, the following words shall have the indicated meanings:

“Authorized Officer” means any officer, member, or employee of the Issuer authorized by a certificate of the Executive to perform the act or sign the document in question, and if there is no such authorization, means the Executive.

“Bond” or “Bonds” means the Issuer’s not to exceed \$23,000,000 Economic Development Revenue Bonds (Convention Center Renovation Urban Renewal Project), Series 2024, to be issued in a manner determined by the Fiscal Officer.

“Bondholder,” “Holder,” “holder of Bonds,” “owner of Bonds” or any similar term means any person in whose name a Bond or Note is registered on the Bond Register.

“Bond Legislation” means this ordinance.

“Bond Register” means the records for the registration and transfer of Bonds or Notes maintained by the institution appointed as registrar and paying agent pursuant to the Fiscal Officer’s Certificate or by the Trustee as Bond registrar pursuant to the Indenture.

“Bond Service Charges” means the principal, interest, and any premium required to be paid on any Bonds or Notes.

“Code” means the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder.

“Executive” means the City Manager or any Assistant City Manager of the Issuer.

“Fiscal Officer” means the Director of Finance, as Fiscal Officer of the Issuer.

“Fiscal Officer’s Certificate” means the certificate executed by the Fiscal Officer setting forth any terms relating to the issuance of the Bonds or Notes which are not specified in this Bond Legislation.

“Indenture” means the Trust Agreement (if any) to be dated as of such date as is selected by the Fiscal Officer by and between the Issuer and the Trustee securing the Bonds or Notes, as the same may be amended as provided therein.



**“Interest Payment Date” or “interest payment date” means, as to the Bonds or Notes, the dates designated as such in the Indenture or the Fiscal Officer’s Certificate.**

**“Issuer” means the City of Cincinnati, Hamilton County, Ohio.**

**“Issuing Authority” means the City Council of the Issuer.**

**“Legal Officer” means the City Solicitor of the Issuer.**

**“outstanding Bonds” or “Bonds outstanding” or “outstanding” as applied to Bonds, means, as of the applicable date, all Bonds which have been authenticated and delivered, or are then being delivered, by the Issuer pursuant to this Bond Legislation and the Fiscal Officer’s Certificate or by the Trustee under the Indenture, as applicable, except:**

**(a) Bonds cancelled on surrender, exchange or transfer or cancelled because of payment at or prior to such date;**

**(b) Bonds for the payment, redemption or purchase for cancellation of which sufficient monies have been deposited and credited for the purpose on or prior to that date in the Bond Fund, or other fund or account or with the Trustee or Paying Agent (whether upon or prior to the maturity of those Bonds); and provided that if any of those Bonds are to be purchased for cancellation a firm offer for sale stating the price shall have been received and accepted;**

**(c) Bonds which are deemed to have been paid pursuant to the provisions of the Indenture or any Bonds which are deemed to have been paid pursuant to the provisions of this Bond Legislation and the Fiscal Officer’s Certificate; and**

**(d) Bonds in lieu of which others have been authenticated under the Indenture or this Bond Legislation and the Fiscal Officer’s Certificate.**

**“Notes” means notes issued in anticipation of the issuance of the Bonds.**

**“Paying Agent” means the Trustee or its lawful successor, or the registrar and paying agent appointed pursuant to the Fiscal Officer’s Certificate, as applicable.**

**“person” or “Person” or words importing persons means firms, associations, partnerships (including, without limitation, general and limited partnerships), joint ventures, societies, estates, trusts, corporations, public or governmental bodies, other legal entities and natural persons.**

**“Revenues” means all Service Payments in Lieu of Taxes received by the City pursuant to Chapter 725 of the Ohio Revised Code and deposited into the Urban Renewal Debt Retirement Fund excluding amounts necessary to make annual principal and interest payments on any and all Bonds or Notes issued pursuant to Chapter 725 of the Ohio Revised Code, which were issued prior to the issuance of the Bonds or Notes provided for in this Ordinance.**

**“State” means the State of Ohio.**

**“Trustee” means the bank or trust company that is appointed or any successor trustee under the terms of the Indenture, if any.**

Any reference to the Issuer, the Issuing Authority, or to their members, officers or to other public officers, boards, commissions, departments, institutions, agencies, bodies or entities shall include those which succeed to their functions, duties or responsibilities by operation of law, and also those who at the time may legally act in their place.

References to any act or resolution of the Ohio General Assembly, or to a section, chapter, division, paragraph, or other provision of the Ohio Revised Code or the Constitution of Ohio, or the laws of Ohio, shall include that act or resolution, and that section, chapter, division, paragraph or other provision and those laws as from time to time amended, modified, supplemented, revised, or superseded, unless expressly stated to the contrary, provided that no such amendment, modification, supplementation, revision or supersession shall alter the obligation to pay the Bond Service Charges on Bonds or Notes outstanding, at the time of any such action, in the amount and manner, at the times and from the sources provided in the Bond Legislation and the Indenture, except as otherwise herein permitted.

Unless the context otherwise indicates, words importing the singular number shall include the plural number and words importing the plural number shall include the singular number. The terms "hereof," "herein," "hereby," "hereto" and "hereunder," and similar terms, means both the Bond Legislation and the Indenture, except in the case of reference to a stated section number of either.

**Section 2. Determinations by Issuing Authority.** The Issuing Authority hereby finds and determines that it is necessary to issue, sell, and deliver the Bonds in the principal amount of not to exceed \$23,000,000 upon the terms set forth herein, as supplemented by the Indenture or the Fiscal Officer's Certificate, for the purpose of providing funds for the renovation of the Duke Energy Convention Center and the redevelopment of adjoining properties thereto, all generally bounded by the 84.51 headquarters building, Fifth Street, Sixth Street, and Central Avenue (the "Project"), all as allowable by law; which costs may include, without limitation, acquisition, demolition, hard construction costs, and other capital costs for the Project; all as allowable by law; such principal amount may be increased by the amounts necessary to fund a debt service reserve fund (if needed), capitalized interest (if any), costs of issuance, and other necessary and permitted costs, all as determined by the Fiscal Officer. The officers specified herein are authorized to execute and deliver the documents necessary or appropriate in order to secure the Bonds or Notes.

Council hereby determines that the issuance of the Bonds will be for a proper public and municipal purpose and in the best interest of the Issuer.

**Section 3. Terms of the Bonds.**

(a) **Form, Denominations, and Dates.** The Bonds shall be designated "Economic Development Revenue Bonds (Convention Center Renovation Urban Renewal Project)," shall be negotiable instruments, shall be issued only in fully registered form, without coupons, and shall express upon their faces the purpose for which they are issued. The Bonds shall be dated as of their date of issuance, shall be numbered as determined by the Bond registrar or by the Trustee as Bond registrar, and shall be issued in denominations of \$5,000 or any integral multiple thereof or as otherwise provided in the Fiscal Officer's Certificate. The Bonds shall be exchangeable for other Bonds in the manner and upon the terms set forth in the Indenture or the Fiscal Officer's Certificate.

(b) Execution, Interest Rates, and Maturities. The Bonds shall be executed by the signatures of the Mayor and Fiscal Officer of the Issuer and shall bear the official seal of the Issuer (provided that both of such signatures and such seal may be facsimiles), and shall bear the manual authenticating signature of an authorized signer of the Bond registrar or the Trustee, as appropriate. The Bonds shall bear interest from the most recent date to which interest has been paid or duly provided for, or, if no interest has been paid or duly provided for, from their dates. The Bonds shall mature or be subject to mandatory sinking fund redemption at the times and in the respective principal amounts, and such principal amounts shall bear interest payable semiannually on each Interest Payment Date, at the respective rates per annum not to exceed 6.00%, as determined by the Fiscal Officer (after negotiation, if the Bonds are sold, with the original purchaser of the Bonds) and set forth in the Fiscal Officer's Certificate or in a bond purchase agreement, as applicable. All Bonds shall finally mature not later than as allowable by law.

(c) Optional Redemption. The Bonds of the maturities specified in the Fiscal Officer's Certificate or, if applicable, in the bond purchase agreement shall be subject to redemption, in the manner provided in the Fiscal Officer's Certificate or the Indenture, as applicable, at the option of the Issuer, by lot, either in whole or in part, on any date, and at the redemption prices (expressed as percentages of the principal amount to be redeemed) set forth in the Fiscal Officer's Certificate or Indenture, as applicable, plus accrued interest to the date fixed for redemption.

(d) Payment. Bond Service Charges with respect to the Bonds shall be payable in lawful money of the United States of America without deduction for the services of the Trustee or the Paying Agent, in the manner provided in the Fiscal Officer's Certificate or the Indenture, as applicable.

Section 4. Issuance of Notes. If the Fiscal Officer, in the exercise of his or her judgment, determines that it is preferable that notes rather than bonds be issued initially, there are hereby authorized Notes in the aggregate principal amount of not to exceed \$23,000,000 which may be issued in anticipation of the issuance of a like principal amount of said bonds for the purpose described in Section 2 hereof. Such Notes shall be issued in such numbers and denominations as may be determined by the Fiscal Officer; shall bear interest at a rate or rates not in excess of the legal maximum rate of interest, if any, for obligations of this type under Ohio law, as shall be approved by the Fiscal Officer, payable on such dates as are determined by the Fiscal Officer; shall be dated as of their date of issuance; shall mature on such date or dates as may be selected by the Fiscal Officer; may be callable in whole or in part at any time prior to maturity as approved by the Fiscal Officer; may be issued in installments as approved by the Fiscal Officer; shall be designated "Economic Development Revenue Bond Anticipation Notes (Convention Center Renovation Urban Renewal Project)"; and shall be payable as to principal at the office of the Paying Agent or the office of the Treasurer of the City, and the interest thereon shall be paid by the Paying Agent or the office of the Treasurer of the City on each Interest Payment Date to the holders of the Notes. Said Notes shall bear the signature of the Mayor, which may be a facsimile, and the manual signature of the Fiscal Officer, shall bear the corporate seal of the City, and shall express on their faces the purpose for which they are issued and that they are issued pursuant to this ordinance.

Section 5. Sale of the Bonds or Notes. The Bonds or Notes shall first be offered to the City Treasurer as the officer in charge of the City's Bond Retirement Fund and, if not taken by

the Treasurer, may be offered to the Treasury Investment Account for purchase and, if not offered to or taken by such Account, shall be awarded and sold at public or private sale, in the sound discretion of the Fiscal Officer without further action by Council, at such price as is determined by the Fiscal Officer, plus accrued interest on the aggregate principal amount of the Bonds or Notes from their dates to the date of delivery and payment. The Executive or Fiscal Officer is hereby authorized to make arrangements for the delivery of the Bonds or Notes to, and payment therefor by, the purchaser or purchasers thereof at the price determined by the Fiscal Officer; and the Executive or Fiscal Officer is hereby authorized to execute a purchase agreement for the Bonds or Notes, if applicable, without further action by Council.

Section 6. Allocation of Proceeds of the Bonds or Notes. The proceeds received by the Issuer from the sale of the Bonds or Notes shall be allocated, and are hereby appropriated, in the amounts, and to the funds, set forth in the Fiscal Officer's Certificate or the Indenture, as applicable.

Section 7. Security for the Bonds or Notes. The security for the Bonds or Notes shall be a pledge of Revenues or any other permissible funds determined by the Fiscal Officer and further described in the Indenture or the Fiscal Officer's Certificate, and a lien upon the Revenues is hereby granted for such purpose.

The Executive and the Fiscal Officer, in their sound discretion, are hereby authorized to further secure the Bonds or Notes by pledging toward payment of the Bonds or Notes other moneys not raised by taxation received by the Issuer, in the order and to the extent that they deem necessary or appropriate to obtain a favorable interest rate on the Bonds. The Executive and Fiscal Officer are further authorized to evidence such additional security in whatever manner they deem appropriate, and to execute and deliver any documents necessary to that end. Anything in the Indenture, the Bond Legislation or the Bonds or Notes notwithstanding, neither the Indenture, the Bond Legislation, nor the Bonds or Notes will constitute a debt, or a pledge of the faith, credit or taxing power of the Issuer, the State or any political subdivision thereof, and the holders or owners of the Bonds or Notes shall have no right to have taxes levied by the Issuing Authority, the General Assembly of the State, or the taxing authority of any political subdivision of the State for the payment of the Bond Service Charges, and the Bonds or Notes shall contain on their faces a statement to that effect. Nothing herein shall be deemed to prohibit the Issuer from lawfully using, of its own volition, any of its general resources, including lawfully available City income tax revenues, for the fulfillment of any of the terms and conditions of the Indenture, the Bond Legislation, or the Bonds or Notes; provided, that no moneys raised by taxation are obligated or pledged therefore.

The Executive and the Fiscal Officer are hereby authorized to make provision in the Indenture securing such Bonds or Notes for: the application of the Revenues; creation of such funds as are necessary or appropriate; investment of moneys in such funds; use of such funds; recordkeeping; such covenants of the Issuer as are necessary or appropriate; and such other matters as are customary or appropriate to be contained in the Indenture.

Section 8. Execution of the Indenture and Other Documents. The Executive and the Fiscal Officer are each hereby authorized to execute, acknowledge, and deliver, on behalf of the Issuer, to the Trustee the Indenture (if any).

The Fiscal Officer is hereby authorized to exercise his or her discretion in order to set the terms contained in the Fiscal Officer's Certificate and to execute and deliver the same.

The Executive and the Fiscal Officer are each hereby separately authorized to take any and all actions and to execute such other instruments that may be necessary or appropriate in the opinion of nationally recognized bond counsel, in order to effect the issuance of the Bonds or Notes and the intent of the Bond Legislation. The Fiscal Officer, or other appropriate officer of the Issuer, shall certify a true transcript of all proceedings had with respect to the issuance of the Bonds or Notes, along with such information from the records of the Issuer as is necessary to determine the regularity and validity of the issuance of the Bonds or Notes.

This Bond Legislation shall constitute a part of the Indenture as therein provided and for all purposes of the Indenture, including, without limitation, application to the Bond Legislation of the provisions in the Indenture relating to amendment, modification and supplementation, and provisions for severability.

The Fiscal Officer is hereby authorized to appoint a trustee, paying agent and registrar for the Bonds or (if necessary) the Notes.

**Section 9. Offering Document.** That if deemed necessary by bond counsel, the Executive and the Fiscal Officer are each separately authorized to execute and deliver a preliminary offering document and a final document on behalf of the Issuer, which shall be in such form as such officers may approve, their execution thereof on behalf of the Issuer to be conclusive evidence of such approval, and copies thereof are hereby authorized to be prepared and furnished to the original purchaser of the Bonds or Notes for distribution to prospective purchasers of the Bonds or Notes and other interested persons.

The Executive and the Fiscal Officer on behalf of the Issuer, and each of them separately on behalf of the Issuer, are hereby authorized to furnish such information, to execute such instruments and to take such other actions in cooperation with the original purchaser of the Bonds or Notes as may be reasonably requested to qualify the Bonds or Notes for offer and sale under the Blue Sky or other securities laws and regulations and to determine their eligibility for investment under the laws and regulations of such states and other jurisdictions of the United States of America as may be designated by the original purchaser; provided however, that the Issuer shall not be required to register as a dealer or broker in any such state or jurisdiction or become subject to the service of process in any jurisdiction in which the Issuer is not now subject to such service.

**Section 10. Taxability.** As to any Bonds or Notes which constitute obligations the interest on which is excludable from gross income for federal income tax purposes under the Code, Council, for and on behalf of the City, hereby covenants that it will restrict the use of the proceeds of the Bonds or Notes hereby authorized in such manner and to such extent, if any, and take such other actions as may be necessary, after taking into account reasonable expectations at the time the debt is incurred, so that they will not constitute obligations the interest on which is subject to federal income taxation or that they will not constitute "arbitrage bonds" under Sections 103(b)(2) and 148 of the Code. The Fiscal Officer or any other officer having responsibility with respect to the issuance of the Bonds or Notes is authorized to give an appropriate certificate on behalf of the City on the date of delivery of the Bonds or Notes for inclusion in the transcript of proceedings, setting forth the facts, estimates and circumstances and

reasonable expectations pertaining to the use of the proceeds thereof and the provisions of said Sections 103(b)(2) and 148 and regulations thereunder.

These Bonds or Notes are not designated “qualified tax-exempt obligations” for the purposes set forth in Section 265(b)(3) of the Code.

Section 11. Severability. Should it be judicially determined by a court having jurisdiction to pass upon the validity of the Bond Legislation, the Indenture or the Bonds or Notes, that any provision of the Bond Legislation is beyond the powers of the Issuing Authority or the Issuer, or is otherwise invalid, then such decision shall in no way affect the validity of the Bond Legislation, the Indenture or the Bonds or Notes, or any proceedings related thereto, except as to the particular matters found by such decision to be invalid.

Section 12. Book Entry Bonds or Notes. The Issuing Authority hereby determines that these Bonds or Notes may but are not required to be issued in Book-Entry-Only form through The Depository Trust Company, New York, New York. The Letter of Representations to The Depository Trust Company from the City, dated March 21, 1995, as supplemented from time to time, is hereby ratified and confirmed.

So long as these Bonds or Notes are in Book-Entry-Only form, the following covenants and agreements of the Issuer shall be in effect:

(a) Definitions.

“Beneficial Owner” means the person in whose name a Bond or Note is recorded as the beneficial owner of such Bond or Note by the respective systems of DTC and each of the DTC Participants.

“CEDE & Co” means CEDE & Co, the nominee of DTC, and any successor nominee of DTC with respect to the Bonds or Notes.

“DTC” means The Depository Trust Company, a limited purpose trust company organized under the laws of the State of New York, and its successors and assigns.

“DTC Participant” means banks, brokers or dealers who are participants of DTC.

“Letter of Representations” means the Letter of Representations dated March 21, 1995, as supplemented from time to time, from the City and the Paying Agent and Registrar, to DTC with respect to the Bonds or Notes, which shall be the binding obligation of the City and the Paying Agent and Registrar.

The Bonds or Notes shall initially be issued in global book entry form registered in the name of CEDE & Co, as nominee for DTC.

While in book entry form, payment of interest for any Bond or Note registered in the name of CEDE & Co shall be made by wire transfer or such other manner as permitted by the Letter of Representations, to the account of CEDE & Co on the Interest Payment Date or the redemption date at the address indicated for CEDE & Co in the bond register.

**(b) Book Entry Bonds or Notes.**

(i) Except as provided in Section 12(c) hereof, the registered owner of all of the Bonds or Notes shall be DTC and the Bond or Notes shall be registered in the name of CEDE & Co, as nominee for DTC. The City and the Paying Agent and Registrar shall supplement (with a description of the bonds) the Letter of Representations with DTC, and the provisions of such Letter of Representations shall be incorporated herein by reference.

(ii) The Bonds or Notes shall be initially issued in the form of single fully registered global certificates in the amount of each separate stated maturity of the Bonds or Notes. Upon initial issuance, the ownership of such Bonds or Notes shall be registered in the City's bond register in the name of CEDE & Co, as nominee of DTC. The Paying Agent and Registrar and the City may treat DTC (or its nominee) as the sole and exclusive registered owner of the Bonds or Notes registered in its name for the purposes of payment of the principal, or redemption price of or interest on the Bonds or Notes, selecting the Bonds or Notes or portions thereof to be redeemed, giving any notice permitted or required to be given to Bondholders under this ordinance, registering the transfer of Bonds or Notes, obtaining any consent or other action to be taken by Bondholders and for all other purposes whatsoever; and neither the Paying Agent and Registrar nor the City shall be affected by any notice to the contrary. Neither the Paying Agent and Registrar nor the City shall have any responsibility or obligation to any DTC Participant, any person claiming a beneficial ownership interest in the Bonds or Notes under or through DTC or any DTC Participant, or any other person which is not shown on the registration books of the Paying Agent and Registrar as being a registered owner, with respect to the accuracy of any records maintained by DTC or any DTC Participant; the payment of DTC or any DTC Participant of any amount in respect of the principal or redemption price of or interest on the Bonds or Notes; any notice which is permitted or required to be given to Bondholders under this ordinance; the selection by DTC or any DTC Participant of any person to receive payment in the event of a partial redemption of the Bonds or Notes; or any consent given or other action taken by DTC as Bondholder. The Paying Agent and Registrar shall pay from moneys available hereunder all principal of, and premium, if any, and interest on the Bonds or Notes only to or "upon the order of" DTC (as that term is used in the Uniform Commercial Code as adopted in the State of Ohio), and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to the principal of, and premium, if any, and interest on the Bonds or Notes to the extent of the sum or sums so paid. Except as otherwise provided in Section 12(c) hereof, no person other than DTC shall receive an authenticated Bond certificate for each separate stated maturity evidencing the obligation of the City to make payments of principal of, and premium, if any, and interest pursuant to this ordinance. Upon delivery by DTC to the Paying Agent and Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of CEDE & Co, and subject to the provisions of this ordinance with respect to transfers of Bonds or Notes, the word "CEDE & Co" in this ordinance shall refer to such new nominee of DTC.

(c) Delivery of Bond Certificates.

In the event the City determines that it is in the best interest of the Beneficial Owners that they be able to obtain Bond certificates, the City may notify DTC and the Paying Agent and Registrar, whereupon DTC will notify the DTC Participants, of the availability through DTC of Bond certificates. In such event, the Paying Agent and Registrar shall issue, transfer and exchange, at the City's expense, Bond certificates as requested by DTC in appropriate amounts. DTC may determine to discontinue providing its services with respect to the Bonds or Notes at any time by giving notice to the City and the Paying Agent and Registrar and discharging its responsibilities with respect thereto under applicable law. Under such circumstances (if there is no successor securities depository), the City and Paying Agent and Registrar shall be obligated to deliver Bond certificates as described in this ordinance, provided that the expense in connection therewith shall be paid by DTC. In the event Bond certificates are issued, the provisions of this ordinance shall apply to, among other things, the transfer and exchange of such certificates and the method of payment of principal of, premium, if any, and interest on such certificates. Whenever DTC requests the City and the Paying Agent and Registrar to do so, the Paying Agent and Registrar and the City will cooperate with DTC in taking appropriate action after reasonable notice (i) to make available one or more separate certificates evidencing the Bonds or Notes to any DTC Participant having Bonds or Notes credited to its DTC account, or (ii) to arrange for another securities depository to maintain custody of certificates evidencing the Bonds or Notes.

Section 13. Open Meetings Determination. The Issuing Authority hereby finds and determines that all formal actions relative to the adoption of this Bond Legislation were taken in an open meeting of this Issuing Authority, and that all deliberations of this Issuing Authority and of its committees, if any, which resulted in formal action, were taken in meetings open to the public, in full compliance with applicable legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 14. Effective Date. That this ordinance is 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 that the sale of the Bonds or Notes authorized herein may be required within thirty days of passage of the ordinance in order to advance the Project in accordance with existing construction and financing schedule requirements, and therefore, this ordinance shall take effect and be in force immediately upon its passage.

Passed: \_\_\_\_\_, 2024

\_\_\_\_\_  
Aftab Pureval, Mayor

Attest: \_\_\_\_\_  
Clerk



January 31, 2024

**To:** Mayor and Members of City Council  
**From:** Sheryl M. M. Long, City Manager  
**Subject:** Emergency Ordinance – Convention Center Development Agreement

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Transmitted is an Emergency Ordinance captioned:

**AUTHORIZING** the City Manager to execute a Development Agreement with 3CDC Development Manager LLC and the Board of County Commissioners of Hamilton County, Ohio, acting for and on behalf of Hamilton County, Ohio, pertaining to the major renovation and expansion of the City-owned property known as Duke Energy Convention Center (the “DECC”), and other adjacent properties, all in the Central Business District; **ESTABLISHING** new capital improvement program project account no. 980x164x241620, “Convention Center District Urban Renewal TIF,” to provide resources for improvements to the DECC and other adjacent properties; **AUTHORIZING** the transfer and appropriation of \$23,000,000 from the unappropriated surplus of Urban Renewal – Tax Increment Bond Fund 852 to newly established capital improvement program project account no. 980x164x241620, “Convention Center District Urban Renewal TIF,” to provide resources for the improvements to the DECC and other adjacent properties as required by the Development Agreement between the City of Cincinnati, 3CDC Development Manager LLC, and the Board of County Commissioners of Hamilton County, Ohio, acting for and on behalf of Hamilton County, Ohio; and **DECLARING** this capital improvement project an urban renewal project located in an urban renewal area, each as defined in Ohio Revised Code Chapter 725.

The Administration Recommends Passage of this Emergency Ordinance.

cc: William “Billy” Weber, Assistant City Manager



EMERGENCY

City of Cincinnati

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An Ordinance No. \_\_\_\_\_

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WHEREAS, the City of Cincinnati (the “City”) owns the Duke Energy Convention Center (the “DECC”) located at 525 Elm Street, and generally bounded by Elm Street, Fifth Street, Sixth Street, and Central Avenue in the Central Business District of Cincinnati; and

WHEREAS, even though the City has provided day-to-day maintenance and repairs and completed periodic capital improvements, the DECC has deteriorated in recent years and is once again in need of substantial renovation and capital repairs; and

WHEREAS, the City currently anticipates vacating that portion of Elm Street right-of-way between Sixth Street and Fifth Street for potential consolidation with the DECC or to be owned as a standalone parcel by the City (the “Elm Street Parcel”); and

WHEREAS, the Port of Greater Cincinnati Development Authority (the “Port”) currently owns certain real property where the former Millennium Hotel was located, generally bounded by Elm Street, Fifth Street, Sixth Street, and the 84.51 headquarters building (the “Millennium Site”); and

WHEREAS, the City owns certain real property (i) bisecting the Millennium Site that is currently a paper street known as Convention Way, and (ii) consisting of several parcels along Elm Street and Convention Way (such City-owned property, with the DECC, the Millennium Site, and the Elm Street Parcel, are collectively referred to hereinafter as the “Project Site”); and

WHEREAS, pursuant to Resolution No. 6-2022, approved by Council on January 26, 2022, and a Resolution passed by the Board of County Commissioners of Hamilton County,

Ohio (the “County”) on January 27, 2022, the City and the County expressed their support for the creation of a comprehensive strategy for redevelopment of the DECC and the surrounding area generally bounded by Race Street, Central Avenue, Fourth Street, and Sixth Street (collectively, the “District”), including through the engagement of Cincinnati Center City Development Corporation (“3CDC”) for planning and management services related to the District; and

WHEREAS, Council adopted a Motion, Item No. 202300325, on February 23, 2023, requesting that the City work with 3CDC and other relevant stakeholders to maximize opportunities for minority and women contractors to engage in development within the District; and

WHEREAS, the City, the County, and 3CDC Development Manager LLC (“Manager”), a wholly owned subsidiary of 3CDC, entered into a Development Management Services Agreement, pursuant to which Manager has been providing pre-development services associated with the potential renovation of the DECC, the potential development of a new convention center headquarters hotel, and the general planning and development of other sites within the District (the “Pre-Development Services”); and

WHEREAS, Manager entered into an agreement with Messer Construction Co. (“Messer”) to provide pre-construction services related to the renovation of the Project Site (the “DECC Project”), which services have been nearly completed; and

WHEREAS, the City and the County now desire to further engage Manager to provide additional development management project implementation services related to the DECC Project through execution of a Development Agreement substantially in the form attached hereto as Attachment A (the “Development Agreement”); and

WHEREAS, in recognition of the importance and value of including diversity, equity, and inclusion efforts for development projects within the District, the City, the County, and Manager have worked together to develop a plan and establish goals to maximize inclusion efforts within the District (the “Inclusion Plan”); and

WHEREAS, through the Development Agreement, the City and the County will engage Manager, and Messer through Manager, to ensure that all contractors, subcontractors, and consultants on the DECC Project comply with the Inclusion Plan and utilize best efforts to achieve participation at a level of twenty percent for minority-owned business enterprises and ten percent for women-owned business enterprises, with an additional aspirational reach goal of an additional five percent each; and

WHEREAS, the City has determined that it is in its best interest to (i) approve Manager’s retention of Messer as the construction manager at risk, in partnership with TriVersity Construction and Jostin Construction, for the construction of the DECC Project due to Messer’s experience and reputation for successfully completing projects of this magnitude and complexity, and (ii) to permit Messer to selectively hire the subcontractors for the DECC Project because of the highly specialized nature of the renovation work that will be performed by the subcontractors, with the understanding that Messer will comply with the Inclusion Plan; and

**WHEREAS, Manager intends to commence on-site construction on the DECC Project no later than July 1, 2024, and substantially complete construction no later than December 31, 2025; and**

**WHEREAS, the total estimated cost (including, without limitation, hard construction costs, soft costs, acquisition costs, and costs of issuance) of the DECC Project is approximately \$200,000,000; and**

**WHEREAS, in addition to the funds provided by the City in the amount of \$7,000,000 for the Pre-Development Services, the City now desires to provide an additional \$23,000,000 (the “City Cash Funds”) for the DECC Project; and**

**WHEREAS, the source of the City Cash Funds is proceeds from the City’s issuance of urban renewal bonds or notes to finance a portion of the DECC Project; and**

**WHEREAS, the Project Site constitutes an urban renewal area and the DECC Project constitutes an urban renewal project, each for purposes of Ohio Revised Code Chapter 725; and**

**WHEREAS, the County previously provided funding for the acquisition and demolition of the former Millennium Hotel and \$5,000,000 for pre-development costs associated with the Millennium Site, and now intends to provide an additional \$10,000,000 for the DECC Project; and**

**WHEREAS, to facilitate a bond issuance by the Port in a principal amount not to exceed \$370,000,000 (the “TOT Bonds”), the City and the County intend to pledge to the Port, and/or the trustee on the TOT Bonds, some of the revenues from their respective transient occupancy taxes (the “TOT Revenues”), and, subject to appropriation, the City and the County intend to provide credit enhancements on the TOT Bonds in the form of an annual contribution from each such entity in an amount not to exceed \$650,000 annually; and**

**WHEREAS, the pledge(s) of the TOT Revenues and the terms of the financing associated with the TOT Bonds, pursuant to which the Port will make the net TOT Bonds proceeds available to pay for the construction of the DECC Project, will be determined by separate agreements entered into between the City, the County, and the Port, which financing structure Council will authorize by separate ordinance; and**

**WHEREAS, the City believes that the DECC Project is in the vital and best interests of the City and the health, safety, and welfare of its residents, and in accordance with the public purposes and provisions of applicable federal, state, and local laws and requirements, and for this reason the City desires to facilitate the DECC Project by providing the City Cash Funds and other financial support for the DECC Project, all as more particularly described in the Development Agreement; and**

**WHEREAS, completion of the DECC Project is in accordance with the “Compete” goal to “[b]ecome nationally and internationally recognized as a vibrant and unique city” as described on pages 121-125 of Plan Cincinnati (2012) and the “Collaborate” goal to “[s]peak in a unified voice with other entities to reach regional goals” as described on pages 213-216 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 authorized to execute a Development Agreement, substantially in the form attached hereto as Attachment A (the “Development Agreement”), with 3CDC Development Manager LLC and the Board of County Commissioners of Hamilton County, Ohio, acting for and on behalf of Hamilton County, Ohio, pertaining to the major renovation and expansion of the City-owned property known as the Duke Energy Convention Center (the “DECC”), located at 525 Elm Street, and adjacent properties thereto, all generally bounded by the 84.51 headquarters building, Fifth Street, Sixth Street, and Central Avenue, all in the Central Business District of Cincinnati, which property is more particularly described in the Development Agreement (collectively, the “Project Site”).

Section 2. That the Director of Finance is authorized to establish new capital improvement program project account no. 980x164x241620, “Convention Center District Urban Renewal TIF,” to provide resources for improvements to the Project Site pursuant to the terms of the Development Agreement (the “DECC Project”).

Section 3. That the transfer and appropriation of \$23,000,000 from the unappropriated surplus of Urban Renewal – Tax Increment Bond Fund 852 to newly established capital improvement program project account no. 980x164x241620, “Convention Center District Urban Renewal TIF,” to provide resources for the DECC Project, all as allowable by law, is authorized.

Section 4. That it is in the best interest of the City to approve Messer Construction as the construction manager at risk, in partnership with TriVersity Construction and Jostin Construction, for the DECC Project due to Messer’s experience and reputation for successfully completing projects of this magnitude and complexity.

Section 5. That Council hereby declares that the DECC Project constitutes an urban renewal project, and the Project Site constitutes an urban renewal area, each as defined in Chapter 725 of the Ohio Revised Code.

Section 6. That the appropriate City officials are hereby authorized to do all things necessary and proper to carry out the provisions of Sections 1-5 of this ordinance, including, without limitation, entering into the Development Agreement and any other agreements, amendments, and other instruments pertaining to the DECC Project.

Section 7. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is to enable the City to execute the Development Agreement at the earliest possible time in order to proceed with the completion of the DECC Project for the economic benefit of the people of the City of Cincinnati.

Passed: \_\_\_\_\_, 2024

\_\_\_\_\_  
Aftab Pureval, Mayor

Attest: \_\_\_\_\_  
Clerk

**ATTACHMENT A**

Contract No: \_\_\_\_\_

**DEVELOPMENT AGREEMENT**

*among the*

**CITY OF CINCINNATI,**  
an Ohio municipal corporation

**BOARD OF COUNTY COMMISSIONERS OF HAMILTON COUNTY, OHIO,**  
an Ohio political subdivision

*and*

**3CDC DEVELOPMENT MANAGER LLC,**  
an Ohio limited liability company

Project Name: Duke Energy Convention Center Renovation and Expansion

Dated: \_\_\_\_\_, 2024



**DEVELOPMENT AGREEMENT**  
(Duke Energy Convention Center Renovation and Expansion)

This Development Agreement (this “**Agreement**”) is made and entered into effective as of the Effective Date (as defined on the signature page hereof) among the **CITY OF CINCINNATI**, an Ohio municipal corporation, 801 Plum Street, Cincinnati, Ohio 45202 (the “**City**”); the **BOARD OF COUNTY COMMISSIONERS OF HAMILTON COUNTY, OHIO**, acting for and on behalf of Hamilton County, Ohio, a political subdivision of the State of Ohio, 138 E. Court Street, Room 603, Cincinnati, Ohio 45202 (the “**County**”); and **3CDC DEVELOPMENT MANAGER LLC**, an Ohio limited liability company, 1203 Walnut Street, 4<sup>th</sup> Floor, Cincinnati, Ohio 45202 (“**Manager**”), a wholly owned subsidiary of Cincinnati Center City Development Corporation, an Ohio nonprofit corporation (“**3CDC**”).

Recitals:

A. The City owns the Duke Energy Convention Center located at 525 Elm Street, generally bounded by Elm Street, 5<sup>th</sup> Street, 6<sup>th</sup> Street, and Central Avenue in the Central Business District of Cincinnati, as depicted on Exhibit A (Site Plan) hereto and more particularly described on Exhibit B-1 (Legal Description – DECC) hereto (the “**DECC**”).

B. The City currently anticipates vacating that portion of Elm Street right-of-way between 6<sup>th</sup> Street and 5<sup>th</sup> Street, as depicted on Exhibit A and more particularly described on Exhibit B-2 (Legal Description – Elm Street) hereto (the “**Former City ROW**”), for potential consolidation with the DECC or to be owned as a standalone parcel by the City.

C. The Port of Greater Cincinnati Development Authority (the “**Port**”) currently owns certain real property where the former Millennium Hotel was located, generally bounded by Elm Street, 5<sup>th</sup> Street, 6<sup>th</sup> Street, and the 84.51 headquarters building, as depicted on Exhibit A and more particularly described on Exhibit B-3 (Legal Description – Millennium Site) hereto (the “**Millennium Site**”). The City owns certain real property that bisects the Millennium Site that is comprised of (i) existing right-of-way that is currently a paper street known as Convention Way and (ii) several parcels along Elm Street and Convention Way, all as depicted on Exhibit A and more particularly described on Exhibit B-4 (Legal Description – Convention Way Property) hereto (the “**Convention Way Property**”, and collectively with the Millennium Site, the “**Plaza Site**”).

D. The County helped finance the Port’s acquisition of the Millennium Site and demolition of the building formerly located thereon, creating potential development opportunities for the District (as defined below).

E. To facilitate the DECC Project (as defined below), the parties currently anticipate that (i) the City will vacate the Former City ROW and other right-of-way included in the Convention Way Property, with the Port providing abutter’s consents to such vacations in such form as the City may require and assisting with other necessary title clean-ups, (ii) then, the Port will convey fee simple title to the Millennium Site to the County, and (iii) thereafter the County will lease the Millennium Site to the City for coordinated planning and programming of the Plaza Site with the DECC and the Former City ROW (the DECC, the Former City ROW, and the Plaza Site are hereinafter collectively referred to as the “**Project Site**”), which lease, as further described in Section 5 hereof, the parties anticipate will contain terms substantially in accordance with the terms outlined in Exhibit C (Plaza Lease Terms) hereto.

F. Although the City has provided for day-to-day maintenance and repairs and the completion of periodic capital improvements, the DECC has deteriorated in recent years and is once again in need of renovation and capital repairs.

G. Pursuant to (i) Resolution No. 6-2022, approved by City Council on January 26, 2022, the Mayor and Council of the City, and (ii) a Resolution passed by the Board of County Commissioners on January 27, 2022, the City and the County expressed their support for the creation of a comprehensive

strategy for redevelopment of the DECC and the surrounding area generally bounded by Race Street, Central Avenue, 4<sup>th</sup> Street, and 6<sup>th</sup> Street (collectively, the “District”), including through the engagement of 3CDC for planning and management services related to the District.

H. The parties hereto entered into a certain *Development Management Services Agreement* dated June 14, 2023 (the “**Pre-Development Agreement**”), pursuant to which (i) the City and the County engaged Manager to, among other things, provide general planning and development services as it relates to property within the District, including for development of a new convention center headquarters hotel and the renovation of the DECC and potential expansion over the Former City ROW and the Plaza Site (the “**Pre-Development Services**”); and (ii) the City provided \$7,000,000 for certain costs associated with the Pre-Development Services (the “**DECC Pre-Development Funds**”). Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Pre-Development Agreement.

I. Manager’s work associated with the Pre-Development Services has, to date, been to the satisfaction of the City and the County, the City and the County now desire to further engage Manager to provide additional development management project implementation services related to the renovation of the DECC, the Plaza Site, and the Former City ROW, all as more particularly described on Exhibit D (Statement of Work) hereto (the “**DECC Project**”). For the avoidance of doubt, in no event does the DECC Project include other development within the District, including, without limitation, any development at 435 Elm Street (also known as the former site of the Convention Place Mall), the convention center headquarters hotel, or the Whex Garage.

J. Manager intends to commence on-site construction on the DECC Project no later than July 1, 2024 (the “**Commencement Deadline**”), and substantially complete construction no later than December 31, 2025 (the “**Completion Deadline**”). For the purposes hereof, “substantially complete” shall have the same meaning as “Substantial Completion” as defined in the CMAR Agreement (as defined below).

K. The total estimated cost (including, without limitation, hard construction costs, soft costs, acquisition costs, and costs of issuance) of the DECC Project is approximately \$200,000,000, which costs are more particularly detailed on Exhibit E (Budget) hereto (as the same may thereafter be updated from time to time during the DECC Project, in accordance with the terms and conditions of this Agreement, the “**Budget**”).

L. In addition to providing the DECC Pre-Development Funds, to facilitate the DECC Project, the City intends to provide an additional \$23,000,000 (the “**City Cash Funds**”).

M. The current source of the City Cash Funds is proceeds from the City’s issuance of urban renewal bonds or notes to finance a portion of the DECC Project, as authorized by Ordinance No. \_\_\_\_\_-20\_\_\_\_\_, passed by City Council on \_\_\_\_\_, 20\_\_\_\_ (the “**Urban Renewal Ordinance**”).

N. In addition to having provided (i) funding for the acquisition and demolition of the former Millennium Hotel, and (ii) \$5,000,000 for pre-development costs associated with the Millennium Site, to facilitate the DECC Project, the County intends to provide an additional \$10,000,000 (the “**County Cash Funds**”).

O. To facilitate a bond issuance by the Port, in a principal amount not to exceed \$370,000,000 (the “**TOT Bonds**”), (i) the City and the County will pledge to the Port and/or the trustee on the TOT Bonds some of the revenues from their respective transient occupancy taxes (the “**TOT Revenues**”); and (ii) subject to appropriation, [and only if necessary,] (a) the City will transfer to the Port City funds in the amount of \$650,000 annually (the “**City Annual Funds**”), and (b) the County will transfer to the Port County funds in the amount of \$650,000 annually (the “**County Annual Funds**”; and together with the City Annual Funds, the “**Annual Funds**”), the terms of all of which will be agreed to by means of a separate cooperative agreement and other ancillary agreements between the City, the County, and the Port, and pursuant to which the Port will make the net TOT Bonds proceeds available to pay for the construction of the DECC Project, as will be determined by such separate agreements.

P. The cooperative agreement and other documents associated with the TOT Bonds with respect to the DECC Project entered into with the Port and Manager or 3CDC to which the City and/or the County are parties are referred to herein as the “**TOT Bond Documents**,” and the TOT Bond Documents, this Agreement, the Pre-Development Agreement, the CMAR Agreement, and such other ancillary documents and instruments executed by Manager or 3CDC and the City and/or County, or executed by Manager or 3CDC in favor of the City and/or County in relation to the DECC Project are referred to herein as the “**Project Documents**.”

Q. The City has determined that it is in the best interest of the City to (i) approve MESSER CONSTRUCTION (“**Messer**”) as the construction manager, in partnership with TriVersity Construction and Jostin Construction, for the DECC Project due to the company’s experience and reputation for successfully completing projects of this magnitude and complexity; and (ii) permit the construction manager to selectively hire the subcontractors for the DECC Project because of the highly specialized nature of the renovation work that will be performed by the subcontractors, with the understanding that the construction manager will comply with the Inclusion Plan in connection with the DECC Project.

R. The City and the County believe that the DECC Project is in the vital and best interests of the City and the County and the health, safety, and welfare of their residents, and in accordance with the public purposes and provisions of applicable federal, state, and local laws and requirements, and for this reason the City and the County desire to facilitate the DECC Project by providing the City Cash Funds, the County Cash Funds, and other financial support for the DECC Project as described herein.

S. Execution of this Agreement and the other Project Documents on behalf of the City was authorized by Ordinance No. \_\_\_\_\_-20\_\_\_\_, passed by City Council on \_\_\_\_, 20\_\_\_\_ and the Urban Renewal Ordinance.

T. Execution of this Agreement and the other Project Documents on behalf of the County was authorized by that certain Resolution passed by the Board of County Commissioners of Hamilton County, Ohio on \_\_\_\_\_, 20\_\_\_\_.

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

1. **Term.** The term of this Agreement shall commence on the Effective Date and shall end on the date on which the City and the County have disbursed all of the City Cash Funds and the County Cash Funds to Manager and Manager has fulfilled all of its obligations hereunder, including, without limitation, any reporting requirements.

2. **Construction of the DECC Project.**

(A) **Preparation of Plans and Specifications.** Manager shall prepare plans and specifications for the DECC Project and shall submit the same to the City and the County for review and approval. The approved plans and specifications for the DECC Project, as included in the executed GMP Amendment (as defined below), and as approved by the City and the County in accordance with Exhibit D hereto (including any and all changes thereto reflected on properly-executed change orders, as defined and in accordance with Exhibit D hereto), are referred to herein as the “**Final Plans**”. Manager shall submit any and all proposed changes to the Final Plans to the City and the County for review and approval that Manager is not otherwise permitted to approve without City or County approval pursuant to Exhibit D hereto.

(B) **Obtaining and Approving Construction Bids.** Upon completion of the Final Plans, Manager shall cause Messer to begin selecting contractors and subcontractors for the construction of the improvements reflected in such Final Plans. The final bids for each component of the DECC Project, as approved by Manager, are referred to herein as the “**Final Bids**”. For the avoidance of doubt, the City and the County acknowledge that the DECC Project may be split up into multiple packages and phases, all in accordance with the CMAR Agreement, and, therefore, for the purpose of this Agreement, the Final Plans

and the Final Bids may relate to a specific package and phase. Upon Manager's selection of the bids for the DECC Project, Manager shall submit to the City and the County, for review and approval, an updated Budget for the DECC Project.

(C) Construction. Once Final Plans and Final Bids have been approved in accordance with Sections 2(A) and (B) above, Manager shall proceed with construction of the DECC Project, and provided Manager has obtained all building permits, zoning approvals, and other governmental approvals required for the DECC Project, Manager shall cause Messer to commence on-site construction no later than the Commencement Deadline, and thereafter complete the construction of the DECC Project, as reflected in the respective Final Plans therefor, in compliance with all applicable laws, and substantially in accordance with Exhibit D hereto, no later than the Completion Deadline. Manager shall obtain the City's and the County's approval of any proposed changes to Exhibit D hereto. Notwithstanding the foregoing, upon written request of Manager, the City and the County may, in their sole and absolute discretion, extend the Commencement Deadline and/or the Completion Deadline by up to 6 months by providing written notice to Manager.

(D) Contractors and Subcontractors. Manager shall not solicit, or cause to be solicited, bids from any contractors or subcontractors who are identified as being debarred by the federal or state government or who are identified as being debarred on the City's Vendor Performance list.

(E) Applicable Laws. Manager shall obtain, pay for, and maintain all necessary building permits and other permits, licenses, and other governmental approvals and shall comply with all applicable federal, state, and local laws, codes, ordinances, and other governmental requirements applicable to the construction of the improvements. The City makes no representations or other assurances to Manager that Manager will be able to obtain whatever variances, permits, or other approvals from the City's Department of Buildings & Inspections, Department of Planning & Engagement, Department of Transportation & Engineering, other City departments, City Planning Commission, or City Council that may be required in connection with the DECC Project. Notwithstanding the foregoing, the City will consider assigning permitting staff primarily dedicated to the District to review all permits for construction projects located within the District, including the DECC Project.

(F) Inspection of Work. During construction, the City and the County, and their employees and agents, shall have the right at all reasonable times to inspect the progress of construction. In addition, Manager, at no charge to the City and the County, shall make Messer, its project architect, general contractor, or other representative of Manager reasonably accessible to the City to provide pertinent information about the DECC Project. If the City and the County determine that the DECC Project is not substantially in accordance with the Final Plans or other requirements of this Agreement, is not in compliance with all legal requirements, or is not being performed in a good and workmanlike manner, the City and the County shall have the right to order Manager to correct the nonconforming work or noncompliance by giving Manager written notice thereof.

(G) Mechanics' Liens. Manager shall not permit any mechanic's or other liens to be filed against the Project Site, or the City's or the County's funds, during construction. If a mechanic's lien shall at any time be filed, Manager shall, within 60 days after notice of the filing thereof, cause the same to be discharged of record.

(H) Monthly Reporting During Construction. During construction, Manager shall provide the City and the County with monthly reports describing the status of the DECC Project, including, without limitation, information about whether the DECC Project is on budget and on schedule, an updated report tracking the W/MBE Goals and Aspirational Goals according to the Compliance Plan, a list of newly-hired Consultants (as defined below) and a list of any roles for which Manager anticipates hiring additional Consultants, and containing such additional pertinent information thereto as the City or the County may from time to time reasonably request. Manager shall submit a final report to the City and the County for the month in which the DECC Project is substantially completed.

(I) As-Built Drawings. Following completion of construction of the DECC Project, Manager shall provide the City with "as-built" drawings of the improvements completed as part of the DECC Project.

(J) Diversity, Equity, and Inclusion. Pursuant to the terms of the Pre-Development Agreement, the parties developed an Inclusion Plan to meet the agreed-upon MBE and WBE inclusion goals the parties have agreed are applicable to the District, including the DECC Project. Manager shall follow and enforce the Inclusion Plan, including through following and enforcing the Compliance Plan and submitting the required monthly reports relating thereto, to ensure that Manager, Messer, and all of their respective contractors, subcontractors, and consultants utilize best efforts to achieve the W/MBE Goals of 20% for MBEs and 10% for WBEs, with the additional Aspirational Goals of 5% each for MBEs and WBEs, for collective goals of 25% for MBEs and 15% WBEs.

(K) DECC Dispute Resolution Process. In the event of any disputes between the City and the County on a decision, upon which each the City and the County have approval rights pursuant to this Agreement, that will materially impact construction associated with the DECC Project, the City and the County agree to work in good faith to come to a mutually agreeable resolution. If the City and the County are unable to come to a mutually agreeable resolution within 30 calendar days, then the City and the County shall submit the matter to binding arbitration in accordance with the American Arbitration Association rules and regulations. Notwithstanding the foregoing, the parties hereby acknowledge and agree that any results of such arbitration will not be binding upon the parties if the resolution is determined to be illegal under applicable laws. In the event of any such arbitration, the parties hereby agree that costs associated with such arbitration shall be paid for, on a pro rata basis, out of the City Cash Funds and the County Cash Funds; *provided, however*, that each party shall bear its own attorneys' fees.

### 3. Financing.

(A) City Cash Funds. Provided that Manager is not in breach of this Agreement, the Pre-Development Agreement, or any of the other Project Documents, the City shall provide to Manager the City Cash Funds, in an amount not to exceed \$23,000,000, which shall be disbursed in accordance with Exhibit E (Disbursement of Funds) hereto.

(B) County Cash Funds. Provided that Manager is not in breach of this Agreement, the Pre-Development Agreement, or any of the other Project Documents, the County shall provide to Manager the County Cash Funds, in an amount not to exceed \$10,000,000, which shall be disbursed in accordance with Exhibit F.

(C) TOT Funds. To facilitate the TOT Bonds in a principal amount not to exceed \$370,000,000, the City and the County shall pledge to the Issuer some of the TOT Revenues, and, if necessary, the Annual Funds, as sources of repayment and security for the TOT Bonds. For the avoidance of doubt, the parties hereby agree and acknowledge that each the City's and the County's transient occupancy tax revenues have been previously committed to other projects (the "**Prior TOT Commitments**"), and that such Prior TOT Commitments will be senior in order of priority of repayment to any TOT Bonds issued pursuant hereto. Additionally, revenues from the City's 1.50% transient occupancy tax levied in 1969 are explicitly excluded from the defined TOT Revenues that the City will make available to facilitate the TOT Bonds.

(D) Permitted Use of Funds. Manager shall use the City Cash Funds and the County Cash Funds solely to pay for costs associated with the DECC Project and other eligible costs associated with the District and approved by the City and the County. The net proceeds of the TOT Bonds shall be used solely to pay for construction costs associated with the DECC Project that are incurred at the Project Site and other eligible costs associated with the District, as more specifically set forth in the TOT Bond Documents.

(E) Development Fee. In addition to the Pre-Development Fee, Manager shall receive a fee of \$2,750,000 for its performance of the services associated with the construction of the DECC Project (the "**Development Fee**"), which shall be paid out of the TOT Bond proceeds and/or City Cash Funds and

County Cash Funds, as follows: (i) \$1,000,000 paid within 30 days from the date of closing on the TOT Bonds, and (ii) the remaining \$1,750,000 (the “Installment Fee”), paid in equal monthly installments of \$97,222.22 beginning on July 1, 2024, and continuing until the Installment Fee has been paid in full; *provided, however*, that each monthly installment of the Installment Fee shall be payable only following (i) the submission by Manager to the City and the County of a monthly progress report related to the services associated with the construction of the DECC Project accomplished during the preceding month and (ii) approval by the City and the County in their reasonable discretion that the work on the construction of the DECC Project, if any, has been satisfactorily completed to date. The City and the County shall use best efforts to approve or reject such monthly report within 5 business days of receipt thereof. Manager shall include an invoice for the portion of the Development Fee then due with each draw request.

**4. Project Contractors and Consultants.**

(A) CMAR Agreement. The parties hereto hereby agree and acknowledge that Manager has entered into that certain Agreement dated December 4, 2023, whereby Manager engaged Messer to serve as Construction Manager at Risk as it relates to the DECC Project (the “**CMAR Agreement**”). Notwithstanding anything in the CMAR Agreement to the contrary, Manager hereby agrees to remit to the City any proceeds paid to Manager under or pursuant to the terms of the CMAR Agreement that are intended to inure to the benefit of the owner of the DECC.

(B) Authority to Hire Consultants. The City and the County hereby authorize Manager to hire Consultants to serve as subcontractors of Manager, except as otherwise provided herein. Notwithstanding anything herein to the contrary, no attorney or law firm may be retained by Manager for the purpose of serving as legal counsel in connection with this Agreement or Manager’s services related hereto without the express prior written approval of the City Solicitor and the County Prosecuting Attorney.

(C) Manager’s Enforcement Obligations. Manager is not a guarantor or warrantor of performance or workmanship of any Consultants, the Architect, Messer, or any contractor or subcontractors of any of them, or their respective employees or agents with regard to the DECC Project or any work related thereto. However, because Manager is executing the contracts with Messer, the Architect, and Consultants, Manager shall include in each such contract language that requires Messer and the Consultants to indemnify Manager and to secure and maintain insurance as required hereunder, under the CMAR Agreement, or as required under any other Project Document, with the Manager, the City, and the County named as additional insureds. Manager shall enforce its rights under those agreements in the event of any breach and shall ensure that the City and/or the County (as applicable) may also enforce such agreements in the event of any breach. Notwithstanding anything herein to the contrary, neither the City nor the County shall be entitled to terminate this Agreement for the breach of this Agreement for the breach of Messer or a Consultant, so long as Manager is enforcing its rights under the applicable contract(s) and is actively pursuing a solution to the breach to the satisfaction of the City and the County, which may include Manager’s finding and retaining an adequate substitute construction manager or Consultant satisfactory to the City and the County, in each such entity’s sole and absolute discretion, such approval not to be unreasonably withheld.

**5. Plaza Lease.** The City and the County hereby agree to work in good faith toward entering into a lease and operating agreement whereby the County will lease the Millennium Site to the City, and the City will operate the Plaza Site in coordination with the operations of the DECC and the remainder of the Project Site and provide other civic and entertainment uses to the general public. The parties anticipate that the lease and operating agreement (the “**Plaza Lease**”) will contain terms substantially in accordance with Exhibit C hereto. For the avoidance of doubt, the actual terms of the Plaza Lease will be finalized in a standalone document separate and apart from this Agreement, and will require additional legislative approvals to effectuate the City’s and the County’s respective interests in the Millennium Site. The parties anticipate the Plaza Lease will be executed and in place no later than the earlier to occur of (a) the execution of the GMP Amendment and (b) the date of closing on the TOT Bonds.

**6. City and County Representatives.** The City shall act by and through the City Manager or her authorized designee (“**City’s Representative**”) and the County shall act by and through the County

Administrator or his authorized representative (“**County’s Representative**”), and Manager, the City, and the County shall each be entitled to deal with the City’s Representative and the County’s Representative as agents fully authorized and empowered by the City and the County, respectively, to perform the duties and functions set forth herein and to bind the City and the County as to the matters provided for herein (to the extent permitted by applicable law); *provided, however*, that each such request for approval or direction by Manager (i) of the City must be in writing, and each such approval or direction by the City’s Representative must be in writing to bind the City; and (ii) of the County must be in writing, and each such approval or direction by the County’s Representative must be in writing to bind the County. For the avoidance of doubt, Manager, the City, and the County shall each be entitled to reasonably rely on the aforementioned written approval(s) or direction(s) of the City’s Representative on behalf of the City and the County’s Representative on behalf of the County. Manager shall meet with the City’s Representative and the County’s Representative regularly to provide progress reports on the Project. Any decision requiring the expenditure of funds of either the City or the County in excess of the existing authority of the City Manager or the County Administrator, respectively, shall be subject to the approval of the applicable legislative authority. Meetings between Manager, the City’s Representative, and the County’s Representative will take place at least once per month at a mutually agreed upon time and location. To the extent feasible, the City’s Representative and the County’s Representative will be responsive and cooperative during the Term and will provide timely feedback, including endeavoring to respond within 3 business days of a written request by Manager.

**7. Insurance; Indemnity.**

(A) Insurance During Construction. Until such time as all construction work associated with the DECC Project has been completed or, if later, any insurance obligations required pursuant to the CMAR Agreement expire, Manager shall maintain, or cause to be maintained, the following insurance: (i) Commercial General Liability insurance of at least \$1,000,000 per occurrence, combined single limit/\$2,000,000 aggregate, naming the City and the County as additional insured with respect to the DECC Project, (ii) worker’s compensation insurance in such amount as required by law, (iii) all insurance as may be required by the Port, (iv) professional liability insurance for its legal liability arising out of the performance of the services related to the construction of the DECC Project, which insurance shall be in the minimum limits of at least \$1,000,000 per occurrence/\$3,000,000 aggregate, with a maximum deductible not to exceed \$50,000 for each occurrence, naming the City and the County as additional insured, and (v) such other insurance coverage as may be deemed reasonably necessary by the City from time to time. Manager’s insurance policies shall (a) be written in standard form by companies of recognized responsibility and credit reasonably acceptable to the City, that are authorized to do business in Ohio, and that have an A.M. Best rating of A VII or better, and (b) provide that they may not be canceled or modified without at least 30 days’ prior written notice to the City. Prior to commencement of construction of the DECC Project, Manager shall send proof of all such insurance to the City at 805 Central Avenue, Suite 700, Cincinnati, Ohio 45202, Attention: Monitoring and Compliance Division, or such other address as may be specified by the City from time to time; *provided* that if the City requests an additional insured endorsement with respect to the Commercial General Liability insurance described above, Manager shall have 6 months following the date of the City’s request to obtain such an endorsement from its insurer and provide the original endorsement to the City.

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

(C) Indemnity. Notwithstanding anything in this Agreement to the contrary, as a material inducement to the City and the County to enter into this Agreement, Manager shall defend, indemnify, and

hold the City and the County, and their respective officers, council members, commissioners, employees, and agents (collectively, the "Indemnified Parties") harmless from and against any and all actions, suits, claims, losses, costs (including, without limitation, attorneys' fees), demands, judgments, liability, and damages (collectively, "Claims") suffered or incurred by or asserted against the Indemnified Parties as a result of or arising from the acts of Manager, its agents, employees, contractors, subcontractors, licensees, invitees, or anyone else acting at the request of Manager in connection with the DECC Project. Notwithstanding the foregoing, if (1) Manager has not engaged in intentional, reckless, fraudulent, or criminal behavior in its performance of the services that Manager is providing to the City and the County pursuant to this Agreement, (2) Manager provides and maintains in force insurance required by the terms of this Agreement and contractually obligates Messer or any other of its contractors or subcontractors to maintain in force the insurance required by the terms of the CMAR Agreement, as approved by the City and County, (3) the insurers have paid or have agreed to pay out those amounts they are required to pay pursuant to such policies, and (4) the denial of a claim or the failure to pay a claim is not caused by the action nor inaction of Manager, including, without limitation, through the failure of Manager to provide timely notice of a claim or to exhaust all appeal rights in response to the denial of a claim or to enforce its agreement(s) with Messer or another contractor to do the same, then Manager's obligation to indemnify and save the City and the County harmless shall be limited to the sum of (x) the insurance proceeds actually paid to Manager by the insurers and (y) any additional amounts Manager may recover from Messer or other contractors and subcontractors hired or engaged pursuant to this Agreement, the CMAR Agreement, or any other Project Documents. For purposes of this calculation, deductibles or retention amounts for which Manager, Messer, or any contractors or subcontractors of either are responsible under this Agreement, the CMAR Agreement, or any applicable insurance policy and any amounts that would have been covered by the required policies but for the action or inaction of Manager, Messer, or the contractors or subcontractors of either, are to be included. *Provided, however,* Manager shall have no obligation to defend, indemnify, and hold the Indemnified Parties harmless in the event such Claims are caused by the negligence or willful misconduct of the Indemnified Parties. Manager's indemnification obligations under this paragraph shall survive the termination or expiration of this Agreement with respect to Claims arising prior thereto. For the avoidance of doubt, the limitation of Manager's indemnification obligations hereunder is not intended as a waiver of any claims the City or the County may have against Messer, Consultants, other contractors or subcontractors, or any other responsible parties, or their insurers for further recovery. Nothing herein shall be construed as an indemnification of Manager by either the City or the County.

#### **8. Default; Remedies.**

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

(i) The dissolution of Manager, or the filing of any bankruptcy or insolvency proceedings by or against Manager, the appointment of a receiver (temporary or permanent) for Manager, the attachment of, levy upon, or seizure by legal process of any property of Manager, or the insolvency of Manager; or

(ii) The failure of Manager to perform or observe any obligation, duty, or responsibility under this Agreement or any other Project Document and failure by Manager to correct such default or failure within 60 days after Manager's receipt of written notice thereof from the City or the County; *provided, however,* that if the nature of the default is such that it cannot reasonably be cured within 60 days, Manager shall not be in default so long as Manager commences to cure the default within such 60-day period and thereafter diligently completes such cure within 90 days after Manager's receipt of the initial notice of default. Notwithstanding the foregoing, if Manager's failure to perform or observe any obligation, duty, or responsibility under this Agreement creates a dangerous condition or otherwise constitutes an emergency as reasonably determined by the City and the County, an event of default shall be deemed to have occurred if Manager fails to take corrective action immediately upon discovering such dangerous condition or emergency.

(B) Remedies. Upon the occurrence of an event of default by Manager under this Agreement, (i) the City shall be entitled to terminate this Agreement by giving written notice to Manager and



the County specifying the effective date of the termination; (ii) take such actions in the way of "self-help" as the City and the County determine to be reasonably necessary or appropriate to cure or lessen the impact of such event of default, all at the expense of Manager; and (iii) exercise any and all other rights and remedies under this Agreement or available at law or in equity, including, without limitation, pursuing an action for specific performance. Manager shall be liable for all costs and damages, including, without limitation, attorneys' fees, suffered or incurred by the City in connection with administration, enforcement, or termination of this Agreement or as a result of a default of Manager under this Agreement. The failure of the City and the County to insist upon the strict performance of any covenant or duty, or to pursue any remedy, under this Agreement or any other agreement to which Manager and the City and/or the County are parties relating to the DECC Project shall not constitute a waiver of the breach of such covenant or of such remedy.

**9. Termination.**

**(A) Termination by City Prior to Execution of GMP Amendment or Closing on TOT Bonds.**

During the Term, the City may terminate this Agreement at any time for any reason upon 45 days' written notice to Manager and the County. In the event of termination of this Agreement, Manager shall be paid any costs incurred by Manager for completed work associated with the DECC Project, subject to the satisfaction of the City, in the City Manager's sole and absolute discretion, through the termination date of this Agreement. The termination rights of the City under this paragraph shall automatically terminate upon the earlier to occur of (i) execution of a GMP Amendment and (ii) the closing of the TOT Bonds, at least as to the City's commitment to provide the City Cash Funds and its portion of the TOT Revenues. Notwithstanding the foregoing, nothing herein shall limit the City's right to terminate this Agreement as it relates to the engagement of Manager to perform services associated with construction of the DECC Project.

**(B) Withdrawal by County Prior to Execution of GMP Amendment or Closing on TOT Bonds.** During the Term, the County may withdraw from further participation in this Agreement at any time for any reason upon 30 days' written notice to Manager and the City. The withdrawal rights of the County under this paragraph shall automatically terminate upon the earlier to occur of (i) execution of a GMP Amendment and (ii) the closing of the TOT Bonds, at least as to the County's commitment to provide the County Cash Funds and its portion of the TOT Revenues. For the avoidance of doubt, this Agreement shall not be terminated as to Manager's and the City's respective rights and obligations in the event of a withdrawal of the County's participation from this Agreement.

**(C) Notice to Messer, Consultants, Contractors, and Subcontractors.** In the event this Agreement is terminated pursuant to Section 8(B)(ii) above or Section 9(A) above, then Manager shall deliver notice to Messer, the architect, and all other consultants, contractors, and subcontractors of Manager or Messer, that all work associated with the DECC Project must cease at the effective date of such termination, as determined pursuant to the applicable paragraph hereof, and Manager shall have no obligation to provide services related to the DECC Project pursuant to this Agreement following the effective date of such termination. Notwithstanding the foregoing, nothing in this Agreement shall prevent the City from assuming Manager's rights and obligations as Owner under the CMAR Agreement, provided that the City delivers proper notice to Manager and Messer of its intent to assume such rights and obligations.

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

To Manager:  
3CDC Development Manager LLC  
1203 Walnut Street, 4<sup>th</sup> Floor  
Cincinnati, Ohio 45202

Attn: Steve Leeper, CEO, and  
Caitlin Felvus, Legal Director  
[sleeper@3CDC.org](mailto:sleeper@3CDC.org) and [cfelvus@3CDC.org](mailto:cfelvus@3CDC.org)

To the City:  
City Manager's Office  
City of Cincinnati  
801 Plum Street, Suite 104  
Cincinnati, Ohio 45202  
Attn: William Weber, Assistant City Manager  
[William.Weber@cincinnati-oh.gov](mailto:William.Weber@cincinnati-oh.gov)

*with a copy to:*  
Solicitor's Office  
City of Cincinnati  
801 Plum Street, Suite 214  
Cincinnati, Ohio 45202  
Attn: Emily Smart Woerner, City Solicitor  
[Emily.Woerner@cincinnati-oh.gov](mailto:Emily.Woerner@cincinnati-oh.gov)

To the County:  
Office of the County Administrator  
138 E. Court Street, Room 603  
Cincinnati, Ohio 45202  
Attn: Jeff Aluotto, County Administrator  
[Jeff.Aluotto@hamilton-co.org](mailto:Jeff.Aluotto@hamilton-co.org)

*with a copy to:*  
Hamilton County Prosecuting Attorney  
230 E. Ninth Street, Suite 4000  
Cincinnati, Ohio 45202  
Attn: Roger E. Friedmann, Assistant  
Prosecuting Attorney  
[Roger.Friedmann@hcpros.org](mailto:Roger.Friedmann@hcpros.org)

**11. Representations, Warranties, and Covenants of Manager.** Manager makes the following representations, warranties, and covenants to induce the City and the County to enter into this Agreement:

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

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

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

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

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

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

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

## 12. Reporting Requirements.

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

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

## 13. General Provisions.

### (A) Assignment; Change of Control.

(i) Assignment. Manager shall not assign its rights or interests under this Agreement to any third party without the prior written consent of the City and the County; *provided that* the City and the County will not unreasonably withhold its consent to the assignment by Manager to an entity wholly owned or controlled by 3CDC.

(ii) Change of Control. Manager shall not permit a Change of Control (as defined below) without the prior written consent of the City and the County, which shall not be unreasonably withheld or delayed. As used herein, "**Change of Control**" means a change in the ownership of Manager such that 3CDC has less than a 51% direct or indirect voting interest in Manager and lacks the power to direct or cause the direction of the management and policies of Manager, whether through the ownership of ownership interests in Manager, by contract, or otherwise.

(B) Entire Agreement; Conflicting Provisions. This Agreement, together with the other Project Documents, contains the entire agreement between the parties with respect to the subject matter hereof and supersedes any and all prior discussions, negotiations, representations, or agreements, written or oral, between them respecting the subject matter hereof. In the event that any of the provisions of this Agreement purporting to describe specific provisions of other Project Documents are in conflict with the specific provisions of such other Project Documents, the provisions of such other Project Documents shall control.

(C) Ownership of Property. Manager agrees that, at the expiration or termination of this Agreement, all finished and unfinished documents, data, studies, memoranda, plans, maps, drawings, renderings, designs, specifications, scopes of work, bid packets, working papers, reports, and other documents or information prepared or produced by Manager, Messer, any consultants hired by Manager or Messer, and any other contractors or subcontractors in connection with the DECC Project (the "**Services**")

Documents”) shall become the property of the City, and Manager shall promptly deliver such items to the City. Manager shall ensure that its contracts with Messer, the Architect, and all such consultants, contractors, and subcontractors retained by Manager, Messer, or the Architect to perform work under this Agreement include clear and unambiguous provisions regarding the City’s sole and exclusive ownership of the Services Documents and that any interest Manager, Messer, or the Architect may have in those documents is freely transferable to the City. Manager may retain copies for its records. Upon the County’s request, Manager shall make copies of the Services Documents available to the County for review.

(D) Amendments and Waivers. The provisions of this Agreement may be amended, waived, or otherwise modified only by a written agreement signed by all parties.

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

(F) 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.

(G) 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.

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

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

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

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

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

(M) Applicable Laws. Manager shall obtain all necessary permits, licenses, and other governmental approvals and shall comply with all applicable federal, state, and local laws, codes, ordinances, and other governmental requirements in connection with the matters contemplated by this Agreement, including any of the laws and regulations described on Exhibit G (Additional Requirements) hereto which are applicable to the DECC Project.

(N) Contingency for Legislative Authorization. Notwithstanding anything to the contrary in this Agreement, (i) the City shall not be in breach of this Agreement and shall not be required to provide its portion of the TOT Revenues if for any reason City Council does not pass any and all necessary legislation for the DECC Project, including, without limitation, the ordinance(s) authorizing the TOT Bond Documents; and (ii) the County shall not be in breach of this Agreement and shall not be required to provide its portion of the TOT Revenues if for any reason the Board of County Commissioners of Hamilton County, Ohio, does

not pass any and all necessary legislation for the DECC Project, including, without limitation, legislation authorizing the TOT Bond Documents. In the event the necessary legislative authorizations are not obtained, the City or the County may terminate this Agreement by giving written notice thereof to the other parties, whereupon the parties shall thereafter have no rights or obligations under this Agreement. The City's and the County's right to terminate this Agreement pursuant to this Section 10(N) shall automatically terminate at such time as City Council and the Board of County Commissioners of Hamilton County, Ohio, have passed all necessary legislation for the DECC Project.

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

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

Exhibit A - *Site Plan*

Exhibit B-1 - *Legal Description – DECC*

Exhibit B-2 - *Legal Description – Elm Street*

Exhibit B-3 - *Legal Description – Millennium Site*

Exhibit B-4 - *Legal Description – Convention Way Property*

Exhibit C - *Plaza Lease Terms*

Exhibit D - *Statement of Work*

Exhibit E - *Budget*

Exhibit F - *Disbursement of Funds*

Exhibit G - *Additional Requirements*

*[signature page(s) follow]*

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

**3CDC DEVELOPMENT MANAGER LLC,**  
an Ohio limited liability company

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_, 2024

**CITY OF CINCINNATI,**  
an Ohio limited liability company

By: \_\_\_\_\_  
Sheryl M.M. Long  
City Manager

Date: \_\_\_\_\_, 2024

Approved as to Form:

\_\_\_\_\_  
Assistant City Solicitor

Certified Date: \_\_\_\_\_

Fund/Code: \_\_\_\_\_

Amount: \_\_\_\_\_

By: \_\_\_\_\_  
Karen Alder, City Finance Director

**THE BOARD OF COUNTY COMMISSIONERS OF HAMILTON COUNTY, OHIO,**  
an Ohio political subdivision

By: \_\_\_\_\_  
Jeff Alutto  
County Administrator

Date: \_\_\_\_\_, 2024

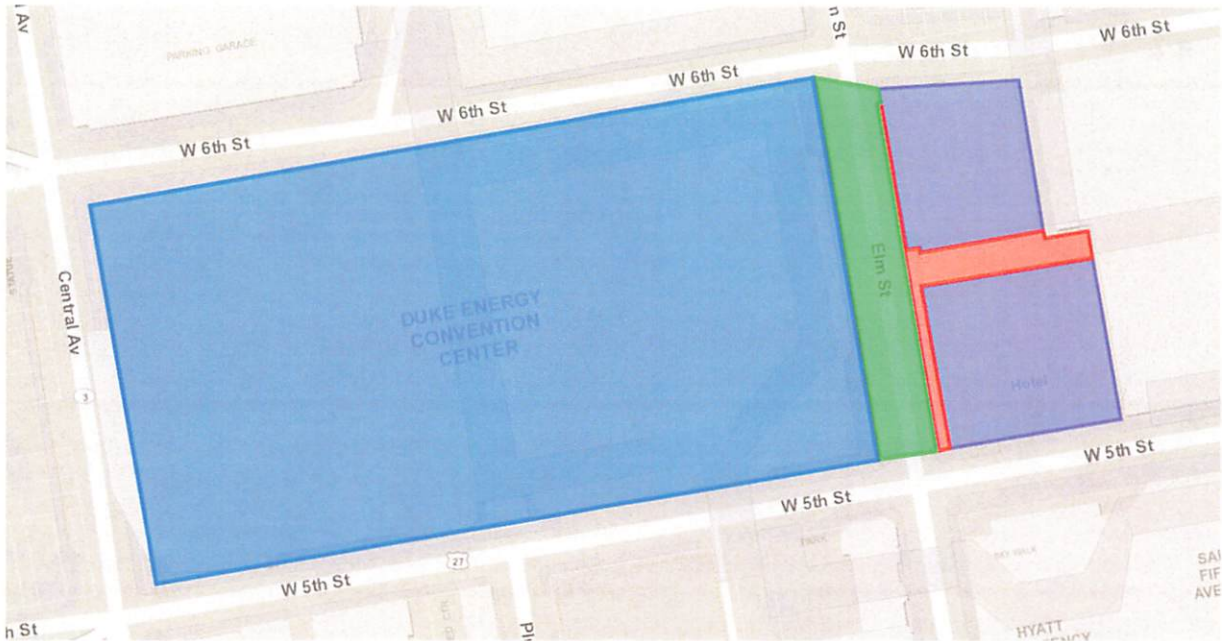
Approved as to Form:

\_\_\_\_\_  
Assistant Prosecuting Attorney



Exhibit A

*Site Plan*



Blue: DECC

Green: Former City ROW

Red: Convention Way Property

Purple: Millennium Site

Exhibit B-1

*Legal Description – DECC*

**Parcel 1:**

**Situate in Section 13, Town 4, Fractional Range 1, Cincinnati Township, Hamilton County Ohio, and being more particularly described as follows:**

**Beginning a set CN at the intersection of the West line of Elm Street and the North line of Fifth Street, measure with said Fifth Street South 80°20'59" West, 211.43 feet to a set CN; thence South 80°04'02" West, 182.42 feet to a set CN; thence South 80°04'37" West, 172.33 feet to a set CN; thence North 09°55'23" West, 1.62 feet to a set PK nail; thence South 80°17'59" West, 271.33 feet to a set CN at the intersection of said Fifth Street and the East line of Central Avenue; thence with said Central Avenue North 09°47'31" West, 432.61 feet to a set PK nail at the intersection of said Central Avenue and the South line of Sixth Street; thence with said Sixth Street North 80°04'37" East, 419.61 feet to a point; thence North 79°48'15" East, 189.99 feet to a point; thence North 80°04'02" East, 226.90 feet to a Set PK nail in the West line of said Elm Street; thence with said Elm Street South 09°55'31" East, 437.21 feet to the Place of Beginning. Containing 364,147 square feet of land more or less (8.360 acres). Bearings are based on Ohio State Plane Coordinate System.**

**Parcel 2:**

**Situate in Section 13, Town 4, Fractional Range 1, Cincinnati Township, Hamilton County Ohio, and being more particularly described as follows:**

**Beginning a set PK at the intersection of the East line of Central Avenue. and the South line of Sixth Street, measure with said Sixth Street North 80°04'37" East, 210.28 feet to a set CN; thence South 09°55'23" East, 7.14 feet to a set CN; thence South 80°24'59" West, 210.29 feet to a set PK in said East line of Central Avenue; thence North 09°47'31" West; 5.89 feet to the Place of Beginning. Containing 1,370 square feet of land more or less. Bearings are based on Ohio State Plane Coordinate System.**

**Parcel 3:**

**Situate in Section 13, Town 4, Fractional Range 1, Cincinnati Township, Hamilton County Ohio, and being more particularly described as follows:**

**Beginning at the intersection of the West line of Elm Street and the South line of Sixth Street, measure with said Sixth Street South 80°04'02" West, 226.90 feet to a set CN being the Place of Beginning; thence South 09°55'58" East, 10.41 feet to a set CN; thence South**

80°24'59" West, 190.00 feet to a set CN; thence North 09°55'23" West, 8.38 feet to a set PK in said South line of Sixth Street; thence North 79°48'15" East; 189.99 feet to the Place of Beginning. Containing 1,785 square feet of land more or less. Bearings are based on Ohio State Plane Coordinate System.

Parcel 4:

Situate in Section 13, Town 4, Fractional Range 1, Cincinnati Township, Hamilton County Ohio, and being more particularly described as follows:

Beginning a set PK at the intersection of the West line of Elm Street and the South line of Sixth Street, measure with said Elm Street South 09°55'31" East, 11.79 feet to a set CN; thence South 80°24'59" West, 42.89 feet to a point; thence North 09°55'58" West, 11.53 feet to a set CN in said South line of Sixth Street; thence North 80°04'02" East; 42.90 feet to the Place of Beginning. Containing 500 square feet of land more or less. Bearings are based on Ohio State Plane Coordinate System.

Exhibit B-2

*Legal Description – Elm Street*

[TO BE ATTACHED TO EXECUTION VERSION]

Exhibit B-3

*Legal Description – Millennium Site*

The Millennium Site consists of Hamilton County Auditor's Parcel Nos. 145-0002-0437-00 and 145-0002-0340-00.

[LEGAL DESCRIPTION(S) TO BE ATTACHED TO EXECUTION VERSION]

Exhibit B-4

*Legal Description – Convention Way Property*

The Convention Way Property consists of (i) existing right-of-way that is current a paper street known as Convention Way and (ii) Hamilton County Auditor's Parcel Nos. 145-0002-0304-90, 145-0002-0318-90, 145-0002-0320-90, 145-0002-0321-90, 145-0002-0322-90, 145-0002-0323-90, 145-0002-0325-90, 145-0002-0327-90, 145-0002-0336-90, 145-0002-0338-90, 145-0002-0339-90, and 145-0002-0355-90.

[LEGAL DESCRIPTION(S) TO BE ATTACHED TO EXECUTION VERSION]

## Exhibit C

### *Plaza Lease Terms*

**THIS EXHIBIT IS NON-BINDING AND IS INCLUDED ONLY FOR THE PURPOSES OF INDICATING THE TERMS EXPECTED TO BE A PART OF ONE OR MORE SUBSEQUENT AGREEMENTS BETWEEN THE CITY AND THE COUNTY.**

#### **Lease and Permitted Uses**

The County agrees to lease to the City the Millennium Site for the purpose of operating, with the inclusion of the Convention Way Property, a cohesive Plaza Site that will support the operations of the DECC and provide other civic and entertainment uses to the general public. The first priority use of the Plaza Site is for the benefit of the DECC and its events and clients. Other uses of the Plaza Site will be secondary.

#### **County-Organized Events at DECC or Plaza Site**

The City agrees to grant the County access to the DECC and Plaza Site under the same rights that it maintains for hosting events at those locations. For clarity, the County agrees that any out-of-pocket expenses related to any such event shall be covered by the County.

#### **County Recognition Signage**

The City agrees that the County shall be recognized prominently on public signage on the Plaza Site.

#### **Third Party Management**

The City shall have the right to enter into agreement(s) with one or more third parties to manage and program the Plaza Site. The County Administrator shall have the right to approve the manager of the Plaza Site and the initial form of the management agreement; however, so long as the City does not change the entity responsible for managing the Plaza Site, then the City shall have the right to extend the term of the management agreement(s) without additional County approval. The County acknowledges that the City utilizes a third-party manager for the DECC and that the management of the Plaza Site is intended to involve both the City's third-party DECC manager as well as Cincinnati Center City Development Corporation or related subsidiary. The agreement or agreements for management of the Plaza Site shall include at minimum the following terms:

##### **1. Scope of Services:**

- a. Promotion and Marketing of Plaza
- b. Coordination and Support of Convention Center-hosted Events
- c. Event Coordination, Permitting, and Oversight
- d. Programming and Activation of the Plaza Site
- e. Security
- f. Landscaping
- g. Maintenance, Care, and Cleaning of the Plaza Site
- h. Capital Repairs and Improvements
- i. Revenue Generation, Fundraising, and Sponsorship

##### **2. Annual Reporting on the Plaza Site**

Annual reporting to the City and the County shall be required and include, at minimum, the following information:

- a. **Annual Operating Budget** – Detailing expected revenues and expenditures for the coming year of the Plaza Site. The City and the County shall have approval rights of the annual operating budget. In the event of disagreement, the City's determination shall control.

- b. **Prior Year Financial Report** – Detailing revenues, including sponsorship revenue, and expenditures for the previous year and any reserves or cash-on-hand at the end of the year.
  - c. **Inspection Report** – Detailing the condition of the physical conditions of improvements on the Plaza Site.
  - d. **Attendance Report** – Detailing the estimated number and attendance at events on the Plaza Site during the last year—including details as to events directly related to events hosted at the DECC and also those events that were for more general civic, entertainment, or other purposes.
  - e. **Financial Statements** – Audited financial statements will be provided.
3. **Amendments** - City shall have the right to approve amendments to the management agreement(s) without further County consent so long as such amendments do not materially negatively impact the County’s rights delineated above.

**Costs and Revenue**

The City shall be responsible for any and all costs and expenses related to the Plaza Site, including, but not limited to, programming and maintenance. However, the County shall be responsible for paying all property taxes of the Millennium Site, if applicable and not exempted. The City shall be responsible for any special assessments on both the Millennium Site and the Convention Way Property.

Any revenue generated from operations on the Plaza Site shall be utilized to support the operations of the DECC, including the Plaza Site. The City and the County agree that any revenue generated from use of the Plaza Site by an event hosted by the DECC shall be attributed to DECC operations. Remaining revenue generated by the Plaza Site shall be allocated to Plaza Site operations and separately accounted for by the manager of the Plaza Site.

**Maintenance and Repair**

The City shall appropriately fund all cleaning, maintenance, and repairs to ensure the Plaza Site is clean, well maintained, in good repair, and safe for use.

**Capital Improvements**

The City may from time to time undertake capital improvements to the Plaza Site to modernize and update the physical improvements located on it. The County shall have approval rights, not to be unreasonably withheld, to any capital improvement projects in excess of \$1 million in project cost. In the event of disagreement, the City’s determination shall control, unless the County is being asked to fund the proposed capital improvements.

**Naming Rights**

The County shall have the right to review and approve for any naming rights agreements for the Plaza Site, which approval shall not be unreasonably withheld.

**Rent**

The City shall pay the County annual rent of \$1/year for the term of the Plaza Lease.

**Term**

Effective upon execution, the Plaza Lease shall have a term of 40 years, with two 30-year options to extend upon mutual agreement between the City and the County.

**Termination**

Following a default by the City on the Plaza Lease, the County may terminate the Plaza Lease; however, the Plaza Lease shall include notice and an opportunity for the City to cure any default before such a default will trigger termination. The City and the County may also terminate by mutual agreement.



**Rights to Purchase**

The City and the County will work to negotiate mutually agreeable terms that will delineate how and under what conditions the City has the right to purchase the Millennium Site to support a future expansion of the DECC. Such terms are intended to be included in the Plaza Lease. If the City and the County cannot come to terms on a purchase option to support expansion, the financial terms contained in this Exhibit C may be re-negotiated.

Exhibit D

*Statement of Work*

1. **Final Plans.** Manager shall:
  - a. Submit plans and specifications to the City and the County and secure approval of Final Plans.
  - b. Obtain preliminary estimates of the cost of work or the cost of program requirements using area, volume, or similar cost estimating techniques, including cost evaluations of alternative materials and systems suggested by the architect or Messer and share the same estimates with the City.
  
2. **Contracting.** Manager shall:
  - a. Negotiate all necessary contracts and subcontracts, including the guaranteed maximum price amendment to the CMAR Agreement (the "**GMP Amendment**"), for the DECC Project and submit the same for the City's review and approval. Manager shall not accept a GMP Amendment without the City's prior written approval. The GMP Amendment shall include a financing contingency in the event the parties do not close on the TOT Bonds by [December 31, 2024].
  - b. The CMAR Agreement includes the development and implementation processes needed to maximize the participation of MBE and WBE certified firms on the DECC Project in accordance with the City's and County's requirements. Manager shall monitor such MBE and WBE participation on City's and County's behalf during the DECC Project.
  - c. Choose the products and materials necessary to equip and furnish the DECC and complete the DECC Project in a manner that satisfies all requirements of the Final Plans.
  - d. Investigate and recommend a schedule for purchase of all materials and equipment requiring long lead time procurement, coordinate the schedule with the architect and expedite and coordinate delivery of such purchases.
  - e. Submit the final Contractor Controlled Insurance Program ("**CCIP**") for the City's review and approval. Manager shall not accept a CCIP without the City's prior written approval.
  
3. **Oversight during Construction.** Manager shall:
  - a. Cause the DECC Project to be completed in a prompt and expeditious manner, consistent with good workmanship, and in compliance with the following:
    - i. the Final Plans as they may be amended by the agreement of the parties hereto; and
    - ii. any and all obligations of the City and the County under the governing finance documents.
  - b. Coordinate the work of the architect to complete the DECC Project in accordance with the objectives as to cost, time, and quality, and provide sufficient personnel at the Project Site with authority to achieve such objectives.
  - c. Ensure that the DECC Project is completed free and clear of all mechanics' and materialmen's liens and in compliance with all applicable laws, regulations, and programs including, without limitation, applicable living wage and prevailing wage laws and requirements.
  - d. Provide to the City and the County, and periodically update, a building construction time schedule which coordinates and integrates the architect's services with construction schedules.
  - e. Provide regular monitoring of the schedule as construction progresses, identify potential variances between scheduled and probable completion dates, review the schedule for work not started or incomplete, recommend to the City and the County adjustments in the schedule to meet the probable completion date, provide summary of such monitoring within the quarterly reports required pursuant to this Agreement, and document all changes in the schedule.

- f. When requirements of subcontracts are not being fulfilled, take action pursuant to Manager's agreements with subcontractors and recommend other courses of action to the City and the County, as applicable and necessary.
- g. Revise and refine the approved estimate of DECC Project costs, incorporate changes as they occur, and develop cash flow reports and forecasts as needed.
- h. Provide regular monitoring of the approved estimate of DECC Project costs, show actual costs for activities in process and estimates for uncompleted tasks, identify variances between actual and budgeted or estimated costs and advise the City and the County whenever projected costs exceed budgets or estimates.
- i. Develop and implement a procedure for the review and processing of applications by the contractors and subcontractors for progress and final payments.
- j. In collaboration with the architect, establish and implement procedures for expediting the processing and approval of shop drawings and samples.
- k. Record the progress of the DECC Project and submit written progress reports to the City, the County, and the architect, including the percentage of completion and the number and amounts of change orders (as defined below).
- l. Cause to be performed in a diligent and efficient manner the following:
  - i. Redevelopment of the Project Site and completion of the DECC project, including any required off-site work;
  - ii. General administration and supervision of the DECC Project, including, without limitation, activities of the architect, Messer, contractors, subcontractors, consultants, and their employees and agents, and others employed as to the DECC Project in a manner which complies in all respects with the Final Plans.
  - iii. Manager shall hold regularly scheduled progress meetings. Minutes of all such meetings shall be taken by the architect, Messer, or any subcontractors or consultants, and copies of the same shall be furnished on a timely basis to the City and the County.
  - iv. Manager shall hold quarterly meetings in coordination with the submission of quarterly reports with the City and the County during the DECC Project. During the quarterly meetings the Manager will review the quarterly report, including, without limitation, issues involving the DECC Project scope, schedule, Budget, or construction.
  - v. Manager shall inspect the work in progress weekly during construction. Manager shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the construction work but will, on the basis of the site visits, keep the City and the County informed about the progress and quality of the portion of the work completed.
  - vi. Manager shall issue all instructions to the design team, any consultants, the architect, Messer, contractors, and any subcontractors for and on behalf of the City and the County, and shall be responsible for all communications from the City and the County to any consultants, the architect, Messer, and any contractors or subcontractors.
  - vii. Manager shall act as interpreter of the requirements of all documents related to the construction of the DECC Project and as judge of performance thereunder by the parties thereto and shall make recommendations to the City and the County as to any claim of the design team, any consultants, the architect, contractors, and any subcontractors relating to execution and progress of work on the DECC Project, or any other matter or question relating thereto. Manager shall not be liable for results of any such interpretation, decision, or recommendation rendered by Manager in good faith, and without negligence or willful misconduct on its part.
  - viii. Manager shall review and approve on behalf of the City and the County all change orders and requests for additional compensation from the DECC Project participants (collectively referred to in this paragraph as "change orders"). Manager shall have authority on the City's and the County's behalf to issue or approve change orders without the City's and the County's approval during

execution of the DECC Project so long as (a) the projected costs of the DECC Project, after taking into account all such change orders, do not exceed the total Budget, (b) the general character and appearance of the DECC Project are not materially affected by such change orders, and (c) the cost of the change order does not exceed \$150,000. In the event a change order does not meet conditions (a)-(c) above, then Manager shall obtain the City's and County's prior written approval prior to approving any such change order.

**4. Administration.** Manager shall:

- a. Keep, or cause to be kept, accounts and cost records as to the DECC Project.
- b. Maintain, or cause to be maintained, at its expense, all office and accounting facilities and equipment necessary to adequately perform the foregoing functions.
- c. Make available to the City and the County, during normal business hours and upon the City's or the County's written request, copies of all contracts and subcontracts.
- d. Provide general DECC Project financial and accounting services for the City and the County during the DECC Project including (i) accounting and financial oversight and reporting; (ii) periodic accounting reconciliations (daily, monthly, quarterly, or yearly, as needed); (iii) year-end tax statements and reporting, as needed; (iv) payroll and invoice entry and processing; (v) monthly departmental reports to the City and the County; (vi) maintenance of vendor information and records; (vii) coordination and preparation of an annual DECC Project development budget; (viii) coordination of the annual audit with the City and the County and the City's and the County's independent audit firms; (ix) pledges receivables tracking; (x) quarterly Ohio lobby reporting; and (xi) other similar services as may be agreed to by the City, the County, and Manager.

**5. Project Close-out.** Manager shall:

- a. Obtain an architect's certificate that the work on the DECC Project is substantially complete, and inspect Messer's work, which work must be completed to the satisfaction of the City, in the City's sole and absolute discretion.
- b. Deliver to the City and the County a dimensioned as-built survey of the real property and as-built drawings of the DECC Project construction.
- c. Coordinate the DECC Project close out, including required governmental inspections. Obtain a certificate of occupancy and any other permits, approvals, licenses, and other documents required for the beneficial occupancy of the DECC and the broader Project Site, and deliver all documents to the City. Manage execution and delivery of all close out documentation, manuals, warranties, training, and maintenance agreements.

Exhibit E

*Budget*

<b>USES</b>	
<b>Hard Costs</b>	
Construction Cost	159,055,242
FF&E	6,450,000
<b>Subtotal Hard Costs</b>	<b>165,505,242</b>
<b>Soft Costs</b>	
Architecture/Engineering	15,905,224
Insurance	830,000
Utilities	1,350,000
Construction Testing	150,000
Construction Inspections	100,000
Professional Fees	965,670
Title & Recording Fees	530,000
Legal Fees	290,044
Marketing & Signage	35,000
Interest	10,000
Contingency	10,500,000
Developer Fee	3,828,820
<b>Subtotal Soft Costs</b>	<b>34,494,758</b>
<b>TOTAL USES</b>	<b>200,000,000</b>
<b>SOURCES</b>	
City of Cincinnati (previously approved)	7,000,000
City of Cincinnati	23,000,000
Hamilton County	15,000,000
Bond Proceeds	155,000,000
<b>TOTAL SOURCES</b>	<b>200,000,000</b>

From time to time during the course of the Project, the parties anticipate that the Budget will need to be updated. In accordance with the terms of this Agreement, Manager shall submit to the City's Representative and the County's Representative any proposed updates to the Budget in writing for their review and approval, which approval will be provided in the City's and County's sole and absolute discretion.

Exhibit F

*Disbursement of Funds*

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

(i) Manager has provided the City and the County with evidence of insurance required under this Agreement;

(ii) Manager has provided the City and the County with evidence that it has obtained all licenses, permits, governmental approvals, and the like necessary for the construction work, if any, with respect to which the City Cash Funds and County Cash Funds are being requested;

(iii) Construction of the DECC Project, to the extent it has commenced, is proceeding in accordance with the Final Plans, Budget, and construction schedule;

(iv) Manager has provided the City and the County with such other documents, reports and information relating to the DECC Project (a) as required by this Agreement or (b) as the City or the County has reasonably requested; and

(v) No events of default by Manager or circumstances which would, by provision of notice, the passage of time, or otherwise, constitute events of default, have occurred and are continuing under this Agreement, the Pre-Development Agreement, or any other Project Document.

(B) Disbursement of Funds. Provided all of the requirements for disbursement of the City Cash Funds and the County Cash Funds (collectively, the City Cash Funds and the County Cash Funds are hereinafter referred to as the "**Funds**" for the purposes of this Exhibit E) shall have been satisfied, the City and the County shall disburse the Funds to Developer. The City shall disburse the City Cash Funds and the County shall disburse the County Cash Funds, and they shall be disbursed pro-rata (i.e., the City Cash Funds and the County Cash Funds shall be disbursed simultaneously on a pro-rata basis). For the avoidance of doubt, nothing herein shall be construed to require the City or the County to disburse the City Cash Funds or the County Cash Funds on an advance basis. Manager shall not be entitled to a disbursement of the Funds to pay for costs incurred prior to June 1, 2023. Manager shall request and use the Funds solely for the purposes permitted under this Agreement. Nothing in this Agreement shall permit, or shall be construed to permit, the expenditure of the Funds for the acquisition of supplies or inventory, or for the purpose of purchasing materials not used in the construction, or for establishing a working capital fund, or for any other purpose expressly disapproved in writing by the City and the County. Manager may not request a disbursement of the Funds for any expenditure that is not itemized on or contemplated by the Budget or if the costs for which the disbursement is being requested exceeds the applicable line item in the Budget; however, Manager may request, in writing, that funds be transferred between line items, with the City's and the County's approval thereof not to be unreasonably withheld. Disbursements from the project account shall be limited to an amount equal to the actual cost of the work, materials, and labor incorporated in the work up to the amount of such items as set forth in the request for payment.

(C) Draw Procedure.

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

(ii) Documentation. Each disbursement request shall include the following:

(a) For non-construction costs shown on the approved Budget, Manager shall submit a draw request form provided by the City and the County along with such other documentation or information requested by the City and the County relevant to the requested disbursement.

(b) For construction costs shown on the approved Budget, Manager shall submit a draw request form provided by the City and the County, with the following attachments: (i) an AIA G-702-703 Form (AIA) or such other similar form acceptable to the City and the County, (ii) sworn affidavits and/or unconditional lien waivers (together with invoices, contracts, or other supporting data) from all contractors, subcontractors, and materialmen with contracts for \$25,000 or more covering all work, labor, and materials for the work through the date of the disbursement and establishing that all such work, labor, and materials have been paid for in full, (iii) waivers or disclaimers from suppliers of fixtures or equipment who may claim a security interest therein, and (iv) such other documentation or information requested by the City that a prudent construction lender might request. To the extent Messer and/or Manager collects any affidavits or lien waivers pursuant to this Agreement and/or the CMAR Agreement that are signed, fully-executed originals, then those signed, fully-executed originals shall be delivered to the City upon completion of construction as provided for herein.

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

## Exhibit G

### *Additional Requirements*

Manager and Messer shall comply with all applicable statutes, ordinances, regulations, and rules of the government of the United States, State of Ohio, County of Hamilton, and City of Cincinnati (collectively, "**Government Requirements**"), including the Government Requirements listed below, to the extent that they are applicable. Manager hereby acknowledges and agrees that (a) the below listing of Government Requirements is not intended to be an exhaustive list of Government Requirements applicable to the DECC Project, Manager, or Manager's contractors, subcontractors or employees, either on the City's part or with respect to any other governmental entity, and (b) the City and the County and their respective legal departments are not providing legal counsel to or creating attorney-client relationships with Manager by attaching this Exhibit to the Agreement.

This Exhibit serves two functions:

(i) Serving as a Source of Information With Respect to Government Requirements.

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

(ii) Affirmatively Imposing Contractual Obligations.

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

(A) Reserved.

(B) Trade Unions; Subcontracts; Competitive Bidding.

(i) Meeting and Conferring with Trade Unions.

(a) Applicability. Per City of Cincinnati Ordinance No. 130-2002, this requirement is limited to transactions in which Manager receives City funds or other assistance (including, without limitation, the City's construction of public improvements to specifically benefit the DECC Project, or the City's sale of real property to Manager at below fair market value).

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



shall provide to the City, in writing, a summary of Manager and/or its general contractor's meet and confer activity.

(ii) Contracts and Subcontracts: Competitive Bidding.

(a) Applicability. This clause (ii) is applicable to "construction contracts" under Cincinnati Municipal Code ("**CMC**") Chapter 321. CMC Chapter 321 defines "construction" as "any construction, reconstruction, improvement, enlargement, alteration, repair, painting, decorating, wrecking or demolition, of any public improvement the total overall project cost of which is fairly estimated by Federal or Ohio statutes to be more than four thousand dollars and performed by other than full-time employees who have completed their probationary periods in the classified service of a public authority," and "contract" as "all written agreements of the City of Cincinnati, its boards or commissions, prepared and signed by the city purchasing agent or a board or commission for the procurement or disposal of supplies, service or construction."

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

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

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

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

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

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

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

(4) "Public Notification" means (a) advertisement of an invitation to bid with ACI (Allied Construction Industries) and the Dodge Report, and (b) dissemination of the advertisement (either by mail or electronically) to the South Central Ohio Minority Business Council, Greater Cincinnati Northern Kentucky African-American Chamber of Commerce, and the Hispanic Chamber of Commerce. The advertisement shall include a description of the

"scope of work" and any other information reasonably necessary for the preparation of a bid, and it shall be published and disseminated no less than 14 days prior to the deadline for submission of bids stated in the invitation to bid.

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

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

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

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

(F) Reserved.

(G) Equal Employment Opportunity.

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

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

(H) Prevailing Wage. Manager shall comply, and shall cause all contractors working on the DECC Project to comply, with all any prevailing wage requirements that may be applicable to the DECC Project. In the event that the City is directed by the State of Ohio to make payments to construction workers based on violations of such requirements, Manager shall make such payments or reimburse the City for such payments within 20 days of demand therefor.

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

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

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

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

(M) Wage Enforcement.

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

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

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

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

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

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

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

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

(N) Americans with Disabilities Act; Accessibility.

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

(ii) Requirement. In furtherance of the policy objectives set forth in the Accessibility Motion, (A) the DECC Project shall comply with the ADA, and (B) if (i) any building(s) within the DECC Project is subject to the accessibility requirements of the ADA (e.g., by constituting a "place of public accommodation" or another category of structure to which the ADA is applicable) and (ii) such building(s) is not already required to meet the Contractual Minimum Accessibility Requirements (as defined below) pursuant to the ADA, applicable building code requirements, or by any other legal requirement, then Manager shall cause such building(s) to comply with the Contractual Minimum Accessibility Requirements in addition to any requirements pursuant to the ADA and the applicable building code or legal requirement. As used herein, "**Contractual Minimum Accessibility Requirements**" means that a building shall, at a minimum, include (1) at least one point of entry (as used in the ADA), accessible from a public right of way, with respect to which all architectural barriers (as used in the ADA) to entry have been eliminated, and (2) if such accessible point of entry is not a building's primary point of entry, conspicuous signage directing persons to such accessible point of entry.

(O) Electric Vehicle Charging Stations in Garages.

(i) Applicability. Cincinnati City Council passed Ordinance No. 89-2017 on May 10, 2017. This ordinance requires all agreements in which the City provides any amount of "qualifying incentives" for projects involving the construction of a parking garage to include a provision requiring the inclusion of certain features in the garage relating to electric vehicles. The ordinance defines "qualifying incentives" as the provision of incentives or support for the construction of a parking garage in the form of (a) the provision of any City monies or monies controlled by the City including without limitation the provision of funds in the form of loans or grants; (b) the provision of service payments in lieu of taxes in connection with tax increment financing, including rebates of service payments in lieu of taxes; and (c) the provision of the proceeds of bonds issued by the City or with respect to which the City has provided any source of collateral security or repayment, including, but not limited to, the pledge of assessment revenues or service payments in lieu of taxes. For the avoidance of doubt, "qualifying incentives" does not include (1) tax abatements such as Community Reinvestment Area abatements pursuant to Ohio Revised Code 3735.67, et seq., or Job Creation Tax Credits pursuant to Ohio Revised Code 718.15; (2) the conveyance of City-owned real property for less than fair market value; and (3) any other type of City support in which the City provides non-monetary assistance to a project, regardless of value.

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

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

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

Contract No: \_\_\_\_\_

**DEVELOPMENT AGREEMENT**

*among the*

**CITY OF CINCINNATI,**  
an Ohio municipal corporation

**BOARD OF COUNTY COMMISSIONERS OF HAMILTON COUNTY, OHIO,**  
an Ohio political subdivision

*and*

**3CDC DEVELOPMENT MANAGER LLC,**  
an Ohio limited liability company

Project Name: Duke Energy Convention Center Renovation and Expansion

Dated: \_\_\_\_\_, 2024

## DEVELOPMENT AGREEMENT

(Duke Energy Convention Center Renovation and Expansion)

This Development Agreement (this “**Agreement**”) is made and entered into effective as of the Effective Date (as defined on the signature page hereof) among the **CITY OF CINCINNATI**, an Ohio municipal corporation, 801 Plum Street, Cincinnati, Ohio 45202 (the “**City**”); the **BOARD OF COUNTY COMMISSIONERS OF HAMILTON COUNTY, OHIO**, acting for and on behalf of Hamilton County, Ohio, a political subdivision of the State of Ohio, 138 E. Court Street, Room 603, Cincinnati, Ohio 45202 (the “**County**”); and **3CDC DEVELOPMENT MANAGER LLC**, an Ohio limited liability company, 1203 Walnut Street, 4<sup>th</sup> Floor, Cincinnati, Ohio 45202 (“**Manager**”), a wholly owned subsidiary of Cincinnati Center City Development Corporation, an Ohio nonprofit corporation (“**3CDC**”).

### Recitals:

A. The City owns the Duke Energy Convention Center located at 525 Elm Street, generally bounded by Elm Street, 5<sup>th</sup> Street, 6<sup>th</sup> Street, and Central Avenue in the Central Business District of Cincinnati, as depicted on Exhibit A (Site Plan) hereto and more particularly described on Exhibit B-1 (Legal Description – DECC) hereto (the “**DECC**”).

B. The City currently anticipates vacating that portion of Elm Street right-of-way between 6<sup>th</sup> Street and 5<sup>th</sup> Street, as depicted on Exhibit A and more particularly described on Exhibit B-2 (Legal Description – Elm Street) hereto (the “**Former City ROW**”), for potential consolidation with the DECC or to be owned as a standalone parcel by the City.

C. The Port of Greater Cincinnati Development Authority (the “**Port**”) currently owns certain real property where the former Millennium Hotel was located, generally bounded by Elm Street, 5<sup>th</sup> Street, 6<sup>th</sup> Street, and the 84.51 headquarters building, as depicted on Exhibit A and more particularly described on Exhibit B-3 (Legal Description – Millennium Site) hereto (the “**Millennium Site**”). The City owns certain real property that bisects the Millennium Site that is comprised of (i) existing right-of-way that is currently a paper street known as Convention Way and (ii) several parcels along Elm Street and Convention Way, all as depicted on Exhibit A and more particularly described on Exhibit B-4 (Legal Description – Convention Way Property) hereto (the “**Convention Way Property**”, and collectively with the Millennium Site, the “**Plaza Site**”).

D. The County helped finance the Port’s acquisition of the Millennium Site and demolition of the building formerly located thereon, creating potential development opportunities for the District (as defined below).

E. To facilitate the DECC Project (as defined below), the parties currently anticipate that (i) the City will vacate the Former City ROW and other right-of-way included in the Convention Way Property, with the Port providing abutter’s consents to such vacations in such form as the City may require and assisting with other necessary title clean-ups, (ii) then, the Port will convey fee simple title to the Millennium Site to the County, and (iii) thereafter the County will lease the Millennium Site to the City for coordinated planning and programming of the Plaza Site with the DECC and the Former City ROW (the DECC, the Former City ROW, and the Plaza Site are hereinafter collectively referred to as the “**Project Site**”), which lease, as further described in Section 5 hereof, the parties anticipate will contain terms substantially in accordance with the terms outlined in Exhibit C (Plaza Lease Terms) hereto.

F. Although the City has provided for day-to-day maintenance and repairs and the completion of periodic capital improvements, the DECC has deteriorated in recent years and is once again in need of renovation and capital repairs.

G. Pursuant to (i) Resolution No. 6-2022, approved by City Council on January 26, 2022, the Mayor and Council of the City, and (ii) a Resolution passed by the Board of County Commissioners on January 27, 2022, the City and the County expressed their support for the creation of a comprehensive

strategy for redevelopment of the DECC and the surrounding area generally bounded by Race Street, Central Avenue, 4<sup>th</sup> Street, and 6<sup>th</sup> Street (collectively, the “**District**”), including through the engagement of 3CDC for planning and management services related to the District.

H. The parties hereto entered into a certain *Development Management Services Agreement* dated June 14, 2023 (the “**Pre-Development Agreement**”), pursuant to which (i) the City and the County engaged Manager to, among other things, provide general planning and development services as it relates to property within the District, including for development of a new convention center headquarters hotel and the renovation of the DECC and potential expansion over the Former City ROW and the Plaza Site (the “**Pre-Development Services**”); and (ii) the City provided \$7,000,000 for certain costs associated with the Pre-Development Services (the “**DECC Pre-Development Funds**”). Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Pre-Development Agreement.

I. Manager’s work associated with the Pre-Development Services has, to date, been to the satisfaction of the City and the County, the City and the County now desire to further engage Manager to provide additional development management project implementation services related to the renovation of the DECC, the Plaza Site, and the Former City ROW, all as more particularly described on Exhibit D (Statement of Work) hereto (the “**DECC Project**”). For the avoidance of doubt, in no event does the DECC Project include other development within the District, including, without limitation, any development at 435 Elm Street (also known as the former site of the Convention Place Mall), the convention center headquarters hotel, or the Whex Garage.

J. Manager intends to commence on-site construction on the DECC Project no later than **July 1, 2024** (the “**Commencement Deadline**”), and substantially complete construction no later than **December 31, 2025** (the “**Completion Deadline**”). For the purposes hereof, “substantially complete” shall have the same meaning as “Substantial Completion” as defined in the CMAR Agreement (as defined below).

K. The total estimated cost (including, without limitation, hard construction costs, soft costs, acquisition costs, and costs of issuance) of the DECC Project is approximately \$200,000,000, which costs are more particularly detailed on Exhibit E (Budget) hereto (as the same may thereafter be updated from time to time during the DECC Project, in accordance with the terms and conditions of this Agreement, the “**Budget**”).

L. In addition to providing the DECC Pre-Development Funds, to facilitate the DECC Project, the City intends to provide an additional \$23,000,000 (the “**City Cash Funds**”).

M. The current source of the City Cash Funds is proceeds from the City’s issuance of urban renewal bonds or notes to finance a portion of the DECC Project, as authorized by Ordinance No. \_\_\_\_\_-20\_\_\_\_\_, passed by City Council on \_\_\_\_\_, 20\_\_\_\_ (the “**Urban Renewal Ordinance**”).

N. In addition to having provided (i) funding for the acquisition and demolition of the former Millennium Hotel, and (ii) \$5,000,000 for pre-development costs associated with the Millennium Site, to facilitate the DECC Project, the County intends to provide an additional \$10,000,000 (the “**County Cash Funds**”).

O. To facilitate a bond issuance by the Port, in a principal amount not to exceed \$370,000,000 (the “**TOT Bonds**”), (i) the City and the County will pledge to the Port and/or the trustee on the TOT Bonds some of the revenues from their respective transient occupancy taxes (the “**TOT Revenues**”); and (ii) subject to appropriation, [and only if necessary,] (a) the City will transfer to the Port City funds in the amount of \$650,000 annually (the “**City Annual Funds**”), and (b) the County will transfer to the Port County funds in the amount of \$650,000 annually (the “**County Annual Funds**”; and together with the City Annual Funds, the “**Annual Funds**”), the terms of all of which will be agreed to by means of a separate cooperative agreement and other ancillary agreements between the City, the County, and the Port, and pursuant to which the Port will make the net TOT Bonds proceeds available to pay for the construction of the DECC Project, as will be determined by such separate agreements.



P. The cooperative agreement and other documents associated with the TOT Bonds with respect to the DECC Project entered into with the Port and Manager or 3CDC to which the City and/or the County are parties are referred to herein as the “**TOT Bond Documents**,” and the TOT Bond Documents, this Agreement, the Pre-Development Agreement, the CMAR Agreement, and such other ancillary documents and instruments executed by Manager or 3CDC and the City and/or County, or executed by Manager or 3CDC in favor of the City and/or County in relation to the DECC Project are referred to herein as the “**Project Documents**.”

Q. The City has determined that it is in the best interest of the City to (i) approve MESSER CONSTRUCTION (“**Messer**”) as the construction manager, in partnership with TriVersity Construction and Jostin Construction, for the DECC Project due to the company’s experience and reputation for successfully completing projects of this magnitude and complexity; and (ii) permit the construction manager to selectively hire the subcontractors for the DECC Project because of the highly specialized nature of the renovation work that will be performed by the subcontractors, with the understanding that the construction manager will comply with the Inclusion Plan in connection with the DECC Project.

R. The City and the County believe that the DECC Project is in the vital and best interests of the City and the County and the health, safety, and welfare of their residents, and in accordance with the public purposes and provisions of applicable federal, state, and local laws and requirements, and for this reason the City and the County desire to facilitate the DECC Project by providing the City Cash Funds, the County Cash Funds, and other financial support for the DECC Project as described herein.

S. Execution of this Agreement and the other Project Documents on behalf of the City was authorized by Ordinance No. \_\_\_\_\_-20\_\_\_\_, passed by City Council on \_\_\_\_\_, 20\_\_\_\_ and the Urban Renewal Ordinance.

T. Execution of this Agreement and the other Project Documents on behalf of the County was authorized by that certain Resolution passed by the Board of County Commissioners of Hamilton County, Ohio on \_\_\_\_\_, 20\_\_\_\_.

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

1. **Term.** The term of this Agreement shall commence on the Effective Date and shall end on the date on which the City and the County have disbursed all of the City Cash Funds and the County Cash Funds to Manager and Manager has fulfilled all of its obligations hereunder, including, without limitation, any reporting requirements.

**2. Construction of the DECC Project.**

(A) Preparation of Plans and Specifications. Manager shall prepare plans and specifications for the DECC Project and shall submit the same to the City and the County for review and approval. The approved plans and specifications for the DECC Project, as included in the executed GMP Amendment (as defined below), and as approved by the City and the County in accordance with Exhibit D hereto (including any and all changes thereto reflected on properly-executed change orders, as defined and in accordance with Exhibit D hereto), are referred to herein as the “**Final Plans**”. Manager shall submit any and all proposed changes to the Final Plans to the City and the County for review and approval that Manager is not otherwise permitted to approve without City or County approval pursuant to Exhibit D hereto.

(B) Obtaining and Approving Construction Bids. Upon completion of the Final Plans, Manager shall cause Messer to begin selecting contractors and subcontractors for the construction of the improvements reflected in such Final Plans. The final bids for each component of the DECC Project, as approved by Manager, are referred to herein as the “**Final Bids**”. For the avoidance of doubt, the City and the County acknowledge that the DECC Project may be split up into multiple packages and phases, all in accordance with the CMAR Agreement, and, therefore, for the purpose of this Agreement, the Final Plans

and the Final Bids may relate to a specific package and phase. Upon Manager's selection of the bids for the DECC Project, Manager shall submit to the City and the County, for review and approval, an updated Budget for the DECC Project.

(C) Construction. Once Final Plans and Final Bids have been approved in accordance with Sections 2(A) and (B) above, Manager shall proceed with construction of the DECC Project, and provided Manager has obtained all building permits, zoning approvals, and other governmental approvals required for the DECC Project, Manager shall cause Messer to commence on-site construction no later than the Commencement Deadline, and thereafter complete the construction of the DECC Project, as reflected in the respective Final Plans therefor, in compliance with all applicable laws, and substantially in accordance with Exhibit D hereto, no later than the Completion Deadline. Manager shall obtain the City's and the County's approval of any proposed changes to Exhibit D hereto. Notwithstanding the foregoing, upon written request of Manager, the City and the County may, in their sole and absolute discretion, extend the Commencement Deadline and/or the Completion Deadline by up to 6 months by providing written notice to Manager.

(D) Contractors and Subcontractors. Manager shall not solicit, or cause to be solicited, bids from any contractors or subcontractors who are identified as being debarred by the federal or state government or who are identified as being debarred on the City's Vendor Performance list.

(E) Applicable Laws. Manager shall obtain, pay for, and maintain all necessary building permits and other permits, licenses, and other governmental approvals and shall comply with all applicable federal, state, and local laws, codes, ordinances, and other governmental requirements applicable to the construction of the improvements. The City makes no representations or other assurances to Manager that Manager will be able to obtain whatever variances, permits, or other approvals from the City's Department of Buildings & Inspections, Department of Planning & Engagement, Department of Transportation & Engineering, other City departments, City Planning Commission, or City Council that may be required in connection with the DECC Project. Notwithstanding the foregoing, the City will consider assigning permitting staff primarily dedicated to the District to review all permits for construction projects located within the District, including the DECC Project.

(F) Inspection of Work. During construction, the City and the County, and their employees and agents, shall have the right at all reasonable times to inspect the progress of construction. In addition, Manager, at no charge to the City and the County, shall make Messer, its project architect, general contractor, or other representative of Manager reasonably accessible to the City to provide pertinent information about the DECC Project. If the City and the County determine that the DECC Project is not substantially in accordance with the Final Plans or other requirements of this Agreement, is not in compliance with all legal requirements, or is not being performed in a good and workmanlike manner, the City and the County shall have the right to order Manager to correct the nonconforming work or noncompliance by giving Manager written notice thereof.

(G) Mechanics' Liens. Manager shall not permit any mechanic's or other liens to be filed against the Project Site, or the City's or the County's funds, during construction. If a mechanic's lien shall at any time be filed, Manager shall, within 60 days after notice of the filing thereof, cause the same to be discharged of record.

(H) Monthly Reporting During Construction. During construction, Manager shall provide the City and the County with monthly reports describing the status of the DECC Project, including, without limitation, information about whether the DECC Project is on budget and on schedule, an updated report tracking the W/MBE Goals and Aspirational Goals according to the Compliance Plan, a list of newly-hired Consultants (as defined below) and a list of any roles for which Manager anticipates hiring additional Consultants, and containing such additional pertinent information thereto as the City or the County may from time to time reasonably request. Manager shall submit a final report to the City and the County for the month in which the DECC Project is substantially completed.

(I) As-Built Drawings. Following completion of construction of the DECC Project, Manager shall provide the City with “as-built” drawings of the improvements completed as part of the DECC Project.

(J) Diversity, Equity, and Inclusion. Pursuant to the terms of the Pre-Development Agreement, the parties developed an Inclusion Plan to meet the agreed-upon MBE and WBE inclusion goals the parties have agreed are applicable to the District, including the DECC Project. Manager shall follow and enforce the Inclusion Plan, including through following and enforcing the Compliance Plan and submitting the required monthly reports relating thereto, to ensure that Manager, Messer, and all of their respective contractors, subcontractors, and consultants utilize best efforts to achieve the W/MBE Goals of 20% for MBEs and 10% for WBEs, with the additional Aspirational Goals of 5% each for MBEs and WBEs, for collective goals of 25% for MBEs and 15% WBEs.

(K) DECC Dispute Resolution Process. In the event of any disputes between the City and the County on a decision, upon which each the City and the County have approval rights pursuant to this Agreement, that will materially impact construction associated with the DECC Project, the City and the County agree to work in good faith to come to a mutually agreeable resolution. If the City and the County are unable to come to a mutually agreeable resolution within 30 calendar days, then the City and the County shall submit the matter to binding arbitration in accordance with the American Arbitration Association rules and regulations. Notwithstanding the foregoing, the parties hereby acknowledge and agree that any results of such arbitration will not be binding upon the parties if the resolution is determined to be illegal under applicable laws. In the event of any such arbitration, the parties hereby agree that costs associated with such arbitration shall be paid for, on a pro rata basis, out of the City Cash Funds and the County Cash Funds; *provided, however*, that each party shall bear its own attorneys’ fees.

### 3. Financing.

(A) City Cash Funds. Provided that Manager is not in breach of this Agreement, the Pre-Development Agreement, or any of the other Project Documents, the City shall provide to Manager the City Cash Funds, in an amount not to exceed \$23,000,000, which shall be disbursed in accordance with Exhibit F (Disbursement of Funds) hereto.

(B) County Cash Funds. Provided that Manager is not in breach of this Agreement, the Pre-Development Agreement, or any of the other Project Documents, the County shall provide to Manager the County Cash Funds, in an amount not to exceed \$10,000,000, which shall be disbursed in accordance with Exhibit F.

(C) TOT Funds. To facilitate the TOT Bonds in a principal amount not to exceed \$370,000,000, the City and the County shall pledge to the Issuer some of the TOT Revenues, and, if necessary, the Annual Funds, as sources of repayment and security for the TOT Bonds. For the avoidance of doubt, the parties hereby agree and acknowledge that each the City’s and the County’s transient occupancy tax revenues have been previously committed to other projects (the “**Prior TOT Commitments**”), and that such Prior TOT Commitments will be senior in order of priority of repayment to any TOT Bonds issued pursuant hereto. Additionally, revenues from the City’s 1.50% transient occupancy tax levied in 1969 are explicitly excluded from the defined TOT Revenues that the City will make available to facilitate the TOT Bonds.

(D) Permitted Use of Funds. Manager shall use the City Cash Funds and the County Cash Funds solely to pay for costs associated with the DECC Project and other eligible costs associated with the District and approved by the City and the County. The net proceeds of the TOT Bonds shall be used solely to pay for construction costs associated with the DECC Project that are incurred at the Project Site and other eligible costs associated with the District, as more specifically set forth in the TOT Bond Documents.

(E) Development Fee. In addition to the Pre-Development Fee, Manager shall receive a fee of \$2,750,000 for its performance of the services associated with the construction of the DECC Project (the “**Development Fee**”), which shall be paid out of the TOT Bond proceeds and/or City Cash Funds and

County Cash Funds, as follows: (i) \$1,000,000 paid within 30 days from the date of closing on the TOT Bonds, and (ii) the remaining \$1,750,000 (the “**Installment Fee**”), paid in equal monthly installments of \$97,222.22 beginning on July 1, 2024, and continuing until the Installment Fee has been paid in full; *provided, however*, that each monthly installment of the Installment Fee shall be payable only following (i) the submission by Manager to the City and the County of a monthly progress report related to the services associated with the construction of the DECC Project accomplished during the preceding month and (ii) approval by the City and the County in their reasonable discretion that the work on the construction of the DECC Project, if any, has been satisfactorily completed to date. The City and the County shall use best efforts to approve or reject such monthly report within 5 business days of receipt thereof. Manager shall include an invoice for the portion of the Development Fee then due with each draw request.

#### **4. Project Contractors and Consultants.**

(A) **CMAR Agreement.** The parties hereto hereby agree and acknowledge that Manager has entered into that certain Agreement dated December 4, 2023, whereby Manager engaged Messer to serve as Construction Manager at Risk as it relates to the DECC Project (the “**CMAR Agreement**”). Notwithstanding anything in the CMAR Agreement to the contrary, Manager hereby agrees to remit to the City any proceeds paid to Manager under or pursuant to the terms of the CMAR Agreement that are intended to inure to the benefit of the owner of the DECC.

(B) **Authority to Hire Consultants.** The City and the County hereby authorize Manager to hire Consultants to serve as subcontractors of Manager, except as otherwise provided herein. Notwithstanding anything herein to the contrary, no attorney or law firm may be retained by Manager for the purpose of serving as legal counsel in connection with this Agreement or Manager’s services related hereto without the express prior written approval of the City Solicitor and the County Prosecuting Attorney.

(C) **Manager’s Enforcement Obligations.** Manager is not a guarantor or warrantor of performance or workmanship of any Consultants, the Architect, Messer, or any contractor or subcontractors of any of them, or their respective employees or agents with regard to the DECC Project or any work related thereto. However, because Manager is executing the contracts with Messer, the Architect, and Consultants, Manager shall include in each such contract language that requires Messer and the Consultants to indemnify Manager and to secure and maintain insurance as required hereunder, under the CMAR Agreement, or as required under any other Project Document, with the Manager, the City, and the County named as additional insureds. Manager shall enforce its rights under those agreements in the event of any breach and shall ensure that the City and/or the County (as applicable) may also enforce such agreements in the event of any breach. Notwithstanding anything herein to the contrary, neither the City nor the County shall be entitled to terminate this Agreement for the breach of this Agreement for the breach of Messer or a Consultant, so long as Manager is enforcing its rights under the applicable contract(s) and is actively pursuing a solution to the breach to the satisfaction of the City and the County, which may include Manager’s finding and retaining an adequate substitute construction manager or Consultant satisfactory to the City and the County, in each such entity’s sole and absolute discretion, such approval not to be unreasonably withheld.

**5. Plaza Lease.** The City and the County hereby agree to work in good faith toward entering into a lease and operating agreement whereby the County will lease the Millennium Site to the City, and the City will operate the Plaza Site in coordination with the operations of the DECC and the remainder of the Project Site and provide other civic and entertainment uses to the general public. The parties anticipate that the lease and operating agreement (the “**Plaza Lease**”) will contain terms substantially in accordance with Exhibit C hereto. For the avoidance of doubt, the actual terms of the Plaza Lease will be finalized in a standalone document separate and apart from this Agreement, and will require additional legislative approvals to effectuate the City’s and the County’s respective interests in the Millennium Site. The parties anticipate the Plaza Lease will be executed and in place no later than the earlier to occur of (a) the execution of the GMP Amendment and (b) the date of closing on the TOT Bonds.

**6. City and County Representatives.** The City shall act by and through the City Manager or her authorized designee (“**City’s Representative**”) and the County shall act by and through the County

Administrator or his authorized representative (“**County’s Representative**”), and Manager, the City, and the County shall each be entitled to deal with the City’s Representative and the County’s Representative as agents fully authorized and empowered by the City and the County, respectively, to perform the duties and functions set forth herein and to bind the City and the County as to the matters provided for herein (to the extent permitted by applicable law); *provided, however*, that each such request for approval or direction by Manager (i) of the City must be in writing, and each such approval or direction by the City’s Representative must be in writing to bind the City; and (ii) of the County must be in writing, and each such approval or direction by the County’s Representative must be in writing to bind the County. For the avoidance of doubt, Manager, the City, and the County shall each be entitled to reasonably rely on the aforementioned written approval(s) or direction(s) of the City’s Representative on behalf of the City and the County’s Representative on behalf of the County. Manager shall meet with the City’s Representative and the County’s Representative regularly to provide progress reports on the Project. Any decision requiring the expenditure of funds of either the City or the County in excess of the existing authority of the City Manager or the County Administrator, respectively, shall be subject to the approval of the applicable legislative authority. Meetings between Manager, the City’s Representative, and the County’s Representative will take place at least once per month at a mutually agreed upon time and location. To the extent feasible, the City’s Representative and the County’s Representative will be responsive and cooperative during the Term and will provide timely feedback, including endeavoring to respond within 3 business days of a written request by Manager.

## **7. Insurance; Indemnity.**

(A) Insurance During Construction. Until such time as all construction work associated with the DECC Project has been completed or, if later, any insurance obligations required pursuant to the CMAR Agreement expire, Manager shall maintain, or cause to be maintained, the following insurance: (i) Commercial General Liability insurance of at least \$1,000,000 per occurrence, combined single limit/\$2,000,000 aggregate, naming the City and the County as additional insured with respect to the DECC Project, (ii) worker’s compensation insurance in such amount as required by law, (iii) all insurance as may be required by the Port, (iv) professional liability insurance for its legal liability arising out of the performance of the services related to the construction of the DECC Project, which insurance shall be in the minimum limits of at least \$1,000,000 per occurrence/\$3,000,000 aggregate, with a maximum deductible not to exceed \$50,000 for each occurrence, naming the City and the County as additional insured, and (v) such other insurance coverage as may be deemed reasonably necessary by the City from time to time. Manager’s insurance policies shall (a) be written in standard form by companies of recognized responsibility and credit reasonably acceptable to the City, that are authorized to do business in Ohio, and that have an A.M. Best rating of A VII or better, and (b) provide that they may not be canceled or modified without at least 30 days’ prior written notice to the City. Prior to commencement of construction of the DECC Project, Manager shall send proof of all such insurance to the City at 805 Central Avenue, Suite 700, Cincinnati, Ohio 45202, Attention: Monitoring and Compliance Division, or such other address as may be specified by the City from time to time; *provided* that if the City requests an additional insured endorsement with respect to the Commercial General Liability insurance described above, Manager shall have 6 months following the date of the City’s request to obtain such an endorsement from its insurer and provide the original endorsement to the City.

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

(C) Indemnity. Notwithstanding anything in this Agreement to the contrary, as a material inducement to the City and the County to enter into this Agreement, Manager shall defend, indemnify, and

hold the City and the County, and their respective officers, council members, commissioners, employees, and agents (collectively, the “**Indemnified Parties**”) harmless from and against any and all actions, suits, claims, losses, costs (including, without limitation, attorneys’ fees), demands, judgments, liability, and damages (collectively, “**Claims**”) suffered or incurred by or asserted against the Indemnified Parties as a result of or arising from the acts of Manager, its agents, employees, contractors, subcontractors, licensees, invitees, or anyone else acting at the request of Manager in connection with the DECC Project. Notwithstanding the foregoing, if (1) Manager has not engaged in intentional, reckless, fraudulent, or criminal behavior in its performance of the services that Manager is providing to the City and the County pursuant to this Agreement, (2) Manager provides and maintains in force insurance required by the terms of this Agreement and contractually obligates Messer or any other of its contractors or subcontractors to maintain in force the insurance required by the terms of the CMAR Agreement, as approved by the City and County, (3) the insurers have paid or have agreed to pay out those amounts they are required to pay pursuant to such policies, and (4) the denial of a claim or the failure to pay a claim is not caused by the action nor inaction of Manager, including, without limitation, through the failure of Manager to provide timely notice of a claim or to exhaust all appeal rights in response to the denial of a claim or to enforce its agreement(s) with Messer or another contractor to do the same, then Manager’s obligation to indemnify and save the City and the County harmless shall be limited to the sum of (x) the insurance proceeds actually paid to Manager by the insurers and (y) any additional amounts Manager may recover from Messer or other contractors and subcontractors hired or engaged pursuant to this Agreement, the CMAR Agreement, or any other Project Documents. For purposes of this calculation, deductibles or retention amounts for which Manager, Messer, or any contractors or subcontractors of either are responsible under this Agreement, the CMAR Agreement, or any applicable insurance policy and any amounts that would have been covered by the required policies but for the action or inaction of Manager, Messer, or the contractors or subcontractors of either, are to be included. *Provided, however*, Manager shall have no obligation to defend, indemnify, and hold the Indemnified Parties harmless in the event such Claims are caused by the negligence or willful misconduct of the Indemnified Parties. Manager’s indemnification obligations under this paragraph shall survive the termination or expiration of this Agreement with respect to Claims arising prior thereto. For the avoidance of doubt, the limitation of Manager’s indemnification obligations hereunder is not intended as a waiver of any claims the City or the County may have against Messer, Consultants, other contractors or subcontractors, or any other responsible parties, or their insurers for further recovery. Nothing herein shall be construed as an indemnification of Manager by either the City or the County.

## **8. Default; Remedies.**

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

(i) The dissolution of Manager, or the filing of any bankruptcy or insolvency proceedings by or against Manager, the appointment of a receiver (temporary or permanent) for Manager, the attachment of, levy upon, or seizure by legal process of any property of Manager, or the insolvency of Manager; or

(ii) The failure of Manager to perform or observe any obligation, duty, or responsibility under this Agreement or any other Project Document and failure by Manager to correct such default or failure within 60 days after Manager’s receipt of written notice thereof from the City or the County; *provided, however*, that if the nature of the default is such that it cannot reasonably be cured within 60 days, Manager shall not be in default so long as Manager commences to cure the default within such 60-day period and thereafter diligently completes such cure within 90 days after Manager’s receipt of the initial notice of default. Notwithstanding the foregoing, if Manager’s failure to perform or observe any obligation, duty, or responsibility under this Agreement creates a dangerous condition or otherwise constitutes an emergency as reasonably determined by the City and the County, an event of default shall be deemed to have occurred if Manager fails to take corrective action immediately upon discovering such dangerous condition or emergency.

(B) Remedies. Upon the occurrence of an event of default by Manager under this Agreement, (i) the City shall be entitled to terminate this Agreement by giving written notice to Manager and

the County specifying the effective date of the termination; (ii) take such actions in the way of “self-help” as the City and the County determine to be reasonably necessary or appropriate to cure or lessen the impact of such event of default, all at the expense of Manager; and (iii) exercise any and all other rights and remedies under this Agreement or available at law or in equity, including, without limitation, pursuing an action for specific performance. Manager shall be liable for all costs and damages, including, without limitation, attorneys’ fees, suffered or incurred by the City in connection with administration, enforcement, or termination of this Agreement or as a result of a default of Manager under this Agreement. The failure of the City and the County to insist upon the strict performance of any covenant or duty, or to pursue any remedy, under this Agreement or any other agreement to which Manager and the City and/or the County are parties relating to the DECC Project shall not constitute a waiver of the breach of such covenant or of such remedy.

**9. Termination.**

(A) Termination by City Prior to Execution of GMP Amendment or Closing on TOT Bonds. During the Term, the City may terminate this Agreement at any time for any reason upon 45 days’ written notice to Manager and the County. In the event of termination of this Agreement, Manager shall be paid any costs incurred by Manager for completed work associated with the DECC Project, subject to the satisfaction of the City, in the City Manager’s sole and absolute discretion, through the termination date of this Agreement. The termination rights of the City under this paragraph shall automatically terminate upon the earlier to occur of (i) execution of a GMP Amendment and (ii) the closing of the TOT Bonds, at least as to the City’s commitment to provide the City Cash Funds and its portion of the TOT Revenues. Notwithstanding the foregoing, nothing herein shall limit the City’s right to terminate this Agreement as it relates to the engagement of Manager to perform services associated with construction of the DECC Project.

(B) Withdrawal by County Prior to Execution of GMP Amendment or Closing on TOT Bonds. During the Term, the County may withdraw from further participation in this Agreement at any time for any reason upon 30 days’ written notice to Manager and the City. The withdrawal rights of the County under this paragraph shall automatically terminate upon the earlier to occur of (i) execution of a GMP Amendment and (ii) the closing of the TOT Bonds, at least as to the County’s commitment to provide the County Cash Funds and its portion of the TOT Revenues. For the avoidance of doubt, this Agreement shall not be terminated as to Manager’s and the City’s respective rights and obligations in the event of a withdrawal of the County’s participation from this Agreement.

(C) Notice to Messer, Consultants, Contractors, and Subcontractors. In the event this Agreement is terminated pursuant to Section 8(B)(ii) above or Section 9(A) above, then Manager shall deliver notice to Messer, the architect, and all other consultants, contractors, and subcontractors of Manager or Messer, that all work associated with the DECC Project must cease at the effective date of such termination, as determined pursuant to the applicable paragraph hereof, and Manager shall have no obligation to provide services related to the DECC Project pursuant to this Agreement following the effective date of such termination. Notwithstanding the foregoing, nothing in this Agreement shall prevent the City from assuming Manager’s rights and obligations as Owner under the CMAR Agreement, provided that the City delivers proper notice to Manager and Messer of its intent to assume such rights and obligations.

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

To Manager:  
3CDC Development Manager LLC  
1203 Walnut Street, 4<sup>th</sup> Floor  
Cincinnati, Ohio 45202

Attn: Steve Leeper, CEO, and  
Caitlin Felvus, Legal Director  
[sleeper@3CDC.org](mailto:sleeper@3CDC.org) and [cfelvus@3CDC.org](mailto:cfelvus@3CDC.org)

To the City:  
City Manager's Office  
City of Cincinnati  
801 Plum Street, Suite 104  
Cincinnati, Ohio 45202  
Attn: William Weber, Assistant City Manager  
[William.Weber@cincinnati-oh.gov](mailto:William.Weber@cincinnati-oh.gov)

*with a copy to:*  
Solicitor's Office  
City of Cincinnati  
801 Plum Street, Suite 214  
Cincinnati, Ohio 45202  
Attn: Emily Smart Woerner, City Solicitor  
[Emily.Woerner@cincinnati-oh.gov](mailto:Emily.Woerner@cincinnati-oh.gov)

To the County:  
Office of the County Administrator  
138 E. Court Street, Room 603  
Cincinnati, Ohio 45202  
Attn: Jeff Aluotto, County Administrator  
[Jeff.Aluotto@hamilton-co.org](mailto:Jeff.Aluotto@hamilton-co.org)

*with a copy to:*  
Hamilton County Prosecuting Attorney  
230 E. Ninth Street, Suite 4000  
Cincinnati, Ohio 45202  
Attn: Roger E. Friedmann, Assistant  
Prosecuting Attorney  
[Roger.Friedmann@hcpros.org](mailto:Roger.Friedmann@hcpros.org)

**11. Representations, Warranties, and Covenants of Manager.** Manager makes the following representations, warranties, and covenants to induce the City and the County to enter into this Agreement:

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

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

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

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

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

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



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

## 12. Reporting Requirements.

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

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

## 13. General Provisions.

### (A) Assignment; Change of Control.

(i) Assignment. Manager shall not assign its rights or interests under this Agreement to any third party without the prior written consent of the City and the County; *provided that* the City and the County will not unreasonably withhold its consent to the assignment by Manager to an entity wholly owned or controlled by 3CDC.

(ii) Change of Control. Manager shall not permit a Change of Control (as defined below) without the prior written consent of the City and the County, which shall not be unreasonably withheld or delayed. As used herein, "**Change of Control**" means a change in the ownership of Manager such that 3CDC has less than a 51% direct or indirect voting interest in Manager and lacks the power to direct or cause the direction of the management and policies of Manager, whether through the ownership or ownership interests in Manager, by contract, or otherwise.

(B) Entire Agreement; Conflicting Provisions. This Agreement, together with the other Project Documents, contains the entire agreement between the parties with respect to the subject matter hereof and supersedes any and all prior discussions, negotiations, representations, or agreements, written or oral, between them respecting the subject matter hereof. In the event that any of the provisions of this Agreement purporting to describe specific provisions of other Project Documents are in conflict with the specific provisions of such other Project Documents, the provisions of such other Project Documents shall control.

(C) Ownership of Property. Manager agrees that, at the expiration or termination of this Agreement, all finished and unfinished documents, data, studies, memoranda, plans, maps, drawings, renderings, designs, specifications, scopes of work, bid packets, working papers, reports, and other documents or information prepared or produced by Manager, Messer, any consultants hired by Manager or Messer, and any other contractors or subcontractors in connection with the DECC Project (the "**Services**

**Documents**”) shall become the property of the City, and Manager shall promptly deliver such items to the City. Manager shall ensure that its contracts with Messer, the Architect, and all such consultants, contractors, and subcontractors retained by Manager, Messer, or the Architect to perform work under this Agreement include clear and unambiguous provisions regarding the City’s sole and exclusive ownership of the Services Documents and that any interest Manager, Messer, or the Architect may have in those documents is freely transferable to the City. Manager may retain copies for its records. Upon the County’s request, Manager shall make copies of the Services Documents available to the County for review.

(D) Amendments and Waivers. The provisions of this Agreement may be amended, waived, or otherwise modified only by a written agreement signed by all parties.

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

(F) 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.

(G) 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.

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

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

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

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

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

(M) Applicable Laws. Manager shall obtain all necessary permits, licenses, and other governmental approvals and shall comply with all applicable federal, state, and local laws, codes, ordinances, and other governmental requirements in connection with the matters contemplated by this Agreement, including any of the laws and regulations described on Exhibit G (Additional Requirements) hereto which are applicable to the DECC Project.

(N) Contingency for Legislative Authorization. Notwithstanding anything to the contrary in this Agreement, (i) the City shall not be in breach of this Agreement and shall not be required to provide its portion of the TOT Revenues if for any reason City Council does not pass any and all necessary legislation for the DECC Project, including, without limitation, the ordinance(s) authorizing the TOT Bond Documents; and (ii) the County shall not be in breach of this Agreement and shall not be required to provide its portion of the TOT Revenues if for any reason the Board of County Commissioners of Hamilton County, Ohio, does

not pass any and all necessary legislation for the DECC Project, including, without limitation, legislation authorizing the TOT Bond Documents. In the event the necessary legislative authorizations are not obtained, the City or the County may terminate this Agreement by giving written notice thereof to the other parties, whereupon the parties shall thereafter have no rights or obligations under this Agreement. The City's and the County's right to terminate this Agreement pursuant to this Section 10(N) shall automatically terminate at such time as City Council and the Board of County Commissioners of Hamilton County, Ohio, have passed all necessary legislation for the DECC Project.

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

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

Exhibit A - *Site Plan*

Exhibit B-1 - *Legal Description – DECC*

Exhibit B-2 - *Legal Description – Elm Street*

Exhibit B-3 - *Legal Description – Millennium Site*

Exhibit B-4 - *Legal Description – Convention Way Property*

Exhibit C - *Plaza Lease Terms*

Exhibit D - *Statement of Work*

Exhibit E - *Budget*

Exhibit F - *Disbursement of Funds*

Exhibit G - *Additional Requirements*

*[signature page(s) follow]*

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

**3CDC DEVELOPMENT MANAGER LLC,**  
an Ohio limited liability company

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_, 2024

**CITY OF CINCINNATI,**  
an Ohio limited liability company

By: \_\_\_\_\_  
Sheryl M.M. Long  
City Manager

Date: \_\_\_\_\_, 2024

Approved as to Form:

\_\_\_\_\_  
Assistant City Solicitor

Certified Date: \_\_\_\_\_

Fund/Code: \_\_\_\_\_

Amount: \_\_\_\_\_

By: \_\_\_\_\_  
Karen Alder, City Finance Director

**THE BOARD OF COUNTY COMMISSIONERS OF HAMILTON COUNTY, OHIO,**  
an Ohio political subdivision

By: \_\_\_\_\_  
Jeff Aluotto  
County Administrator

Date: \_\_\_\_\_, 2024

Approved as to Form:

\_\_\_\_\_  
Assistant Prosecuting Attorney

Exhibit A

*Site Plan*



Blue: DECC

Green: Former City ROW

Red: Convention Way Property

Purple: Millennium Site

Exhibit B-1

*Legal Description – DECC*

**Parcel 1:**

Situate in Section 13, Town 4, Fractional Range 1, Cincinnati Township, Hamilton County Ohio, and being more particularly described as follows:

Beginning a set CN at the intersection of the West line of Elm Street and the North line of Fifth Street, measure with said Fifth Street South 80°20'59" West, 211.43 feet to a set CN; thence South 80°04'02" West, 182.42 feet to a set CN; thence South 80°04'37" West, 172.33 feet to a set CN; thence North 09°55'23" West, 1.62 feet to a set PK nail; thence South 80°17'59" West, 271.33 feet to a set CN at the intersection of said Fifth Street and the East line of Central Avenue; thence with said Central Avenue North 09°47'31" West, 432.61 feet to a set PK nail at the intersection of said Central Avenue and the South line of Sixth Street; thence with said Sixth Street North 80°04'37" East, 419.61 feet to a point; thence North 79°48'15" East, 189.99 feet to a point; thence North 80°04'02" East, 226.90 feet to a Set PK nail in the West line of said Elm Street; thence with said Elm Street South 09°55'31" East, 437.21 feet to the Place of Beginning. Containing 364,147 square feet of land more or less (8.360 acres). Bearings are based on Ohio State Plane Coordinate System.

**Parcel 2:**

Situate in Section 13, Town 4, Fractional Range 1, Cincinnati Township, Hamilton County Ohio, and being more particularly described as follows:

Beginning a set PK at the intersection of the East line of Central Avenue and the South line of Sixth Street, measure with said Sixth Street North 80°04'37" East, 210.28 feet to a set CN; thence South 09°55'23" East, 7.14 feet to a set CN; thence South 80°24'59" West, 210.29 feet to a set PK in said East line of Central Avenue; thence North 09°47'31" West; 5.89 feet to the Place of Beginning. Containing 1,370 square feet of land more or less. Bearings are based on Ohio State Plane Coordinate System.

**Parcel 3:**

Situate in Section 13, Town 4, Fractional Range 1, Cincinnati Township, Hamilton County Ohio, and being more particularly described as follows:

Beginning at the intersection of the West line of Elm Street and the South line of Sixth Street, measure with said Sixth Street South 80°04'02" West, 226.90 feet to a set CN being the Place of Beginning; thence South 09°55'58" East, 10.41 feet to a set CN; thence South



80°24'59" West, 190.00 feet to a set CN; thence North 09°55'23" West, 8.38 feet to a set PK in said South line of Sixth Street; thence North 79°48'15" East; 189.99 feet to the Place of Beginning. Containing 1,785 square feet of land more or less. Bearings are based on Ohio State Plane Coordinate System.

Parcel 4:

Situate in Section 13, Town 4, Fractional Range 1, Cincinnati Township, Hamilton County Ohio, and being more particularly described as follows:

Beginning a set PK at the intersection of the West line of Elm Street and the South line of Sixth Street, measure with said Elm Street South 09°55'31" East, 11.79 feet to a set CN; thence South 80°24'59" West, 42.89 feet to a point; thence North 09°55'58" West, 11.53 feet to a set CN in said South line of Sixth Street; thence North 80°04'02" East; 42.90 feet to the Place of Beginning. Containing 500 square feet of land more or less. Bearings are based on Ohio State Plane Coordinate System.

Exhibit B-2

*Legal Description – Elm Street*

[TO BE ATTACHED TO EXECUTION VERSION]

Exhibit B-3

*Legal Description – Millennium Site*

The Millennium Site consists of Hamilton County Auditor's Parcel Nos. 145-0002-0437-00 and 145-0002-0340-00.

[LEGAL DESCRIPTION(S) TO BE ATTACHED TO EXECUTION VERSION]

Exhibit B-4

*Legal Description – Convention Way Property*

The Convention Way Property consists of (i) existing right-of-way that is current a paper street known as Convention Way and (ii) Hamilton County Auditor's Parcel Nos. 145-0002-0304-90, 145-0002-0318-90, 145-0002-0320-90, 145-0002-0321-90, 145-0002-0322-90, 145-0002-0323-90, 145-0002-0325-90, 145-0002-0327-90, 145-0002-0336-90, 145-0002-0338-90, 145-0002-0339-90, and 145-0002-0355-90.

[LEGAL DESCRIPTION(S) TO BE ATTACHED TO EXECUTION VERSION]

## Exhibit C

### *Plaza Lease Terms*

**THIS EXHIBIT IS NON-BINDING AND IS INCLUDED ONLY FOR THE PURPOSES OF INDICATING THE TERMS EXPECTED TO BE A PART OF ONE OR MORE SUBSEQUENT AGREEMENTS BETWEEN THE CITY AND THE COUNTY.**

#### **Lease and Permitted Uses**

The County agrees to lease to the City the Millennium Site for the purpose of operating, with the inclusion of the Convention Way Property, a cohesive Plaza Site that will support the operations of the DECC and provide other civic and entertainment uses to the general public. The first priority use of the Plaza Site is for the benefit of the DECC and its events and clients. Other uses of the Plaza Site will be secondary.

#### **County-Organized Events at DECC or Plaza Site**

The City agrees to grant the County access to the DECC and Plaza Site under the same rights that it maintains for hosting events at those locations. For clarity, the County agrees that any out-of-pocket expenses related to any such event shall be covered by the County.

#### **County Recognition Signage**

The City agrees that the County shall be recognized prominently on public signage on the Plaza Site.

#### **Third Party Management**

The City shall have the right to enter into agreement(s) with one or more third parties to manage and program the Plaza Site. The County Administrator shall have the right to approve the manager of the Plaza Site and the initial form of the management agreement; however, so long as the City does not change the entity responsible for managing the Plaza Site, then the City shall have the right to extend the term of the management agreement(s) without additional County approval. The County acknowledges that the City utilizes a third-party manager for the DECC and that the management of the Plaza Site is intended to involve both the City's third-party DECC manager as well as Cincinnati Center City Development Corporation or related subsidiary. The agreement or agreements for management of the Plaza Site shall include at minimum the following terms:

##### **1. Scope of Services:**

- a. Promotion and Marketing of Plaza
- b. Coordination and Support of Convention Center-hosted Events
- c. Event Coordination, Permitting, and Oversight
- d. Programming and Activation of the Plaza Site
- e. Security
- f. Landscaping
- g. Maintenance, Care, and Cleaning of the Plaza Site
- h. Capital Repairs and Improvements
- i. Revenue Generation, Fundraising, and Sponsorship

##### **2. Annual Reporting on the Plaza Site**

Annual reporting to the City and the County shall be required and include, at minimum, the following information:

- a. **Annual Operating Budget** – Detailing expected revenues and expenditures for the coming year of the Plaza Site. The City and the County shall have approval rights of the annual operating budget. In the event of disagreement, the City's determination shall control.

- b. **Prior Year Financial Report** – Detailing revenues, including sponsorship revenue, and expenditures for the previous year and any reserves or cash-on-hand at the end of the year.
  - c. **Inspection Report** – Detailing the condition of the physical conditions of improvements on the Plaza Site.
  - d. **Attendance Report** – Detailing the estimated number and attendance at events on the Plaza Site during the last year—including details as to events directly related to events hosted at the DECC and also those events that were for more general civic, entertainment, or other purposes.
  - e. **Financial Statements** – Audited financial statements will be provided.
3. **Amendments** - City shall have the right to approve amendments to the management agreement(s) without further County consent so long as such amendments do not materially negatively impact the County’s rights delineated above.

**Costs and Revenue**

The City shall be responsible for any and all costs and expenses related to the Plaza Site, including, but not limited to, programming and maintenance. However, the County shall be responsible for paying all property taxes of the Millennium Site, if applicable and not exempted. The City shall be responsible for any special assessments on both the Millennium Site and the Convention Way Property.

Any revenue generated from operations on the Plaza Site shall be utilized to support the operations of the DECC, including the Plaza Site. The City and the County agree that any revenue generated from use of the Plaza Site by an event hosted by the DECC shall be attributed to DECC operations. Remaining revenue generated by the Plaza Site shall be allocated to Plaza Site operations and separately accounted for by the manager of the Plaza Site.

**Maintenance and Repair**

The City shall appropriately fund all cleaning, maintenance, and repairs to ensure the Plaza Site is clean, well maintained, in good repair, and safe for use.

**Capital Improvements**

The City may from time to time undertake capital improvements to the Plaza Site to modernize and update the physical improvements located on it. The County shall have approval rights, not to be unreasonably withheld, to any capital improvement projects in excess of \$1 million in project cost. In the event of disagreement, the City’s determination shall control, unless the County is being asked to fund the proposed capital improvements.

**Naming Rights**

The County shall have the right to review and approve for any naming rights agreements for the Plaza Site, which approval shall not be unreasonably withheld.

**Rent**

The City shall pay the County annual rent of \$1/year for the term of the Plaza Lease.

**Term**

Effective upon execution, the Plaza Lease shall have a term of 40 years, with two 30-year options to extend upon mutual agreement between the City and the County.

**Termination**

Following a default by the City on the Plaza Lease, the County may terminate the Plaza Lease; however, the Plaza Lease shall include notice and an opportunity for the City to cure any default before such a default will trigger termination. The City and the County may also terminate by mutual agreement.

**Rights to Purchase**

The City and the County will work to negotiate mutually agreeable terms that will delineate how and under what conditions the City has the right to purchase the Millennium Site to support a future expansion of the DECC. Such terms are intended to be included in the Plaza Lease. If the City and the County cannot come to terms on a purchase option to support expansion, the financial terms contained in this Exhibit C may be re-negotiated.

Exhibit D

*Statement of Work*

1. **Final Plans.** Manager shall:
  - a. Submit plans and specifications to the City and the County and secure approval of Final Plans.
  - b. Obtain preliminary estimates of the cost of work or the cost of program requirements using area, volume, or similar cost estimating techniques, including cost evaluations of alternative materials and systems suggested by the architect or Messer and share the same estimates with the City.
  
2. **Contracting.** Manager shall:
  - a. Negotiate all necessary contracts and subcontracts, including the guaranteed maximum price amendment to the CMAR Agreement (the “**GMP Amendment**”), for the DECC Project and submit the same for the City’s review and approval. Manager shall not accept a GMP Amendment without the City’s prior written approval. The GMP Amendment shall include a financing contingency in the event the parties do not close on the TOT Bonds by [December 31, 2024].
  - b. The CMAR Agreement includes the development and implementation processes needed to maximize the participation of MBE and WBE certified firms on the DECC Project in accordance with the City’s and County’s requirements. Manager shall monitor such MBE and WBE participation on City’s and County’s behalf during the DECC Project.
  - c. Choose the products and materials necessary to equip and furnish the DECC and complete the DECC Project in a manner that satisfies all requirements of the Final Plans.
  - d. Investigate and recommend a schedule for purchase of all materials and equipment requiring long lead time procurement, coordinate the schedule with the architect and expedite and coordinate delivery of such purchases.
  - e. Submit the final Contractor Controlled Insurance Program (“**CCIP**”) for the City’s review and approval. Manager shall not accept a CCIP without the City’s prior written approval.
  
3. **Oversight during Construction.** Manager shall:
  - a. Cause the DECC Project to be completed in a prompt and expeditious manner, consistent with good workmanship, and in compliance with the following:
    - i. the Final Plans as they may be amended by the agreement of the parties hereto; and
    - ii. any and all obligations of the City and the County under the governing finance documents.
  - b. Coordinate the work of the architect to complete the DECC Project in accordance with the objectives as to cost, time, and quality, and provide sufficient personnel at the Project Site with authority to achieve such objectives.
  - c. Ensure that the DECC Project is completed free and clear of all mechanics’ and materialmen’s liens and in compliance with all applicable laws, regulations, and programs including, without limitation, applicable living wage and prevailing wage laws and requirements.
  - d. Provide to the City and the County, and periodically update, a building construction time schedule which coordinates and integrates the architect’s services with construction schedules.
  - e. Provide regular monitoring of the schedule as construction progresses, identify potential variances between scheduled and probable completion dates, review the schedule for work not started or incomplete, recommend to the City and the County adjustments in the schedule to meet the probable completion date, provide summary of such monitoring within the quarterly reports required pursuant to this Agreement, and document all changes in the schedule.



- f. When requirements of subcontracts are not being fulfilled, take action pursuant to Manager's agreements with subcontractors and recommend other courses of action to the City and the County, as applicable and necessary.
- g. Revise and refine the approved estimate of DECC Project costs, incorporate changes as they occur, and develop cash flow reports and forecasts as needed.
- h. Provide regular monitoring of the approved estimate of DECC Project costs, show actual costs for activities in process and estimates for uncompleted tasks, identify variances between actual and budgeted or estimated costs and advise the City and the County whenever projected costs exceed budgets or estimates.
- i. Develop and implement a procedure for the review and processing of applications by the contractors and subcontractors for progress and final payments.
- j. In collaboration with the architect, establish and implement procedures for expediting the processing and approval of shop drawings and samples.
- k. Record the progress of the DECC Project and submit written progress reports to the City, the County, and the architect, including the percentage of completion and the number and amounts of change orders (as defined below).
- l. Cause to be performed in a diligent and efficient manner the following:
  - i. Redevelopment of the Project Site and completion of the DECC project, including any required off-site work;
  - ii. General administration and supervision of the DECC Project, including, without limitation, activities of the architect, Messer, contractors, subcontractors, consultants, and their employees and agents, and others employed as to the DECC Project in a manner which complies in all respects with the Final Plans.
  - iii. Manager shall hold regularly scheduled progress meetings. Minutes of all such meetings shall be taken by the architect, Messer, or any subcontractors or consultants, and copies of the same shall be furnished on a timely basis to the City and the County.
  - iv. Manager shall hold quarterly meetings in coordination with the submission of quarterly reports with the City and the County during the DECC Project. During the quarterly meetings the Manager will review the quarterly report, including, without limitation, issues involving the DECC Project scope, schedule, Budget, or construction.
  - v. Manager shall inspect the work in progress weekly during construction. Manager shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the construction work but will, on the basis of the site visits, keep the City and the County informed about the progress and quality of the portion of the work completed.
  - vi. Manager shall issue all instructions to the design team, any consultants, the architect, Messer, contractors, and any subcontractors for and on behalf of the City and the County, and shall be responsible for all communications from the City and the County to any consultants, the architect, Messer, and any contractors or subcontractors.
  - vii. Manager shall act as interpreter of the requirements of all documents related to the construction of the DECC Project and as judge of performance thereunder by the parties thereto and shall make recommendations to the City and the County as to any claim of the design team, any consultants, the architect, contractors, and any subcontractors relating to execution and progress of work on the DECC Project, or any other matter or question relating thereto. Manager shall not be liable for results of any such interpretation, decision, or recommendation rendered by Manager in good faith, and without negligence or willful misconduct on its part.
  - viii. Manager shall review and approve on behalf of the City and the County all change orders and requests for additional compensation from the DECC Project participants (collectively referred to in this paragraph as "**change orders**"). Manager shall have authority on the City's and the County's behalf to issue or approve change orders without the City's and the County's approval during

execution of the DECC Project so long as (a) the projected costs of the DECC Project, after taking into account all such change orders, do not exceed the total Budget, (b) the general character and appearance of the DECC Project are not materially affected by such change orders, and (c) the cost of the change order does not exceed \$150,000. In the event a change order does not meet conditions (a)-(c) above, then Manager shall obtain the City's and County's prior written approval prior to approving any such change order.

**4. Administration.** Manager shall:

- a. Keep, or cause to be kept, accounts and cost records as to the DECC Project.
- b. Maintain, or cause to be maintained, at its expense, all office and accounting facilities and equipment necessary to adequately perform the foregoing functions.
- c. Make available to the City and the County, during normal business hours and upon the City's or the County's written request, copies of all contracts and subcontracts.
- d. Provide general DECC Project financial and accounting services for the City and the County during the DECC Project including (i) accounting and financial oversight and reporting; (ii) periodic accounting reconciliations (daily, monthly, quarterly, or yearly, as needed); (iii) year-end tax statements and reporting, as needed; (iv) payroll and invoice entry and processing; (v) monthly departmental reports to the City and the County; (vi) maintenance of vendor information and records; (vii) coordination and preparation of an annual DECC Project development budget; (viii) coordination of the annual audit with the City and the County and the City's and the County's independent audit firms; (ix) pledges receivables tracking; (x) quarterly Ohio lobby reporting; and (xi) other similar services as may be agreed to by the City, the County, and Manager.

**5. Project Close-out.** Manager shall:

- a. Obtain an architect's certificate that the work on the DECC Project is substantially complete, and inspect Messer's work, which work must be completed to the satisfaction of the City, in the City's sole and absolute discretion.
- b. Deliver to the City and the County a dimensioned as-built survey of the real property and as-built drawings of the DECC Project construction.
- c. Coordinate the DECC Project close out, including required governmental inspections. Obtain a certificate of occupancy and any other permits, approvals, licenses, and other documents required for the beneficial occupancy of the DECC and the broader Project Site, and deliver all documents to the City. Manage execution and delivery of all close out documentation, manuals, warranties, training, and maintenance agreements.

Exhibit E

Budget

<b>USES</b>	
<b>Hard Costs</b>	
Construction Cost	159,055,242
FF&E	6,450,000
<b>Subtotal Hard Costs</b>	<b>165,505,242</b>
<b>Soft Costs</b>	
Architecture/Engineering	15,905,224
Insurance	830,000
Utilities	1,350,000
Construction Testing	150,000
Construction Inspections	100,000
Professional Fees	965,670
Title & Recording Fees	530,000
Legal Fees	290,044
Marketing & Signage	35,000
Interest	10,000
Contingency	10,500,000
Developer Fee	3,828,820
<b>Subtotal Soft Costs</b>	<b>34,494,758</b>
<b>TOTAL USES</b>	<b>200,000,000</b>
<b>SOURCES</b>	
City of Cincinnati (previously approved)	7,000,000
City of Cincinnati	23,000,000
Hamilton County	15,000,000
Bond Proceeds	155,000,000
<b>TOTAL SOURCES</b>	<b>200,000,000</b>

From time to time during the course of the Project, the parties anticipate that the Budget will need to be updated. In accordance with the terms of this Agreement, Manager shall submit to the City's Representative and the County's Representative any proposed updates to the Budget in writing for their review and approval, which approval will be provided in the City's and County's sole and absolute discretion.

Exhibit F

*Disbursement of Funds*

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

(i) Manager has provided the City and the County with evidence of insurance required under this Agreement;

(ii) Manager has provided the City and the County with evidence that it has obtained all licenses, permits, governmental approvals, and the like necessary for the construction work, if any, with respect to which the City Cash Funds and County Cash Funds are being requested;

(iii) Construction of the DECC Project, to the extent it has commenced, is proceeding in accordance with the Final Plans, Budget, and construction schedule;

(iv) Manager has provided the City and the County with such other documents, reports and information relating to the DECC Project (a) as required by this Agreement or (b) as the City or the County has reasonably requested; and

(v) No events of default by Manager or circumstances which would, by provision of notice, the passage of time, or otherwise, constitute events of default, have occurred and are continuing under this Agreement, the Pre-Development Agreement, or any other Project Document.

(B) Disbursement of Funds. Provided all of the requirements for disbursement of the City Cash Funds and the County Cash Funds (collectively, the City Cash Funds and the County Cash Funds are hereinafter referred to as the “**Funds**” for the purposes of this Exhibit E) shall have been satisfied, the City and the County shall disburse the Funds to Developer. The City shall disburse the City Cash Funds and the County shall disburse the County Cash Funds, and they shall be disbursed pro-rata (i.e., the City Cash Funds and the County Cash Funds shall be disbursed simultaneously on a pro-rata basis). For the avoidance of doubt, nothing herein shall be construed to require the City or the County to disburse the City Cash Funds or the County Cash Funds on an advance basis. Manager shall not be entitled to a disbursement of the Funds to pay for costs incurred prior to June 1, 2023. Manager shall request and use the Funds solely for the purposes permitted under this Agreement. Nothing in this Agreement shall permit, or shall be construed to permit, the expenditure of the Funds for the acquisition of supplies or inventory, or for the purpose of purchasing materials not used in the construction, or for establishing a working capital fund, or for any other purpose expressly disapproved in writing by the City and the County. Manager may not request a disbursement of the Funds for any expenditure that is not itemized on or contemplated by the Budget or if the costs for which the disbursement is being requested exceeds the applicable line item in the Budget; however, Manager may request, in writing, that funds be transferred between line items, with the City’s and the County’s approval thereof not to be unreasonably withheld. Disbursements from the project account shall be limited to an amount equal to the actual cost of the work, materials, and labor incorporated in the work up to the amount of such items as set forth in the request for payment.

(C) Draw Procedure.

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

(ii) Documentation. Each disbursement request shall include the following:

(a) For non-construction costs shown on the approved Budget, Manager shall submit a draw request form provided by the City and the County along with such other documentation or information requested by the City and the County relevant to the requested disbursement.

(b) For construction costs shown on the approved Budget, Manager shall submit a draw request form provided by the City and the County, with the following attachments: (i) an AIA G-702-703 Form (AIA) or such other similar form acceptable to the City and the County, (ii) sworn affidavits and/or unconditional lien waivers (together with invoices, contracts, or other supporting data) from all contractors, subcontractors, and materialmen with contracts for \$25,000 or more covering all work, labor, and materials for the work through the date of the disbursement and establishing that all such work, labor, and materials have been paid for in full, (iii) waivers or disclaimers from suppliers of fixtures or equipment who may claim a security interest therein, and (iv) such other documentation or information requested by the City that a prudent construction lender might request. To the extent Messer and/or Manager collects any affidavits or lien waivers pursuant to this Agreement and/or the CMAR Agreement that are signed, fully-executed originals, then those signed, fully-executed originals shall be delivered to the City upon completion of construction as provided for herein.

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

## Exhibit G

### *Additional Requirements*

Manager and Messer shall comply with all applicable statutes, ordinances, regulations, and rules of the government of the United States, State of Ohio, County of Hamilton, and City of Cincinnati (collectively, "**Government Requirements**"), including the Government Requirements listed below, to the extent that they are applicable. Manager hereby acknowledges and agrees that (a) the below listing of Government Requirements is not intended to be an exhaustive list of Government Requirements applicable to the DECC Project, Manager, or Manager's contractors, subcontractors or employees, either on the City's part or with respect to any other governmental entity, and (b) the City and the County and their respective legal departments are not providing legal counsel to or creating attorney-client relationships with Manager by attaching this Exhibit to the Agreement.

This Exhibit serves two functions:

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

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

(A) Reserved.

(B) Trade Unions; Subcontracts; Competitive Bidding.

(i) Meeting and Confering with Trade Unions.

(a) Applicability. Per City of Cincinnati Ordinance No. 130-2002, this requirement is limited to transactions in which Manager receives City funds or other assistance (including, without limitation, the City's construction of public improvements to specifically benefit the DECC Project, or the City's sale of real property to Manager at below fair market value).

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

shall provide to the City, in writing, a summary of Manager and/or its general contractor's meet and confer activity.

(ii) Contracts and Subcontracts; Competitive Bidding.

(a) Applicability. This clause (ii) is applicable to "construction contracts" under Cincinnati Municipal Code ("**CMC**") Chapter 321. CMC Chapter 321 defines "construction" as "any construction, reconstruction, improvement, enlargement, alteration, repair, painting, decorating, wrecking or demolition, of any public improvement the total overall project cost of which is fairly estimated by Federal or Ohio statutes to be more than four thousand dollars and performed by other than full-time employees who have completed their probationary periods in the classified service of a public authority," and "contract" as "all written agreements of the City of Cincinnati, its boards or commissions, prepared and signed by the city purchasing agent or a board or commission for the procurement or disposal of supplies, service or construction."

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

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

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

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

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

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

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

(4) "Public Notification" means (a) advertisement of an invitation to bid with ACI (Allied Construction Industries) and the Dodge Report, and (b) dissemination of the advertisement (either by mail or electronically) to the South Central Ohio Minority Business Council, Greater Cincinnati Northern Kentucky African-American Chamber of Commerce, and the Hispanic Chamber of Commerce. The advertisement shall include a description of the

“scope of work” and any other information reasonably necessary for the preparation of a bid, and it shall be published and disseminated no less than 14 days prior to the deadline for submission of bids stated in the invitation to bid.

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

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

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

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

(F) Reserved.

(G) Equal Employment Opportunity.

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

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

(H) Prevailing Wage. Manager shall comply, and shall cause all contractors working on the DECC Project to comply, with all any prevailing wage requirements that may be applicable to the DECC Project. In the event that the City is directed by the State of Ohio to make payments to construction workers based on violations of such requirements, Manager shall make such payments or reimburse the City for such payments within 20 days of demand therefor.

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

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



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

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

(M) Wage Enforcement.

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

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

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

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

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

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

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

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

(N) Americans with Disabilities Act; Accessibility.

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

(ii) Requirement. In furtherance of the policy objectives set forth in the Accessibility Motion, (A) the DECC Project shall comply with the ADA, and (B) if (i) any building(s) within the DECC Project is subject to the accessibility requirements of the ADA (e.g., by constituting a “place of public accommodation” or another category of structure to which the ADA is applicable) and (ii) such building(s) is not already required to meet the Contractual Minimum Accessibility Requirements (as defined below) pursuant to the ADA, applicable building code requirements, or by any other legal requirement, then Manager shall cause such building(s) to comply with the Contractual Minimum Accessibility Requirements in addition to any requirements pursuant to the ADA and the applicable building code or legal requirement. As used herein, “**Contractual Minimum Accessibility Requirements**” means that a building shall, at a minimum, include (1) at least one point of entry (as used in the ADA), accessible from a public right of way, with respect to which all architectural barriers (as used in the ADA) to entry have been eliminated, and (2) if such accessible point of entry is not a building’s primary point of entry, conspicuous signage directing persons to such accessible point of entry.

(O) Electric Vehicle Charging Stations in Garages.

(i) Applicability. Cincinnati City Council passed Ordinance No. 89-2017 on May 10, 2017. This ordinance requires all agreements in which the City provides any amount of “qualifying incentives” for projects involving the construction of a parking garage to include a provision requiring the inclusion of certain features in the garage relating to electric vehicles. The ordinance defines “qualifying incentives” as the provision of incentives or support for the construction of a parking garage in the form of (a) the provision of any City monies or monies controlled by the City including without limitation the provision of funds in the form of loans or grants; (b) the provision of service payments in lieu of taxes in connection with tax increment financing, including rebates of service payments in lieu of taxes; and (c) the provision of the proceeds of bonds issued by the City or with respect to which the City has provided any source of collateral security or repayment, including, but not limited to, the pledge of assessment revenues or service payments in lieu of taxes. For the avoidance of doubt, “qualifying incentives” does not include (1) tax abatements such as Community Reinvestment Area abatements pursuant to Ohio Revised Code 3735.67, et seq., or Job Creation Tax Credits pursuant to Ohio Revised Code 718.15; (2) the conveyance of City-owned real property for less than fair market value; and (3) any other type of City support in which the City provides non-monetary assistance to a project, regardless of value.

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

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

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

January 31, 2024

To: Mayor and Members of City Council  
From: Sheryl M.M. Long, City Manager  
Subject: Ordinance Quitclaim of Water Main Easement Springdale Commerce Park, E-718Q

202400388

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Attached is an Ordinance captioned:

**AUTHORIZING** the City Manager to execute a plat entitled WSL No. 3462 Watermain Easement Vacation Plat, Springdale Commerce Park, E-718Q to release and quitclaim a portion of a public utility easement held by the City of Cincinnati for the use and benefit of Greater Cincinnati Water Works for a water main and associated appurtenances located in and upon certain real property located in the City of Springdale, Hamilton County, Ohio.

The above-referenced Vacation Plat is being executed by the City of Cincinnati to release and quitclaim to Springdale Commerce Park Owner, LLC and Springdale Commerce Park 1-4 Owner, LLC, a portion of the City's rights and interests in a public utility easement, per the petition of Springdale Commerce Park Owner, LLC and Springdale Commerce Park 1-4 Owner LLC, the owners of the subject property. The Vacation Plat has been examined and approved as to its technical features by the Greater Cincinnati Water Works Chief Engineer. The City Manager has determined, upon consultation with Greater Cincinnati Water Works, that the portion of the requested easement is not needed for any municipal purpose and recommends its release.

Springdale Commerce Park Owner, LLC and Springdale Commerce Park 1-4 Owner, LLC are wholly owned by Springdale Commerce Park Investor Holdings, LLC.

The Administration recommends passage of this Ordinance.

cc: Cathy B. Bailey, Executive Director, Greater Cincinnati Water Works 

**AUTHORIZING** the City Manager to execute a plat entitled WSL No. 3462 Watermain Easement Vacation Plat, Springdale Commerce Park, E-718Q to release and quitclaim a portion of a public utility easement held by the City of Cincinnati for the use and benefit of Greater Cincinnati Water Works for a water main and associated appurtenances located in and upon certain real property located in the City of Springdale, Hamilton County, Ohio.

WHEREAS, the City of Cincinnati is the holder of a public utility easement for a water main and associated appurtenances (“Easement”) in and upon certain real property more particularly identified as Hamilton County, Ohio Auditor’s Parcel ID Nos. 599-0010-0332 and 599-0010-0333 (“Property”); and

WHEREAS, the owners of the Property, Springdale Commerce Park 1-4 Owner, LLC and Springdale Commerce Park Owners Association, Inc. (“Petitioners”), have petitioned for the City to release and quitclaim its rights and interests in portions of the Easement, as depicted on a plat entitled WSL No. 3462 Watermain Easement Vacation Plat, Springdale Commerce Park, E-718Q attached to this ordinance as Attachment A and incorporated herein by reference (“Vacation Plat”); and

WHEREAS, the City Manager, upon consultation with Greater Cincinnati Water Works, has determined that the portions of the Easement requested by Petitioners to be released are not needed for any municipal purposes and therefore recommends the release of same; and

WHEREAS, the Vacation Plat has been examined and approved as to its technical features by the Greater Cincinnati Water Works Chief Engineer, who has found it to be correct; 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 plat entitled WSL No. 3462 Watermain Easement Vacation Plat, Springdale Commerce Park, E-718Q, attached to this ordinance as Attachment A and incorporated herein by reference, to release and quitclaim portions of a public utility easement granted to the City of Cincinnati across certain real property more particularly identified as Hamilton County, Ohio Auditor’s Parcel ID Nos. 599-0010-0332 and 599-0010-0333, for the use and benefit of Greater Cincinnati Water Works for a water main and associated appurtenances (“Easement”).

Section 2. That the Easement is not needed for any municipal purpose.

Section 3. 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 including, without limitation, executing any and all ancillary agreements, plats, and other documents.

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

Passed: \_\_\_\_\_, 2024

\_\_\_\_\_  
Aftab Pureval, Mayor

Attest: \_\_\_\_\_  
Clerk

INSPIRED PEOPLE CREATIVE DESIGN TRANSFORMING COMMUNITIES



Legal Description

SITUATED IN SECTION 1, TOWN 2 EAST, ENTIRE RANGE 2, BTM, CITY OF SPRINGDALE, SPRINGFIELD TOWNSHIP, HAMILTON COUNTY, OHIO AND BEING PART OF LOTS 4 AND 5 OF SPRINGDALE COMMERCE PARK AS RECORDED IN P.B. 482 PGS. 56-66, THE BOUNDARY OF WHICH BEING MORE PARTICULARLY AS FOLLOWS:

BEGINNING AT A POINT IN THE EAST LINE OF CROSSING AT THE PARK CONDOMINIUMS PHASE IX AS RECORDED IN P.B. 416 PGS. 80-81 SAID POINT BEING S11°49'44"W A DISTANCE OF 34.30 FEET FROM THE NORTHEAST CORNER OF SAID CONDOMINIUM;

THENCE THE FOLLOWING TWENTY THREE (23) COURSES:

- 1. ALONG A CURVE TO THE LEFT AN ARC DISTANCE OF 4.19 FEET TO A POINT, SAID CURVE HAVING A RADIUS OF 63.00 FEET, A DELTA OF 3°48'40" AND A CHORD BEARING N56°12'23"E DISTANCE OF 4.19 FEET;
2. N54°18'06"E A DISTANCE OF 28.07 FEET;
3. ALONG A CURVE TO THE LEFT AN ARC DISTANCE OF 15.87 FEET TO A POINT, SAID CURVE HAVING A RADIUS OF 387.00 FEET, A DELTA OF 2°20'59" AND A CHORD BEARING N53°07'37"E DISTANCE OF 15.87 FEET;
4. N63°23'40"E A DISTANCE OF 140.35 FEET;
5. N85°51'01"E A DISTANCE OF 1.62 FEET;
6. ALONG A CURVE TO THE RIGHT AN ARC DISTANCE OF 66.79 FEET TO A POINT, SAID CURVE HAVING A RADIUS OF 437.00 FEET, A DELTA OF 8°45'23" AND A CHORD BEARING S38°09'41"W DISTANCE OF 66.72 FEET;
7. ALONG A CURVE TO THE RIGHT AN ARC DISTANCE OF 69.69 FEET TO A POINT, SAID CURVE HAVING A RADIUS OF 87.00 FEET, A DELTA OF 45°54'07" AND A CHORD BEARING S22°34'43"E DISTANCE OF 67.85 FEET;
8. S00°22'14"W A DISTANCE OF 168.88 FEET;
9. ALONG A CURVE TO THE LEFT AN ARC DISTANCE OF 25.05 FEET TO A POINT, SAID CURVE HAVING A RADIUS OF 87.00 FEET, A DELTA OF 16°30'05" AND A CHORD BEARING S07°52'46"E DISTANCE OF 24.97 FEET;
10. S16°07'46"E A DISTANCE OF 200.53 FEET;
11. ALONG A CURVE TO THE RIGHT AN ARC DISTANCE OF 20.47 FEET TO A POINT, SAID CURVE HAVING A RADIUS OF 113.00 FEET, A DELTA OF 10°23'00" AND A CHORD BEARING S10°56'20"E DISTANCE OF 20.45 FEET;
12. S05°45'57"E A DISTANCE OF 30.00 FEET;
13. S84°15'05"W A DISTANCE OF 30.00 FEET;
14. N05°43'55"W A DISTANCE OF 64.30 FEET;
15. ALONG A CURVE TO THE LEFT AN ARC DISTANCE OF 11.41 FEET TO A POINT, SAID CURVE HAVING A RADIUS OF 63.00 FEET, A DELTA OF 10°22'55" AND A CHORD BEARING N10°56'20"W DISTANCE OF 11.40 FEET;
16. N16°07'46"W A DISTANCE OF 200.53 FEET;
17. ALONG A CURVE TO THE RIGHT AN ARC DISTANCE OF 39.45 FEET TO A POINT, SAID CURVE HAVING A RADIUS OF 137.00 FEET, A DELTA OF 16°30'05" AND A CHORD BEARING N07°52'46"W DISTANCE OF 39.32 FEET;
18. N00°22'14"E A DISTANCE OF 163.50 FEET;
19. N39°04'12"W A DISTANCE OF 40.51 FEET;
20. ALONG A CURVE TO THE RIGHT AN ARC DISTANCE OF 21.84 FEET TO A POINT, SAID CURVE HAVING A RADIUS OF 437.00 FEET, A DELTA OF 2°51'50" AND A CHORD BEARING S83°13'36"W DISTANCE OF 35.06 FEET;
21. S84°15'05"W A DISTANCE OF 30.00 FEET;
22. ALONG A CURVE TO THE RIGHT AN ARC DISTANCE OF 35.20 FEET TO A POINT, SAID CURVE HAVING A RADIUS OF 113.00 FEET, A DELTA OF 17°50'56" AND A CHORD BEARING S63°13'36"W DISTANCE OF 35.06 FEET;
23. S72°09'05"W A DISTANCE OF 16.71 FEET TO A POINT IN THE AFOREMENTIONED EAST LINE OF THE CROSSING AT THE PARK CONDOMINIUMS-PHASE IX; THENCE ALONG SAID EAST LINE, N11°49'44"E A DISTANCE OF 59.25 FEET TO THE POINT OF BEGINNING.

CONTAINING 0.799 ACRES OF LAND, MORE OR LESS.

BEARINGS ARE BASED ON THE OHIO STATE PLANE COORDINATE SYSTEM - SOUTH ZONE AS DERIVED FROM THE OHIO DEPARTMENT OF TRANSPORTATION'S VIRTUAL REFERENCE STATIONING SYSTEM (VRS).

THE CITY OF CINCINNATI HEREBY RELEASES AND QUIT-CLAIMS ALL ITS RIGHTS AND INTERESTS IN THE EXISTING WATERLINE EASEMENTS SHOWN ON THIS PLOT.

AUTHORIZED BY ORDINANCE NO. \_\_\_\_\_ - 20\_\_\_\_ CITY OF CINCINNATI

BY: \_\_\_\_\_

PRINTED NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

COUNTY OF HAMILTON, SS:

STATE OF OHIO

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 20\_\_\_\_,

BY \_\_\_\_\_ (PRINTED NAME), THE \_\_\_\_\_ (TITLE) OF THE

CITY OF CINCINNATI, AN OHIO MUNICIPAL CORPORATION, ON BEHALF OF THE MUNICIPAL CORPORATION.

THIS IS AN ACKNOWLEDGMENT. NO OATH OR AFFIRMATION WAS ADMINISTERED TO THE SIGNER WITH REGARD TO THE NOTARIAL ACT CERTIFIED HEREBY.

NOTARY PUBLIC: \_\_\_\_\_

MY COMMISSION EXPIRES: \_\_\_\_\_

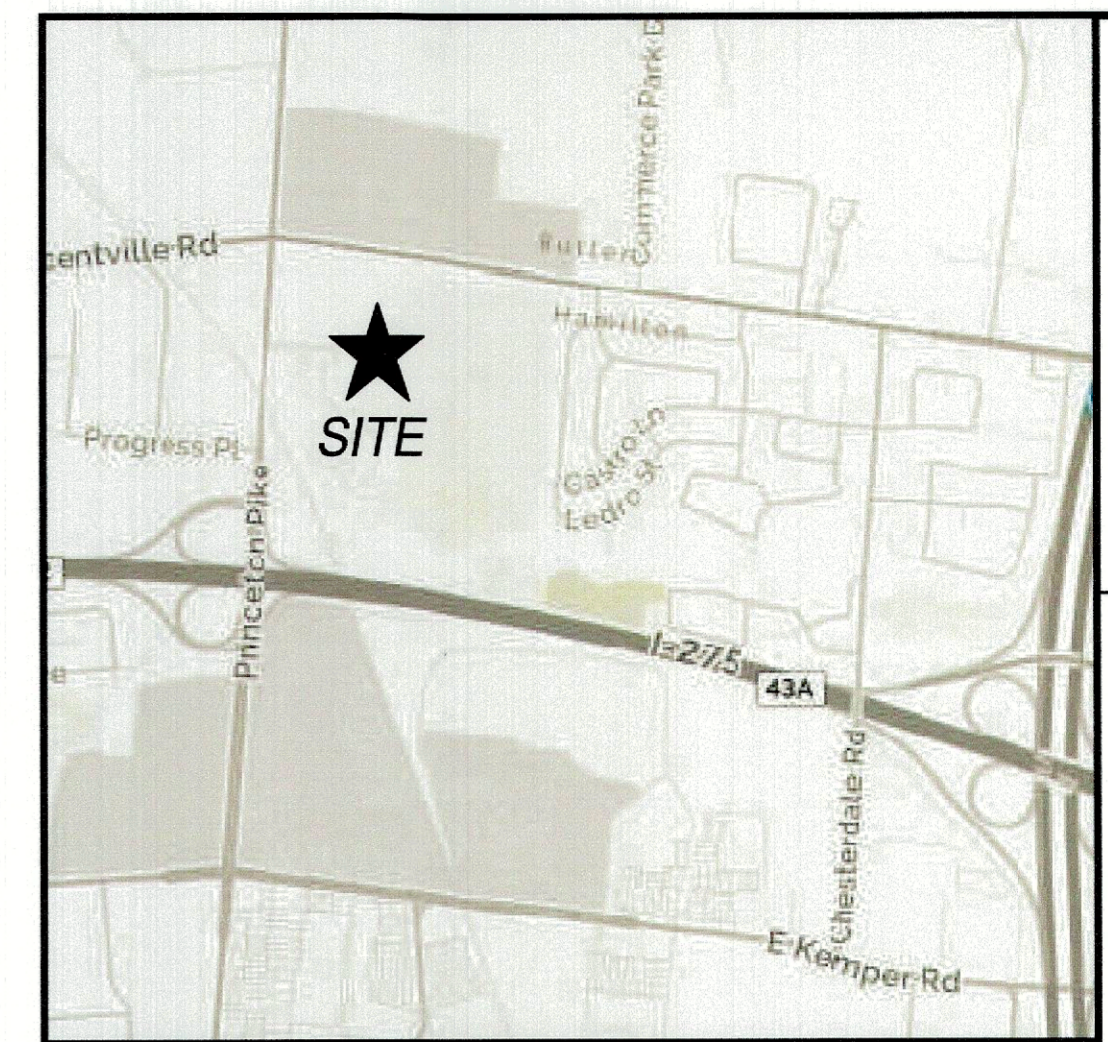
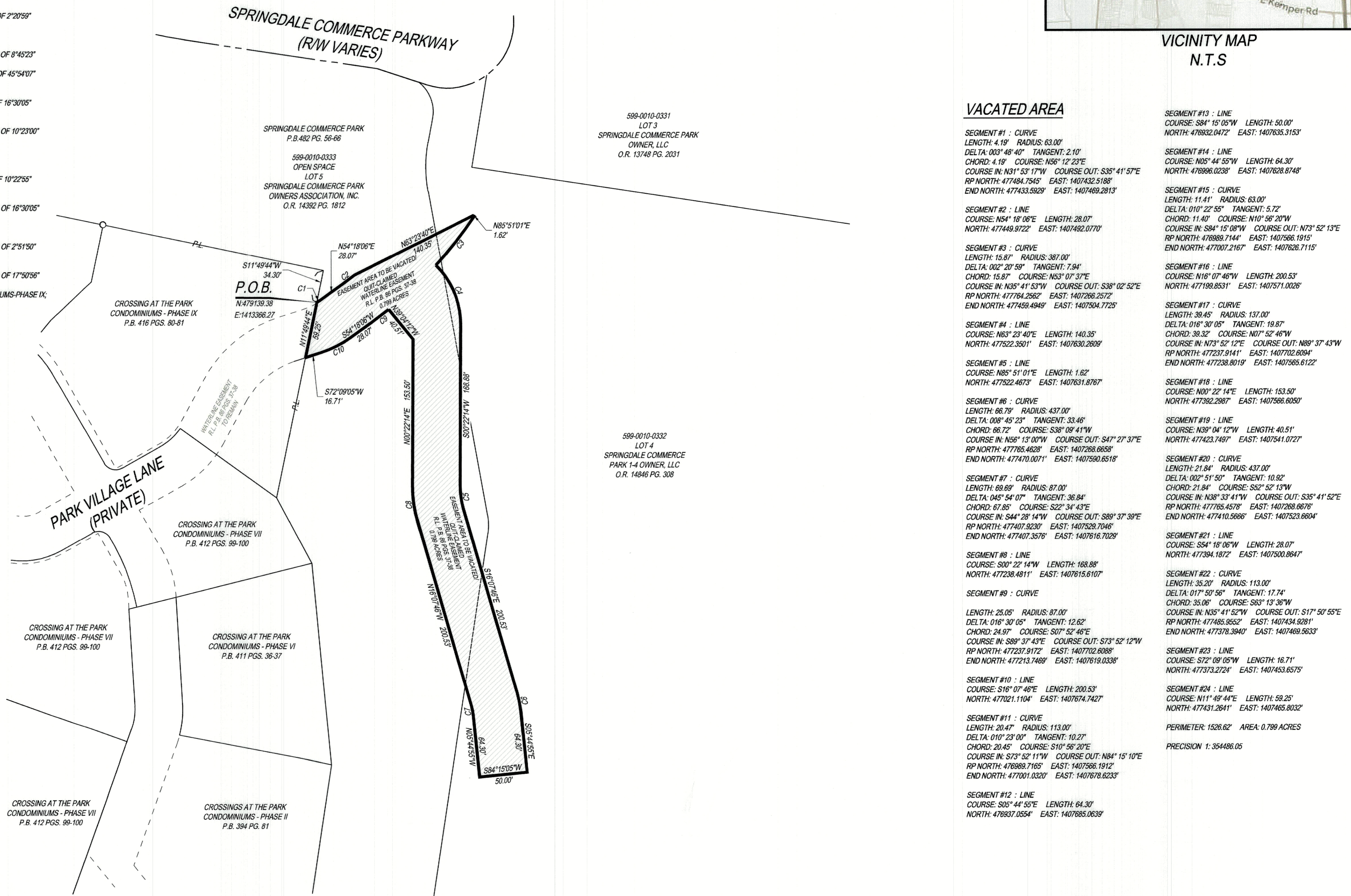
APPROVED AS TO FORM:

SR. ASSISTANT CITY SOLICITOR

Signature of Greater Cincinnati Water Works Chief Engineer

5/2/23 DATE

Table with 6 columns: CURVE, RADIUS, LENGTH, DELTA, DIRECTION, CHORD. It lists 10 curves (C1-C10) with their respective measurements.



VICINITY MAP N.T.S.

VACATED AREA

- SEGMENT #1 : CURVE LENGTH: 4.19' RADIUS: 63.00' DELTA: 003° 48' 40" TANGENT: 2.10' CHORD: 4.19' COURSE: N56° 12' 23"E COURSE IN: N31° 53' 17"W COURSE OUT: S35° 41' 57"E RP NORTH: 477489.9722' EAST: 1407492.0770'
SEGMENT #2 : LINE LENGTH: 28.07' COURSE: N54° 18' 06"E DELTA: 002° 20' 59" TANGENT: 7.94' CHORD: 15.87' COURSE: N53° 07' 37"E RP NORTH: 477489.9722' EAST: 1407492.0770'
SEGMENT #3 : CURVE LENGTH: 15.87' RADIUS: 387.00' DELTA: 002° 20' 59" TANGENT: 7.94' CHORD: 15.87' COURSE: N53° 07' 37"E RP NORTH: 477489.9722' EAST: 1407492.0770'
SEGMENT #4 : LINE LENGTH: 140.35' COURSE: N63° 23' 40"E DELTA: 008° 45' 23" TANGENT: 33.46' CHORD: 66.72' COURSE: S38° 09' 41"W COURSE IN: N16° 13' 07"W COURSE OUT: S47° 27' 37"E RP NORTH: 477470.0071' EAST: 1407690.6518'
SEGMENT #5 : LINE LENGTH: 1.62' COURSE: N85° 51' 01"E DELTA: 016° 30' 05" TANGENT: 19.87' CHORD: 39.32' COURSE: N07° 52' 46"W COURSE IN: N35° 41' 52"E COURSE OUT: S35° 41' 52"E RP NORTH: 477237.9141' EAST: 1407702.8094'
SEGMENT #6 : CURVE LENGTH: 66.79' RADIUS: 437.00' DELTA: 008° 45' 23" TANGENT: 33.46' CHORD: 66.72' COURSE: S38° 09' 41"W COURSE IN: N16° 13' 07"W COURSE OUT: S47° 27' 37"E RP NORTH: 477470.0071' EAST: 1407690.6518'
SEGMENT #7 : CURVE LENGTH: 69.69' RADIUS: 87.00' DELTA: 045° 54' 07" TANGENT: 36.84' CHORD: 67.85' COURSE: S22° 34' 43"E COURSE IN: S44° 28' 14"W COURSE OUT: S89° 37' 39"E RP NORTH: 477407.3230' EAST: 1407528.7946'
SEGMENT #8 : LINE LENGTH: 168.88' COURSE: S00° 22' 14"W DELTA: 002° 51' 50" TANGENT: 10.92' CHORD: 21.84' COURSE: S32° 52' 13"W COURSE IN: N38° 33' 41"W COURSE OUT: S35° 41' 52"E RP NORTH: 477410.5666' EAST: 1407523.6804'
SEGMENT #9 : CURVE LENGTH: 25.05' RADIUS: 87.00' DELTA: 010° 23' 00" TANGENT: 10.27' CHORD: 20.45' COURSE: S10° 56' 20"E COURSE IN: S73° 52' 11"W COURSE OUT: N84° 15' 10"E RP NORTH: 476889.7165' EAST: 1407566.1912'
SEGMENT #10 : LINE LENGTH: 200.53' COURSE: S16° 07' 46"E DELTA: 017° 50' 56" TANGENT: 17.74' CHORD: 35.06' COURSE: S83° 13' 36"W COURSE IN: N35° 41' 52"W COURSE OUT: S17° 52' 55"E RP NORTH: 477432.5188' EAST: 1407432.5188'
SEGMENT #11 : CURVE LENGTH: 20.47' RADIUS: 113.00' DELTA: 010° 23' 00" TANGENT: 10.27' CHORD: 20.45' COURSE: S10° 56' 20"E COURSE IN: S73° 52' 11"W COURSE OUT: N84° 15' 10"E RP NORTH: 477001.0320' EAST: 1407678.6233'
SEGMENT #12 : LINE LENGTH: 64.30' COURSE: S05° 45' 57"E DELTA: 005° 44' 55"E LENGTH: 64.30' NORTH: 476937.0554' EAST: 1407685.0639'
SEGMENT #13 : LINE LENGTH: 50.00' COURSE: S84° 15' 05"W DELTA: 002° 20' 59" TANGENT: 7.94' CHORD: 15.87' COURSE: N53° 07' 37"E RP NORTH: 477489.9722' EAST: 1407628.8748'
SEGMENT #14 : LINE LENGTH: 140.35' COURSE: N63° 23' 40"E DELTA: 008° 45' 23" TANGENT: 33.46' CHORD: 66.72' COURSE: S38° 09' 41"W COURSE IN: N16° 13' 07"W COURSE OUT: S47° 27' 37"E RP NORTH: 477470.0071' EAST: 1407690.6518'
SEGMENT #15 : CURVE LENGTH: 11.41' RADIUS: 63.00' DELTA: 010° 22' 55" TANGENT: 5.72' CHORD: 11.40' COURSE: N10° 56' 20"W COURSE IN: N31° 53' 17"W COURSE OUT: S35° 41' 57"E RP NORTH: 477433.5929' EAST: 1407469.2813'
SEGMENT #16 : LINE LENGTH: 200.53' COURSE: N16° 07' 46"W DELTA: 016° 30' 05" TANGENT: 19.87' CHORD: 39.32' COURSE: N07° 52' 46"W COURSE IN: N35° 41' 52"E COURSE OUT: S35° 41' 52"E RP NORTH: 477198.8531' EAST: 1407571.0026'
SEGMENT #17 : CURVE LENGTH: 39.45' RADIUS: 137.00' DELTA: 016° 30' 05" TANGENT: 19.87' CHORD: 39.32' COURSE: N07° 52' 46"W COURSE IN: N35° 41' 52"E COURSE OUT: S35° 41' 52"E RP NORTH: 477238.8019' EAST: 1407665.6122'
SEGMENT #18 : LINE LENGTH: 153.50' COURSE: N00° 22' 14"E DELTA: 022° 51' 50" TANGENT: 10.92' CHORD: 21.84' COURSE: S32° 52' 13"W COURSE IN: N38° 33' 41"W COURSE OUT: S35° 41' 52"E RP NORTH: 477392.2987' EAST: 1407566.8050'
SEGMENT #19 : LINE COURSE: N39° 04' 12"W LENGTH: 40.51' NORTH: 477423.7487' EAST: 1407541.0727'
SEGMENT #20 : CURVE LENGTH: 21.84' RADIUS: 437.00' DELTA: 002° 51' 50" TANGENT: 10.92' CHORD: 21.84' COURSE: S32° 52' 13"W COURSE IN: N38° 33' 41"W COURSE OUT: S35° 41' 52"E RP NORTH: 477410.5666' EAST: 1407523.6804'
SEGMENT #21 : LINE COURSE: S54° 18' 06"W LENGTH: 28.07' NORTH: 477394.1872' EAST: 1407500.8647'
SEGMENT #22 : CURVE LENGTH: 35.20' RADIUS: 113.00' DELTA: 017° 50' 56" TANGENT: 17.74' CHORD: 35.06' COURSE: S83° 13' 36"W COURSE IN: N35° 41' 52"W COURSE OUT: S17° 52' 55"E RP NORTH: 477378.3940' EAST: 1407469.5633'
SEGMENT #23 : LINE COURSE: S72° 09' 05"W LENGTH: 16.71' NORTH: 477373.2724' EAST: 1407453.6575'
SEGMENT #24 : LINE COURSE: N11° 49' 44"E LENGTH: 59.25' NORTH: 477431.2841' EAST: 1407465.8032'
PERIMETER: 1526.62' AREA: 0.799 ACRES PRECISION 1:354486.05

OWNER / DEVELOPER

SPRINGDALE COMMERCE PARK 1-4 OWNER, LLC O.R. 14846 PG. 308

SPRINGDALE COMMERCE PARK OWNERS ASSOCIATION, INC. O.R. 14392 PG. 1812

8800 KEystone CROSSING #100 INDIANAPOLIS, IN. 46240

HORIZONTAL DATUM IS BASED ON THE OHIO STATE PLANE COORDINATE SYSTEM SOUTH ZONE (OSPC) AS DERIVED FROM THE OHIO DEPARTMENT OF TRANSPORTATION'S VIRTUAL REFERENCE STATIONING SYSTEM (VRS).

I HEREBY CERTIFY THAT THIS PLAT IS BASED ON A SURVEY MADE UNDER MY DIRECTION.

Signature of Randy C. Wolfe, Ohio Professional Surveyor No. 8033, dated 4-24-23

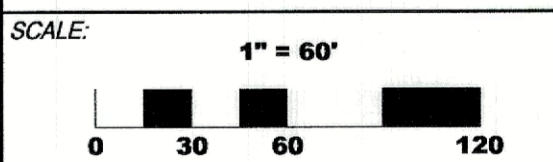
KLEINGERS GROUP logo and contact information: CIVIL ENGINEERING SURVEYING LANDSCAPE ARCHITECTURE. Website: www.kleingers.com. Address: 6219 Centre Park Dr., West Chester, OH 45069. Phone: 513.779.7851.



Table with 2 columns: NO., DATE, DESCRIPTION. Lists revision history: 1. 9-5-2019 EASEMENT VACATION-JDB, 2. 10-10-2019 COMMENTS-JDB, 3. 4-6-2023 REVISIONS - JDB

WSL NO. 3462 WATERMAIN EASEMENT VACATION PLAT SPRINGDALE COMMERCE PARK E - 718Q MF 14993 SEC. 1, TOWN 2, ENTIRE RANGE 1, BTM. SPRINGFIELD TOWNSHIP, CITY OF SPRINGDALE HAMILTON COUNTY, OHIO

PROJECT NO: 150701VMS005 DATE: 9-5-2019



SHEET NAME: SPRINGDALE COMMERCE PARK

SHEET NO. 1 OF 1

January 31, 2024

To: Mayor and Members of City Council  
From: Sheryl M.M. Long, City Manager  
Subject: Ordinance Quitclaim of Water Main Easement Springdale Commerce Park, E-710Q

202400389

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Attached is an Ordinance captioned:

**AUTHORIZING** the City Manager to execute a plat entitled WSL No. 3462 Watermain Easement Vacation Plat, Springdale Commerce Park, E-710Q to release and quitclaim a portion of a public utility easement held by the City of Cincinnati for the use and benefit of Greater Cincinnati Water Works for a water main and associated appurtenances located in and upon certain real property located in the City of Springdale, Hamilton County, Ohio.

The above-referenced Vacation Plat is being executed by the City of Cincinnati to release and quitclaim to Springdale Commerce Park Owner, LLC and Springdale Commerce Park 1-4 Owner, LLC, a portion of the City's rights and interests in a public utility easement, per the petition of Springdale Commerce Park Owner, LLC and Springdale Commerce Park 1-4 Owner LLC, the owners of the subject property. The Vacation Plat has been examined and approved as to its technical features by the Greater Cincinnati Water Works Chief Engineer. The City Manager has determined, upon consultation with Greater Cincinnati Water Works, that the portion of the requested easement is not needed for any municipal purpose and recommends its release.

Springdale Commerce Park Owner, LLC and Springdale Commerce Park 1-4 Owner, LLC are wholly owned by Springdale Commerce Park Investor Holdings, LLC.

The Administration recommends passage of this Ordinance.

cc: Cathy B. Bailey, Executive Director, Greater Cincinnati Water Works 



**AUTHORIZING** the City Manager to execute a plat entitled WSL No. 3462 Watermain Easement Vacation Plat, Springdale Commerce Park, E-710Q to release and quitclaim portions of a public utility easement held by the City of Cincinnati for the use and benefit of Greater Cincinnati Water Works for a water main and associated appurtenances located in and upon certain real property located in the City of Springdale, Hamilton County, Ohio.

WHEREAS, the City of Cincinnati is the holder of a public utility easement for a water main and associated appurtenances (“Easement”) in and upon certain real property more particularly identified as Hamilton County, Ohio Auditor’s Parcel ID Nos. 599-0010-0334 and 599-0010-0329 (“Property”); and

WHEREAS, the owners of the Property, Springdale Commerce Park 1-4 Owner, LLC and Springdale Commerce Park Owner, LLC (“Petitioners”), have petitioned for the City to release and quitclaim its rights and interests in portions of the Easement, as depicted on a plat entitled WSL No. 3462 Watermain Easement Vacation Plat, Springdale Commerce Park, E-710Q attached to this ordinance as Attachment A and incorporated herein by reference (“Vacation Plat”); and

WHEREAS, the City Manager, upon consultation with Greater Cincinnati Water Works, has determined that the portions of the Easement requested by Petitioners to be released are not needed for any municipal purposes and therefore recommends the release of same; and

WHEREAS, the Vacation Plat has been examined and approved as to its technical features by the Greater Cincinnati Water Works Chief Engineer, who has found it to be correct; 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 plat entitled WSL No. 3462 Watermain Easement Vacation Plat, Springdale Commerce Park, E-710Q, attached to this ordinance as Attachment A and incorporated herein by reference, to release and quitclaim portions of a public utility easement granted to the City of Cincinnati across certain real property more particularly identified as Hamilton County, Ohio Auditor’s Parcel ID Nos. 599-0010-0334 and 599-0010-0329, for the use and benefit of Greater Cincinnati Water Works for a water main and associated appurtenances (“Easement”).

Section 2. That the Easement is not needed for any municipal purpose.

Section 3. 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 including, without limitation, executing any and all ancillary agreements, plats, and other documents.

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

Passed: \_\_\_\_\_, 2024

\_\_\_\_\_  
Aftab Pureval, Mayor

Attest: \_\_\_\_\_  
Clerk



**Legal Description**

**AREA "1"**

SITUATED IN SECTION 1, TOWN 2 EAST, ENTIRE RANGE 2, BTM, CITY OF SPRINGDALE, SPRINGFIELD TOWNSHIP, HAMILTON COUNTY, OHIO AND BEING PART OF A LOT 1 OF SPRINGDALE COMMERCE PARK AS RECORDED IN P.B. 482 PGS. 56-66, THE BOUNDARY OF WHICH BEING MORE PARTICULARLY AS FOLLOWS:

BEGINNING AT A POINT IN THE NORTH RIGHT OF WAY LINE OF SPRINGDALE COMMERCE PARKWAY, SAID POINT BEING 159°22'25"W A DISTANCE OF 27.48 FEET AND ALONG A CURVE TO THE LEFT AN ARC DISTANCE OF 94.51 FEET FROM THE SOUTHWEST CORNER OF LOT 7, SAID CURVE HAVING A RADIUS OF 430.00 FEET, A DELTA OF 12°35'33" AND A CHORD BEARING N65°50'13"W DISTANCE OF 94.32 FEET;

THENCE CONTINUING, ALONG A CURVE TO THE LEFT AN ARC DISTANCE OF 50.61 FEET SAID CURVE HAVING A RADIUS OF 430.00 FEET, A DELTA OF 6°44'35" AND A CHORD BEARING N75°30'18"W DISTANCE OF 50.58 FEET;

THENCE THE FOLLOWING THREE (3) COURSES:

- N08°58'03"E A DISTANCE OF 70.31 FEET;
- N40°13'32"W A DISTANCE OF 38.80 FEET;
- N81°01'57"W A DISTANCE OF 297.97 FEET TO A POINT IN THE EAST RIGHT OF WAY LINE OF PRINCETON PIKE;

THENCE ALONG SAID EAST RIGHT OF WAY LINE, N02°08'56"W A DISTANCE OF 16.70 FEET;

THENCE CONTINUING, ALONG A CURVE TO THE RIGHT AN ARC DISTANCE OF 43.88 FEET SAID CURVE HAVING A RADIUS OF 3146.30 FEET, A DELTA OF 00°47'58" AND A CHORD BEARING N05°14'55"E DISTANCE OF 43.88 FEET;

THENCE THE FOLLOWING EIGHT (8) COURSES:

- S81°01'57"E A DISTANCE OF 303.62 FEET;
- N08°58'03"E A DISTANCE OF 52.07 FEET;
- S81°01'57"E A DISTANCE OF 94.82 FEET;
- S08°58'03"W A DISTANCE OF 30.69 FEET;
- S81°01'57"E A DISTANCE OF 44.17 FEET;
- S08°58'03"W A DISTANCE OF 76.14 FEET;
- S70°11'53"W A DISTANCE OF 54.66 FEET;
- S08°58'03"W A DISTANCE OF 80.30 FEET TO THE POINT OF BEGINNING.

CONTAINING 0.848 ACRES OF LAND, MORE OR LESS AND BEING SUBJECT TO EASEMENTS, RESTRICTIONS AND RIGHTS OF WAY OF RECORD.

BEARINGS ARE BASED ON THE OHIO STATE PLANE COORDINATE SYSTEM - SOUTH ZONE AS DERIVED FROM THE OHIO DEPARTMENT OF TRANSPORTATION'S VIRTUAL REFERENCE STATIONING SYSTEM (VRS).

**Legal Description**

**AREA "2"**

SITUATED IN SECTION 1, TOWN 2 EAST, ENTIRE RANGE 2, BTM, CITY OF SPRINGDALE, SPRINGFIELD TOWNSHIP, HAMILTON COUNTY, OHIO AND BEING PART OF A LOT 6 OF SPRINGDALE COMMERCE PARK AS RECORDED IN P.B. 482 PGS. 56-66, THE BOUNDARY OF WHICH BEING MORE PARTICULARLY AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF LOT 6;

THENCE ALONG THE LINES OF A 4.2811 ACRE (DEED) PARCEL OF LAND CONVEYED TO NES COMMERCIAL, LLC IN O.R. 13265 PG. 1894 THE FOLLOWING THREE (3) COURSE:

- N64°31'19"W A DISTANCE OF 38.47 FEET;
- N03°55'32"W A DISTANCE OF 60.79 FEET;
- S64°22'06"W A DISTANCE OF 36.65 FEET;

THENCE N57°49'39"E A DISTANCE OF 36.20 FEET;

THENCE N08°58'03"E A DISTANCE OF 321.51 FEET TO A POINT IN THE SOUTH RIGHT OF WAY LINE OF SPRINGDALE COMMERCE PARKWAY;

THENCE ALONG SAID SOUTH RIGHT OF WAY LINE, ALONG A CURVE TO THE RIGHT AN ARC DISTANCE OF 60.70 FEET SAID CURVE HAVING A RADIUS OF 370.00 FEET, A DELTA OF 07°51'03" AND A CHORD BEARING S74°38'04"E DISTANCE OF 50.66 FEET;

THENCE S08°58'03"W DISTANCE OF 346.71 FEET;

THENCE S25°24'32"E DISTANCE OF 26.76 FEET TO A POINT IN THE WEST RIGHT OF WAY LINE OF CROSSINGS COURT;

THENCE ALONG SAID RIGHT OF WAY LINE, S37°40'21"W DISTANCE OF 21.77 FEET TO THE POINT OF BEGINNING.

CONTAINING 0.438 ACRES OF LAND, MORE OR LESS AND BEING SUBJECT TO EASEMENTS, RESTRICTIONS AND RIGHTS OF WAY OF RECORD.

BEARINGS ARE BASED ON THE OHIO STATE PLANE COORDINATE SYSTEM - SOUTH ZONE AS DERIVED FROM THE OHIO DEPARTMENT OF TRANSPORTATION'S VIRTUAL REFERENCE STATIONING SYSTEM (VRS).

THE CITY OF CINCINNATI HEREBY RELEASES AND QUIT-CLAIMS ALL ITS RIGHTS AND INTERESTS IN THE EXISTING WATERLINE EASEMENTS SHOWN ON THIS PLOT.

AUTHORIZED BY ORDINANCE NO. \_\_\_\_\_-20 \_\_\_\_\_ CITY OF CINCINNATI

BY: \_\_\_\_\_

PRINTED NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

COUNTY OF HAMILTON, SS: \_\_\_\_\_

STATE OF OHIO \_\_\_\_\_

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_, BY \_\_\_\_\_ (PRINTED NAME), THE \_\_\_\_\_ (TITLE) OF THE CITY OF CINCINNATI, AN OHIO MUNICIPAL CORPORATION, ON BEHALF OF THE MUNICIPAL CORPORATION. THIS IS AN ACKNOWLEDGMENT. NO OATH OR AFFIRMATION WAS ADMINISTERED TO THE SIGNER WITH REGARD TO THE NOTARIAL ACT CERTIFIED HEREBY.

NOTARY PUBLIC: \_\_\_\_\_

MY COMMISSION EXPIRES: \_\_\_\_\_

APPROVED AS TO FORM: \_\_\_\_\_

SR. ASSISTANT CITY SOLICITOR \_\_\_\_\_

5/2/23 DATE

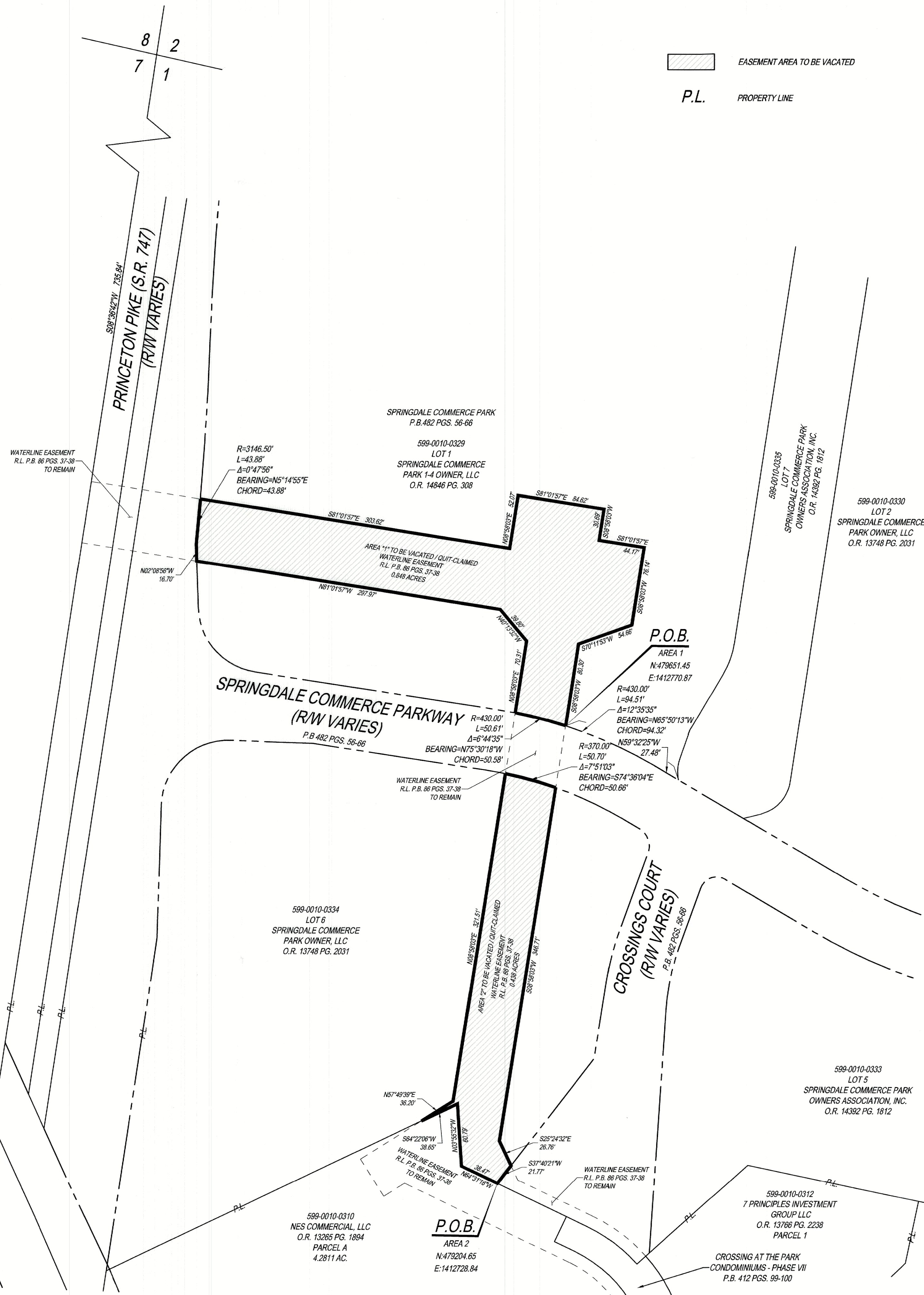
GREATER CINCINNATI WATER WORKS CHIEF ENGINEER

**OWNER / DEVELOPER**  
 SPRINGDALE COMMERCE PARK 1-4 OWNER, LLC  
 O.R. 14846 PG. 308

SPRINGDALE COMMERCE PARK OWNERS ASSOCIATION, INC.  
 O.R. 14392 PG. 1812

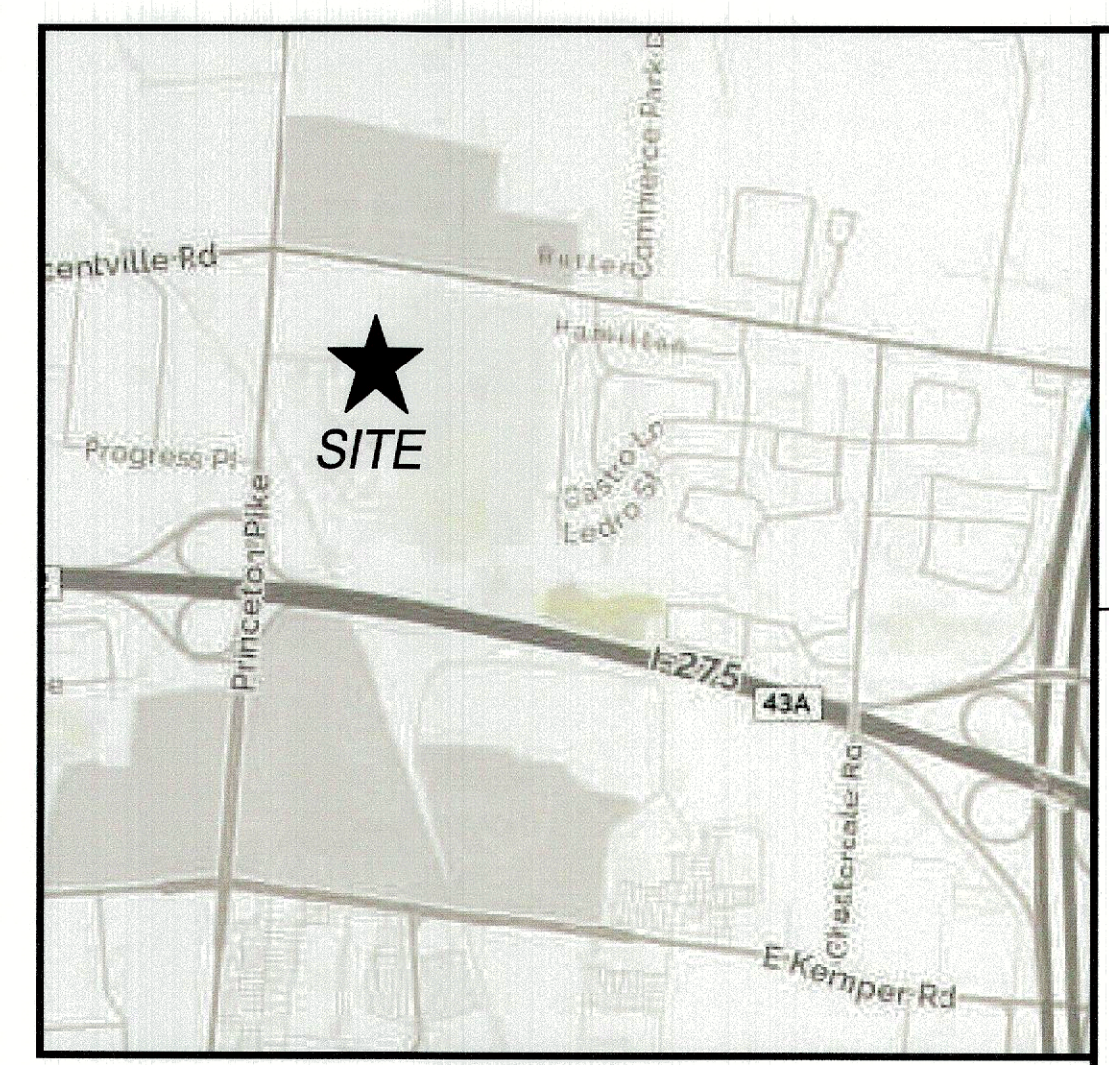
8900 KEYSTONE CROSSING #100 INDIANAPOLIS, IN. 46240

HORIZONTAL DATUM IS BASED ON THE OHIO STATE PLANE COORDINATE SYSTEM SOUTH ZONE (OSPC) AS DERIVED FROM THE OHIO DEPARTMENT OF TRANSPORTATION'S VIRTUAL REFERENCE STATIONING SYSTEM (VRS).



EASEMENT AREA TO BE VACATED

P.L. PROPERTY LINE



VICINITY MAP  
N.T.S.

**AREA "1"**

END NORTH: 478744.9546' EAST: 1408411.8588'

SEGMENT #1 : CURVE  
 LENGTH: 50.61' RADIUS: 430.00'  
 DELTA: 006°44'35" TANGENT: 25.33'  
 CHORD: 50.58' COURSE: N75°30'18"W  
 COURSE IN: S17°51'53"W COURSE OUT: N11°07'25"E  
 RP NORTH: 478335.6915' EAST: 1408279.9355'  
 END NORTH: 478378.6132' EAST: 1408362.8938'

SEGMENT #2 : LINE  
 COURSE: N08°58'03"E LENGTH: 70.31'  
 NORTH: 478827.0638' EAST: 1408373.8534'

SEGMENT #3 : LINE  
 COURSE: N40°13'32"W LENGTH: 38.80'  
 NORTH: 478857.4514' EAST: 1408348.1506'

SEGMENT #4 : LINE  
 COURSE: N81°01'57"W LENGTH: 297.97'  
 NORTH: 478903.8973' EAST: 1408053.8227'

SEGMENT #5 : LINE  
 COURSE: N02°08'56"W LENGTH: 16.70'  
 NORTH: 478920.5855' EAST: 1408053.1965'

SEGMENT #6 : CURVE  
 LENGTH: 43.88' RADIUS: 3146.30'  
 DELTA: 007°51'03" TANGENT: 25.39'  
 CHORD: 50.66' COURSE: S74°38'04"E  
 COURSE IN: S11°28'24"W COURSE OUT: N19°19'28"E  
 RP NORTH: 478335.6933' EAST: 1408279.9300'  
 END NORTH: 478694.8475' EAST: 1408402.3693'

SEGMENT #7 : LINE  
 COURSE: S08°58'03"W LENGTH: 346.71'  
 NORTH: 478342.3751' EAST: 1408348.3261'

SEGMENT #8 : LINE  
 COURSE: S25°24'32"E LENGTH: 26.76'  
 NORTH: 478318.2039' EAST: 1408359.8062'

SEGMENT #9 : LINE  
 COURSE: S37°40'21"W LENGTH: 21.77'  
 NORTH: 478300.9726' EAST: 1408346.5035'

SEGMENT #10 : LINE  
 COURSE: S08°58'03"E LENGTH: 52.07'  
 NORTH: 478968.3958' EAST: 1408365.2363'

SEGMENT #11 : LINE  
 COURSE: N08°58'03"E LENGTH: 84.62'  
 NORTH: 478955.2058' EAST: 1408448.8220'

SEGMENT #12 : LINE  
 COURSE: S81°01'57"E LENGTH: 44.17'  
 NORTH: 478918.0059' EAST: 1408487.6683'

SEGMENT #13 : LINE  
 COURSE: S70°11'53"W LENGTH: 54.66'  
 NORTH: 478824.2794' EAST: 1408444.0382'

SEGMENT #14 : LINE  
 COURSE: S08°58'03"W LENGTH: 80.30'  
 NORTH: 478744.9610' EAST: 1408411.8554'

PERIMETER: 1245.54' AREA: 0.848 ACRES  
 ERROR CLOSURE: 0.0072' COURSE: N27°49'53"W  
 ERROR NORTH: 0.00638' EAST: -0.00337'

PRECISION 1: 172991.67

**AREA "2"**

NORTH: 478300.9676' EAST: 1408346.5078'

SEGMENT #1 : LINE  
 COURSE: N84°31'18"W LENGTH: 38.47'  
 NORTH: 478317.5162' EAST: 1408311.7791'

SEGMENT #2 : LINE  
 COURSE: N03°55'32"W LENGTH: 60.79'  
 NORTH: 478378.1636' EAST: 1408307.6174'

SEGMENT #3 : LINE  
 COURSE: S81°01'57"W LENGTH: 38.65'  
 NORTH: 478361.4442' EAST: 1408272.7708'

SEGMENT #4 : LINE  
 COURSE: N57°49'39"E LENGTH: 36.20'  
 NORTH: 478380.7196' EAST: 1408303.4123'

SEGMENT #5 : LINE  
 COURSE: N08°58'03"E LENGTH: 321.51'  
 NORTH: 478898.2998' EAST: 1408353.5274'

SEGMENT #6 : CURVE  
 LENGTH: 50.70' RADIUS: 370.00'  
 DELTA: 007°51'03" TANGENT: 25.39'  
 CHORD: 50.80' COURSE: S74°38'04"E  
 COURSE IN: S11°28'24"W COURSE OUT: N19°19'28"E  
 RP NORTH: 478335.6933' EAST: 1408279.9300'  
 END NORTH: 478694.8475' EAST: 1408402.3693'

SEGMENT #7 : LINE  
 COURSE: S08°58'03"W LENGTH: 346.71'  
 NORTH: 478342.3751' EAST: 1408348.3261'

SEGMENT #8 : LINE  
 COURSE: S37°40'21"W LENGTH: 21.77'  
 NORTH: 478300.9726' EAST: 1408346.5035'

PERIMETER: 941.56' AREA: 0.438 ACRES  
 ERROR CLOSURE: 0.0066' COURSE: N40°42'51"W  
 ERROR NORTH: 0.00498' EAST: -0.00429'

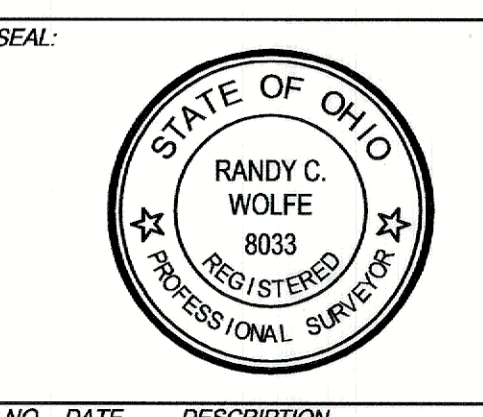
PRECISION 1: 142680.61

**THE KLEINGERS GROUP**

CIVIL ENGINEERING SURVEYING LANDSCAPE ARCHITECTURE

www.kleingers.com

6219 Centre Park Dr. West Chester, OH 45069 513.779.7851



NO.	DATE	DESCRIPTION
1.	9-5-2019	EASEMENT VACATION-JDB
2.	10-10-2019	COMMENTS-JDB
3.	4-10-2023	REVISIONS-JDB

**WSL NO. 3462 WATERMAIN EASEMENT VACATION PLAT SPRINGDALE COMMERCE PARK E - 710Q MF14993**

SEC. 1, TOWN 2, ENTIRE RANGE 1, BTM, SPRINGFIELD TOWNSHIP CITY OF SPRINGDALE HAMILTON COUNTY, OHIO

PROJECT NO.	150701VMS005
DATE:	9-5-2019
SCALE:	1" = 60'

**SPRINGDALE COMMERCE PARK**

SHEET NO. **1 OF 1**

I HEREBY CERTIFY THAT THIS PLAT IS BASED ON A SURVEY MADE UNDER MY DIRECTION.

*Randy C. Wolfe* 4-24-23  
 RANDY C. WOLFE DATE  
 OHIO PROFESSIONAL SURVEYOR NO. 8033

January 31, 2024

To: Mayor and Members of City Council 202400390  
From: Sheryl M.M. Long, City Manager  
Subject: Ordinance Quitclaim of Water Main Easement Anderson Township, E-1107-Q

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Attached is an Ordinance captioned:

**AUTHORIZING** the City Manager to execute a plat entitled Water Main Easement Vacation Plat E1107-Q to release and quitclaim a portion of a public utility easement held by the City of Cincinnati for the use and benefit of Greater Cincinnati Water Works for a water main and associated appurtenances located in and upon certain real property located in the J. Eggleston Military Survey No. 609, Anderson Township, Hamilton County, Ohio.

The above-referenced Vacation Plat is being executed by the City of Cincinnati to release and quitclaim to Anderson Investors OH, LLC a portion of the City's rights and interests in a public utility easement, per the petition of Anderson Investors OH, LLC, the owner of the subject property. The Vacation Plat has been examined and approved as to its technical features by the Greater Cincinnati Water Works Chief Engineer. The City Manager has determined, upon consultation with Greater Cincinnati Water Works, that the portion of the requested easement is not needed for any municipal purpose and recommends its release.

Anderson Investors OH, LLC is wholly owned by Victory Real Estate Investments, LLC. No owner of Victory Real Estate Investments, LLC holds an interest of twenty percent or greater in Victory Real Estate Investments, LLC.

The Administration recommends passage of this Ordinance.

cc: Cathy B. Bailey, Executive Director, Greater Cincinnati Water Works 

**AUTHORIZING** the City Manager to execute a plat entitled Water Main Easement Vacation Plat E-1107-Q to release and quitclaim a portion of a public utility easement held by the City of Cincinnati for the use and benefit of Greater Cincinnati Water Works for a water main and associated appurtenances located in and upon certain real property located in the J. Eggleston Military Survey No. 609, Anderson Township, Hamilton County, Ohio.

WHEREAS, the City of Cincinnati is the holder of a public utility easement for a water main and associated appurtenances (“Easement”) in and upon certain real property more particularly identified as Hamilton County, Ohio Auditor’s Parcel ID No. 500-0202-0197-00 (“Property”); and

WHEREAS, the owner of the Property, Anderson Investors OH, LLC, a Delaware limited liability company (“Petitioner”), has petitioned for the City to release and quitclaim its rights and interests in a portion of the Easement, as depicted on a plat entitled Water Main Easement Vacation Plat E-1107-Q attached to this ordinance as Attachment A and incorporated herein by reference (“Vacation Plat”); and

WHEREAS, the City Manager, upon consultation with Greater Cincinnati Water Works, has determined that the portion of the Easement requested by Petitioner to be released is not needed for any municipal purposes and therefore recommends the release of same; and

WHEREAS, the Vacation Plat has been examined and approved as to its technical features by the Greater Cincinnati Water Works Chief Engineer, who has found it to be correct; 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 plat entitled Water Main Easement Vacation Plat E-1107-Q, attached to this ordinance as Attachment A and incorporated herein by reference, to release and quitclaim a portion of a public utility easement granted to the City of Cincinnati across certain real property more particularly identified as Hamilton County, Ohio Auditor’s Parcel ID No. 500-0202-0197-00, for the use and benefit of Greater Cincinnati Water Works for a water main and associated appurtenances (“Easement”).

Section 2. That the Easement is not needed for any municipal purpose.

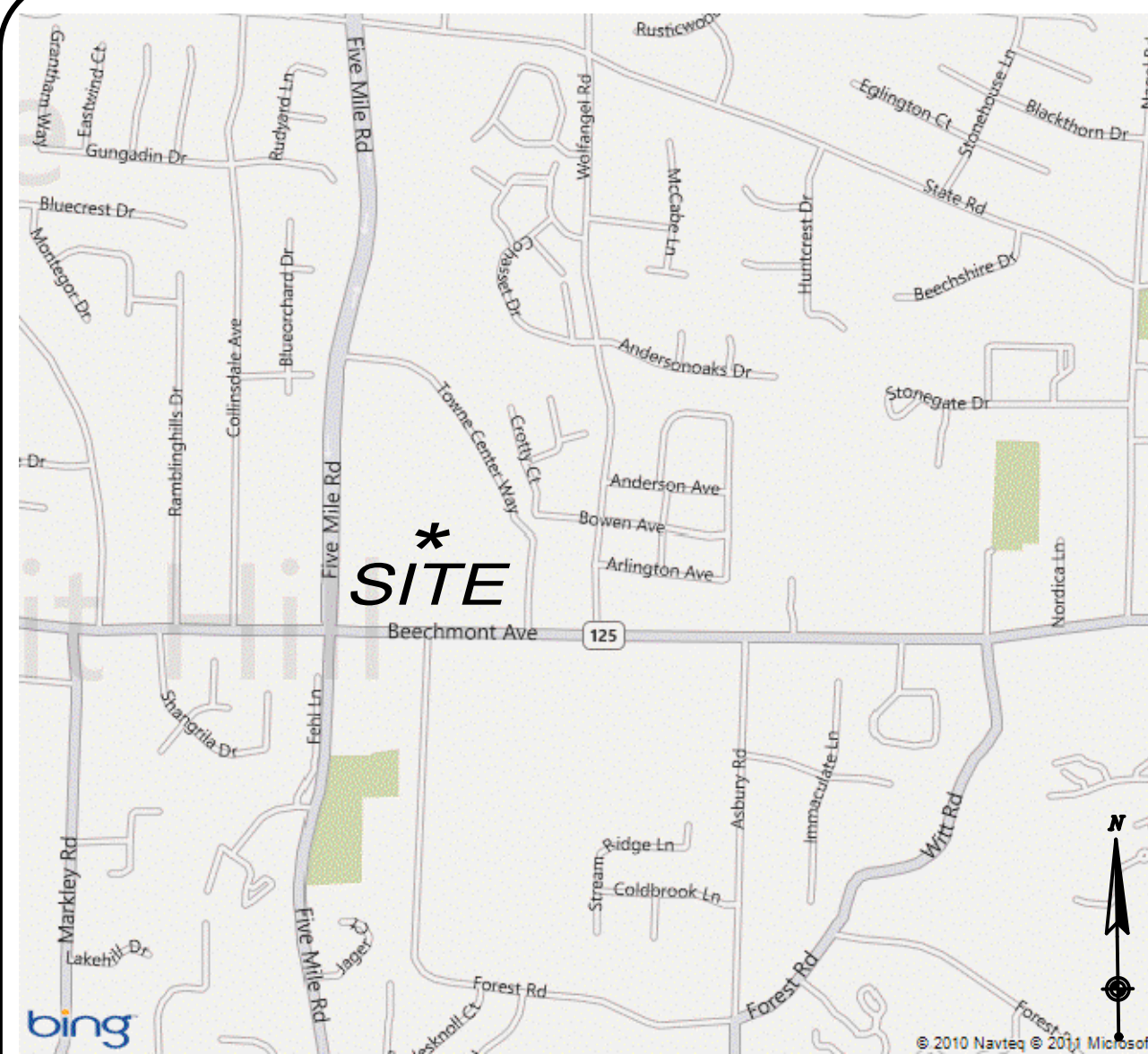
Section 3. That the City Manager and other City officials are authorized to take all necessary and proper actions to carry out the provisions of this ordinance including, without limitation, executing any and all ancillary agreements, plats, and other documents.

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

Passed: \_\_\_\_\_, 2024

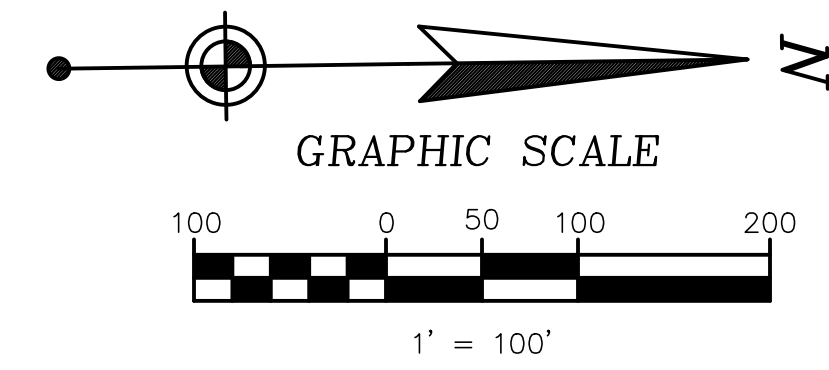
\_\_\_\_\_  
Aftab Pureval, Mayor

Attest: \_\_\_\_\_  
Clerk



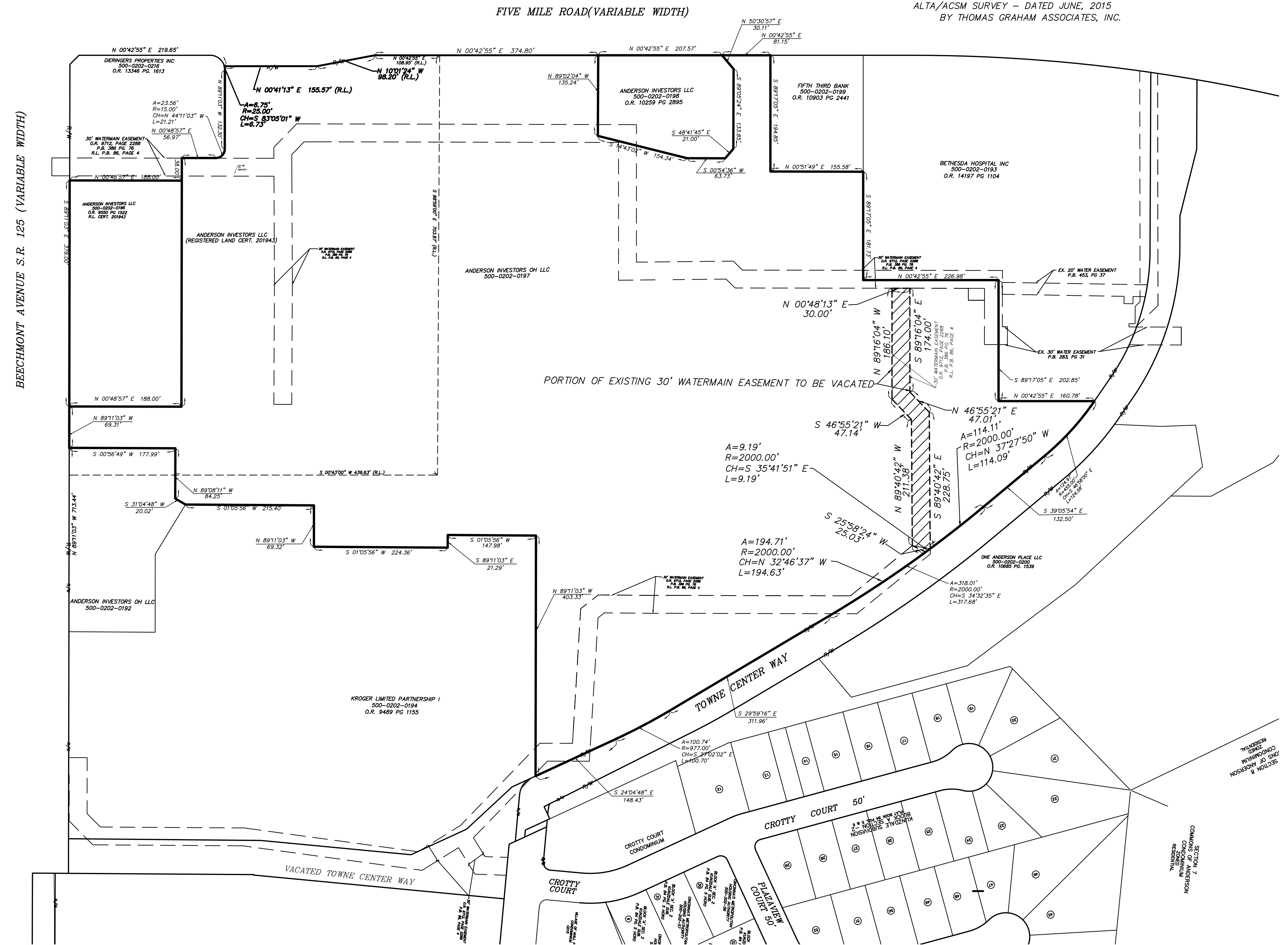
**VICINITY MAP**  
NOT TO SCALE

INDICATES EXISTING WATER MAIN EASEMENT AREA TO BE VACATED



**BASIS OF BEARINGS**  
NORTH BASED ON BEARINGS CONTAINED IN R.L. CERT NO. 201943

**REFERENCE SURVEYS:**  
3rd. REVISION TO THE PLAT OF ANDERSON TOWNE CENTER  
BY CIVIL & ENVIRONMENTAL CONSULTANTS, INC. DATED 3/4/04  
SURVEY PLAT - PLAN OF PROPERTY PARCEL 4  
BY CIVIL & ENVIRONMENTAL CONSULTANTS, INC. DATED 12/5/05  
SURVEY PLAT - PLAN OF PROPERTY PARCEL 5  
BY CIVIL & ENVIRONMENTAL CONSULTANTS, INC. DATED 12/5/05  
SURVEY PLAT - DATED DECEMBER, 2014  
BY THOMAS GRAHAM ASSOCIATES, INC.  
ALTA/ACSM SURVEY - DATED JUNE, 2015  
BY THOMAS GRAHAM ASSOCIATES, INC.



The City of Cincinnati hereby releases and quit-claims all its rights and interests in the existing waterline easements shown on this plat.  
Authorized by Ordinance No. \_\_\_\_\_ - 20\_\_\_\_  
CITY OF CINCINNATI

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

County of Hamilton )  
State of Ohio )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_ by \_\_\_\_\_ (printed name), the \_\_\_\_\_ (title) of the City of Cincinnati, an Ohio municipal corporation, on behalf of the municipal corporation. This is an acknowledgment. No oath or affirmation was administered to the signer with regard to the notarial act certified hereby.

Notary Public: \_\_\_\_\_  
My Commission expires: \_\_\_\_\_

Approved as to form: \_\_\_\_\_

Sr. Assistant City Solicitor

Greater Cincinnati Water Works Chief Engineer \_\_\_\_\_ Date \_\_\_\_\_



*Jason L. Kaffenberger*  
JASON L. KAFFENBERGER, P.S. 8428 IN OHIO

**tga**  
THOMAS GRAHAM ASSOCIATES, INC.  
• Engineers  
• Surveyors

803 Compton Road  
Cincinnati, Ohio 45231  
513-521-4760  
Fax # 521-2439

Date: OCT. 23, 2015  
Scale: AS SHOWN  
Job No: 7912

Revisions	
No.	Date
1	GCWW COMMENTS 11/3/22

**WATER MAIN EASEMENT VACATION PLAT E-1107-Q**

WSL #2653 / MF #2852  
ANDERSON TOWNE CENTER  
SITUATED IN  
PART OF JOSEPH EGGLESTON MILITARY SURVEY NO. 609  
ANDERSON TOWNSHIP  
HAMILTON COUNTY  
STATE OF OHIO

Drawn By: J. KAFFENBERGER

Job No: 7912-15

ACAD FILENAME: 7912\_BASE.dwg

January 31, 2024

To: Mayor and Members of City Council  
From: Sheryl M.M. Long, City Manager  
Subject: Ordinance Accepting and Confirming the Grant of a Public Utility Easement at Rybolt Run Subdivision

202400394

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Attached is an Ordinance captioned:

**ACCEPTING AND CONFIRMING** the grant of a public utility easements in favor of the City of Cincinnati for water mains and related fixtures, equipment, and appurtenances through certain real property in Green Township, Hamilton County, Ohio in accordance with the plat entitled Watermain Easement Dedication Plat, WSL #3688, E1096, Rybolt Run Subdivision, as recorded in Plat Book 492, Page 37, Hamilton County, Ohio Recorder's Office.

The above easement is being granted to the City of Cincinnati by JOSTTO Group, LLC, an Ohio limited liability company, for water mains and related fixtures, equipment, and appurtenances through certain real property located in Green Township, Hamilton County, Ohio. The easement has been examined and approved as to its technical features by the Greater Cincinnati Water Works Chief Engineer.

The Administration recommends passage of this Ordinance.

cc: Cathy B. Bailey, Executive Director, Greater Cincinnati Water Works 



**ACCEPTING AND CONFIRMING** the grant of a public utility easement in favor of the City of Cincinnati for water mains and related fixtures, equipment, and appurtenances through certain real property in Green Township, Hamilton County, Ohio in accordance with the plat entitled Watermain Easement Dedication Plat WSL 3688, E1096, Rybolt Run Subdivision, as recorded in Plat Book 492, Page 37, Hamilton County, Ohio Recorder's Office.

WHEREAS, JOSTTO Group, LLC, an Ohio limited liability company, has granted a public utility easement in favor of the City of Cincinnati for water mains and related fixtures, equipment, and appurtenances through certain real property located in Green Township, Hamilton County, Ohio, as more particularly depicted and described on the plat entitled Watermain Easement Dedication Plat WSL 3688, E1096, Rybolt Run Subdivision, as recorded in Plat Book 492, Page 37, Hamilton County, Ohio Recorder's Office ("Easement Plat"); and

WHEREAS, the Greater Cincinnati Water Works Chief Engineer has examined and approved the Easement Plat as to its technical features and found it to be correct; and

WHEREAS, based on the foregoing, the City Manager, upon consultation with the Greater Cincinnati Water Works, recommends that Council accept and confirm the acceptance of the aforementioned public utility easement; now, therefore,

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

Section 1. That the public utility easement granted by JOSTTO Group, LLC, an Ohio limited liability company, to the City of Cincinnati for the construction, installation, reconstruction, operation, maintenance, repair, replacement, modification, and removal of water mains and related fixtures, equipment, and appurtenances through certain real property in Green Township, Hamilton County, Ohio, as more particularly depicted and described on the plat entitled Watermain Easement Dedication Plat WSL 3688, E1096, Rybolt Run Subdivision, as recorded in Plat Book 492, Page 37, Hamilton County, Ohio Recorder's Office, and incorporated herein by reference, is hereby accepted and confirmed. The real property encumbered by the public utility easement is more particularly described as follows:

Situate in Section 35, Town 2, Fractional Range 2, Miami Purchase, Green Township, Hamilton County, Ohio, and being more particularly described as follows:

Being a 30-foot-wide watermain easement encumbering portions of Lots 1-11 of the Rybolt Run Subdivision as recorded in Plat Book 495, Pages 45-47, Hamilton County, Ohio Records.

Section 2. That the City Solicitor shall cause an authenticated copy of this ordinance to be recorded in the Hamilton County, Ohio Recorder's Office.

Section 3. That the proper City officers and officials are authorized to take all necessary and proper actions to carry out the provisions of this ordinance.

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

Passed: \_\_\_\_\_, 2024

\_\_\_\_\_  
Aftab Pureval, Mayor

Attest: \_\_\_\_\_  
Clerk

February 5, 2024

**To:** Members of the Budget and Finance Committee  
**From:** Sheryl M. M. Long, City Manager  
**Subject:** Presentation – Convention Center District Ordinances

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Attached is a presentation regarding the Convention Center District Ordinances.

cc: William “Billy” Weber, Assistant City Manager



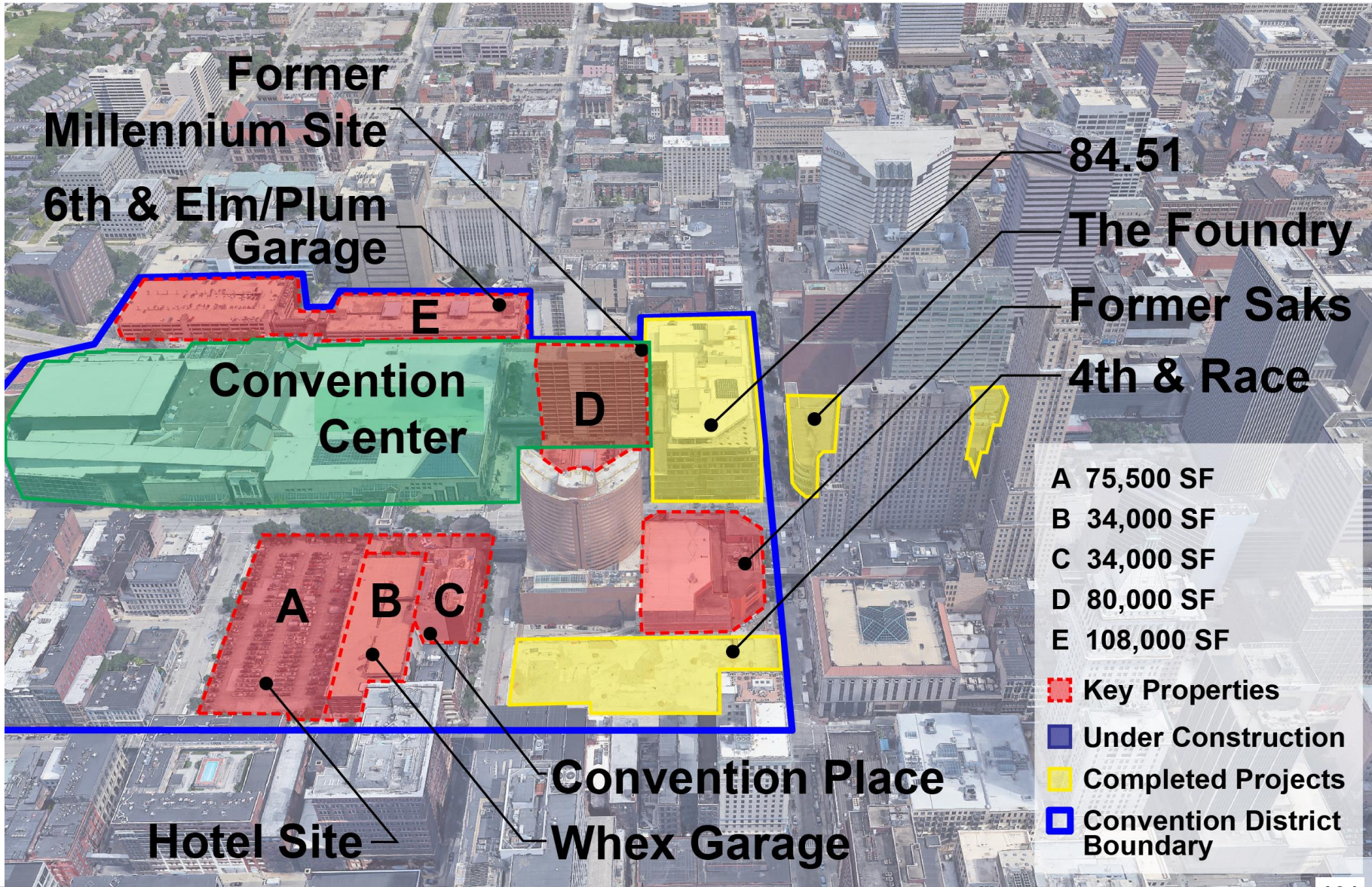
# Convention Center District Priorities

- Recognizing the need for a coordinated strategy to address these challenges, civic and governmental officials approached 3CDC about providing needed services in the role of Development Manager for the District
- Priorities for the redevelopment of the Convention Center District included:
  - ✓ Pursuing a developer for a Convention Center Hotel
  - ✓ Evaluating potential capital improvements to existing DECC
  - ✓ Mixed-use development on surrounding properties
  - ✓ Interim use for Millennium site, while preserving the ability to expand the DECC in the future
  - ✓ Ensuring all work is carried out with a strong commitment to inclusion

## Driving Reasons for Significant Improvements

- Publicly owned asset that needs renovation. Currently multiple building systems are at the end of their useful life.
- The need to upgrade the existing convention center is required in order to secure commitment for convention hotel and is the first step before expansion can occur.
- It is clear that a convention center of our size – if updated as planned and coupled with a first-class convention hotel– will be attractive to shows, conventions, and corporate events. The combination of upgrades to the DECC and the positive attributes and amenities outlined earlier in this piece will give Cincinnati a competitive advantage against its peer cities in the tourism industry.

# Key Properties Under Public Control



# **DUKE ENERGY CONVENTION CENTER DEVELOPMENT PLAN**



## Development Plan

- Approximately \$200 million renovation of the Duke Energy Convention Center including new public plaza on the former Millennium Hotel site
- New 800 room Convention Headquarter Hotel on the parking lot at 5<sup>th</sup> and Plum
- Redevelopment of other publicly controlled assets in the surrounding area
  - Purchased Whex Parking Garage and define redevelopment plan in conjunction with hotel
  - Demolished 435 Elm and prep site for development

## Established Inclusion Goals and Developed Strategies to Achieve Them

### 40% MBE/WBE Participation

- 20% MBE + 5% reach goal
- 10% WBE + 5% reach goal

- Engaged the African American Chamber of Commerce (AACC) to serve as a third-party inclusion consultant
  - Held initial kick-off events at DECC targeting MBE/WBE and Union participation
- Selected design team led by MBE (Moody Nolan) and featuring WBE landscape architect (Hargreaves Jones) resulting in 35% total MBE/WBE participation
- Selected a construction management team that is 40% MBE (Jostin and Triversity)
- Selected a diverse legal team (% pending final billings)
- Four initial design-assist bid packages (façade, mechanical, electric and plumbing) were awarded to Union contractors
  - Working with each to maximize MBE/WBE participation within their respective scopes

## Design Update

EXISTING W 5<sup>th</sup> St & Elm Street



## Design Update

NEW W 5<sup>th</sup> St & Elm Street



## Design Update

NEW W 5<sup>th</sup> St & Elm Street



## Design Update

EXISTING W 5<sup>th</sup> St & Plum Street



## Design Update

NEW W 5<sup>th</sup> St & Plum Street



# Convention Center





# Convention Center



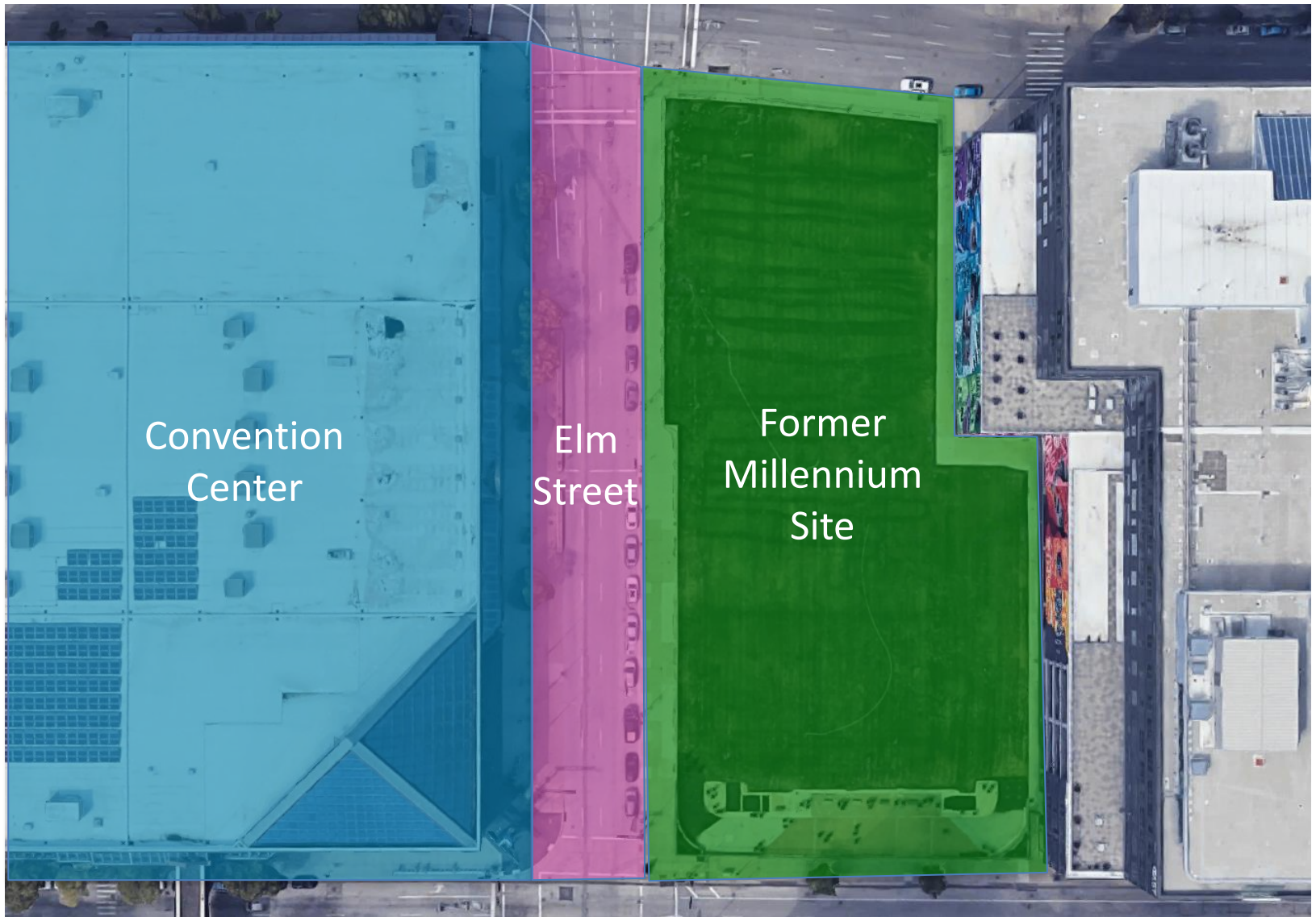
# Convention Center



# Convention Center



# Convention Center

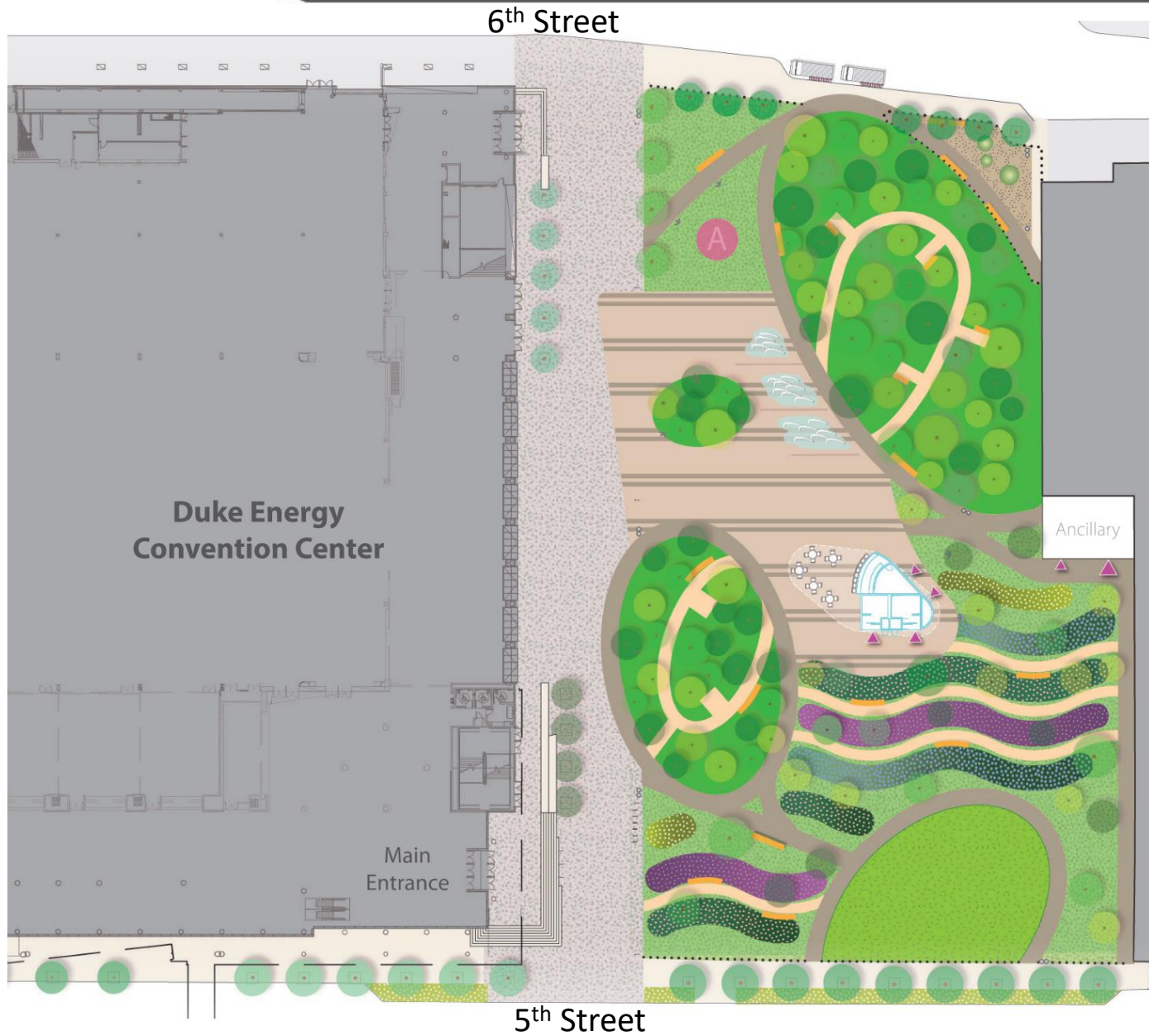


Convention  
Center

Elm  
Street

Former  
Millennium  
Site

# Convention Center



## Finance Strategy

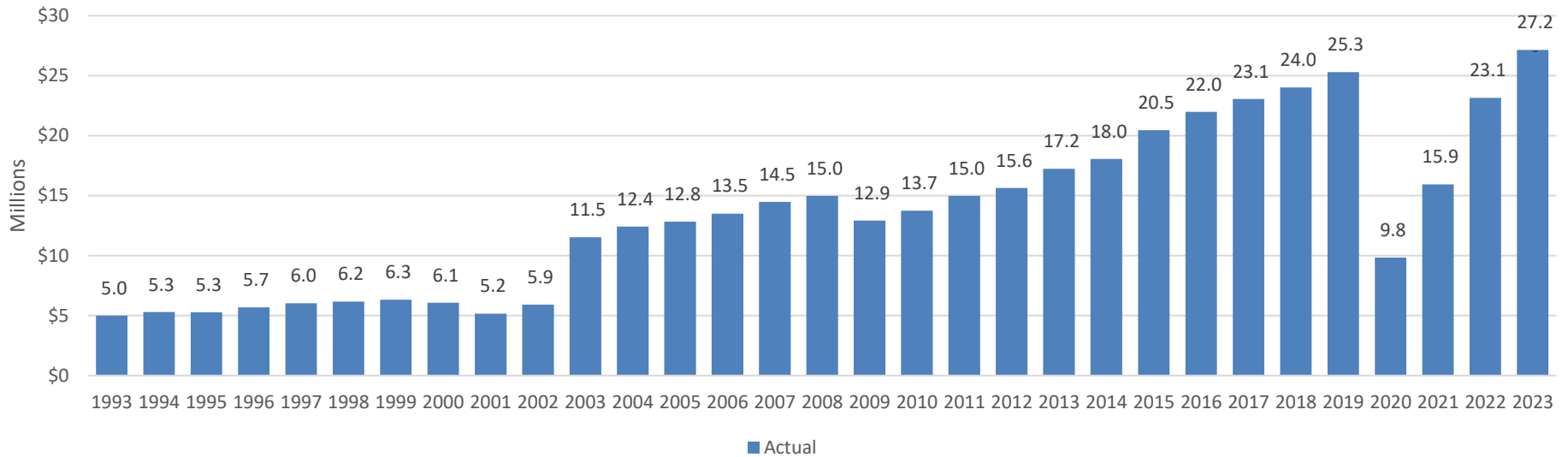
- Develop a full finance plan for the Convention Center to generate approximately **\$200 million**.
- The new plan contemplates a simpler and more efficient structure that reprioritizes the existing Sharonville Convention Center debt and the existing FC Stadium debt
- Enter a common plan of financing which creates no distinction between the City and County TOT distributions

## Finance Overview

### Transient Occupancy Tax (TOT) Summary (11.5%)

- Hamilton County Lodging Tax – 3%
  - Visit Cincy
- Hamilton County Lodging Tax – 3.5%
  - Duke Energy Convention Center Debt Service
  - Sharonville Convention Center Debt Service
  - Millennium Hotel Debt Service
  - Misc. expenditures related to hospitality activities
- Hamilton County Lodging Tax – 1% (new)
- City Lodging Tax – 2.5%
  - Duke Energy Convention Center Debt Service
  - FC Cincinnati Infrastructure Debt Service
- City Lodging Tax – 1.5%
  - Duke Energy Convention Center Operations

## Historical City and County Combined TOT Revenue



***Note: 2023 TOT revenues exceeded 2019 revenue by 7%.***



## Legal and Finance

- Selected an independent financial advisor to structure the financing plan.
- Further developed a financing plan to net approximately \$200 million for the project.
- Selected bond council and investment banking teams to execute on the financing plan.
- Secured a commitment from Visit Cincy to provide \$3 million of its annual Transient Occupancy Tax (TOT) proceeds to help finance the project, with collection beginning in January 2024.
- Secured the following legislation with the State of Ohio in support of the financing plan:
  - A provision to allow Hamilton County to increase the TOT by 1%, an action the County has since taken, with collection having started Dec. 1, 2023.

## Sources/Uses

### Proposed Debt Structure

<b>Sources</b>	<b><u>Total</u></b>
Bond Amount	272,480,000
City/County Grants*	45,000,000
Premium/(Discount)	19,044,386
Interest Earned	8,177,000
Debt Service Reserve	2,300,000
<b><u>Total Sources</u></b>	<b><u>\$347,001,386</u></b>

<b>Uses</b>	
<b>New Project Funds</b>	<b>200,000,000</b>
Payoff Original Issuance	98,417,032
Reserves	19,777,500
Contingency	14,446,314
Predevelopment	11,225,000
Costs of Issuance	3,135,540
<b><u>Total**</u></b>	<b><u>\$347,001,386</u></b>

\* Pending approval

\*\*Total project budget will fluctuate due to construction costs, interest rate market changes, final finance structure, and Moody's rating.

## Project Milestones

### Design

- Complete Design Development 2/29/24
- Construction Documents 3/1/24 – 9/1/24

### Finance

- Close on finance 6/1/24

### Construction

- Secure GMP 3/1/24 – 4/30/24
- Begin construction 7/1/24
- Complete construction 12/31/25

# **CONVENTION HEADQUARTERS HOTEL DEVELOPMENT PLAN**

# Convention Center Hotel

## Portman Holdings – Initial Proposed Design



# Convention Center Hotel

*PLUM STREET AND LOWER FAÇADE*



## Convention Hotel - Public Support

- Convention headquarters hotels require public support primarily due to two factors:
  - ✓ The cost of convention headquarters hotels is higher due to the amount of required ancillary space such as meeting rooms (80,000 sq ft) and ballrooms (45,000 sq ft)
  - ✓ Hotel room revenues are suppressed due to required room block commitments and room rates offered at below market to attract conventions
- It is estimated that the Cincinnati Convention Center Headquarters hotel will cost approximately \$480 million for 800 rooms plus ancillary space
- Anticipated funding gap is \$160 million or 33% of total costs

## Comparable Hotel Gaps

	Salt Lake City Hyatt Regency	Oklahoma City Omni Convention Center Hotel	Loews Kansas City Hotel	Hyatt Regency at the Oregon Convention Center	City Center Omni Convention Center Hotel	Marriott Marquis Washington DC	Omni Nashville Hotel
<b>Location</b>	Salt Lake City, UT	Oklahoma City, Oklahoma	Kansas City, Missouri	Portland, Oregon	Louisville, Kentucky	Washington, DC	Nashville, TN
<b>Opening</b>	2022	2021	2020	2019	2018	2014	2013
<b>Keys</b>	700	605	800	600	612	1175	800
<b>Total Project Cost</b>	\$320.0 million	\$235.5 million	\$322.7 million	\$242.0 million	\$322.0 million	\$516.2 million	\$287.0 million
<b>Public Participation</b>	\$118.4 million (PV over 25 years plus land)	\$85.4 million, plus garage and land	\$161.4 million	\$74 million	\$141.0 million	\$206.0 million plus below-market lease	\$115.0 million
<b>Subsidy % of Total Cost</b>	37%	37%	50%	31%	44%	40%	40%
<b>Form of Public Subsidies</b>	Land Contribution Property Tax Abatement Taxable Bonds (S&U)	Land Contribution Garage Contribution Taxable AA Bonds (Annual Appropriation)	Land Contribution Local Grant (City GF) City Loan (repaid by City's GF) Tax-Exempt Bonds (HOT & PILOT)	State Grant (lottery) Local Grant (CC) Tax-Exempt Aa3 Bonds (county-wide HOT)	GO Bonds TIF Rebate (S&U, property taxes; and state individual income taxes)	City Grant City Loan (repaid by site-specific taxes) Tax-exempt and Taxable Bonds (Tourism Taxes) Below Market Lease	Land and Infrastructure Partial Property Tax Abatement Tourism Taxes Rebate



## Gap Funding Solutions

- Secured State legislation to allow the TOT generated by the new hotel to be directly pledged to the hotel debt issuance (TOT TIF)
- Partnering with owners of downtown food and beverage establishments near the Convention Center District to create a New Community Authority (NCA) district. The NCA will result in a 1% surcharge being added on food/beverage receipts at establishments who opt to participate in the program. It is anticipated to generate approximately \$1 million annually to support debt service on TOT TIF
- Applied for and awarded the State of Ohio's Transformational Mixed-Use Development Tax Credit (TMUD), which could result in a \$40 million tax credit that would generate \$35 million in equity for the project
- Recommend locally for a \$50 million appropriation from the \$700 million State of Ohio One-Time Strategic Community Investment Fund (OTSCIF), which is focused on transformational projects

## Schedule

Design

- Schematic design 2/1/24 – 6/1/24

Finance

- Development Agreement brought before Council Q3 2024

Construction

- Begin construction 4Q 2024
- Complete construction 3Q 2026



THANK YOU

