



City of Cincinnati

801 Plum Street
Cincinnati, Ohio 45202

CALENDAR

Cincinnati City Council

Wednesday, March 31, 2021

2:00 PM

Council Chambers, Room 300

ROLL CALL

PRAYER AND PLEDGE OF ALLEGIANCE

FILING OF THE JOURNAL

MAYOR CRANLEY

1. [202101249](#) **ORDINANCE**, submitted by Mayor John Cranley, from Andrew W. Garth, City Solicitor, **MODIFYING** Title VII, "General Regulations," of the Cincinnati Municipal Code by amending Section 723-42, "Mobile Food Vending; Definitions," and Section 723-44, "Mobile Food Vending; Operating Restrictions," of Chapter 723, "Streets and Sidewalk, Use Regulations," to establish a new designated zone for mobile food vending on Harrison Avenue in the Westwood neighborhood.

Recommendation BUDGET AND FINANCE COMMITTEE

Sponsors: Mayor

MR. GOODIN

2. [202101223](#) **MOTION**, submitted by Councilmember Goodin, In 1911, a 6.4 acre property was purchased by the City of Cincinnati to establish a park in the suburb of Evanston. As the neighborhood grew, a pool, tennis and basketball courts, a baseball diamond and bleachers were added to Evanston Park, making it a fun-filled gathering place for the generations of families who lived in the area. In 1917, the Evanston Field House was built, which contained boys/girls restrooms and locker rooms, lifeguard quarters and an equipment room, and was also used for picnics and parties. Evanston Park is part of the Cincinnati Recreation Commission and, unfortunately, over the past 20 years, the Field House has fallen into disrepair. It is estimated a complete renovation of the Field House would cost between \$275,000-\$396,000. **WE MOVE** that funds from the American Rescue Plan Act be allocated to pay for renovation of the Evanston Field House.

Recommendation BUDGET AND FINANCE COMMITTEE

Sponsors: Goodin

MS. KEARNEY

3. [202101225](#) **MOTION**, submitted by Councilmember Kearney, **WE MOVE** to appoint Anthony Johnson to the Salary History Working Group.

Recommendation EQUITY, INCLUSION, YOUTH & THE ARTS COMMITTEE

Sponsors: Kearney

MR. LANDSMAN

MS. KEATING

4. [202101248](#) **RESOLUTION**, submitted by Councilmember Landsman and Keating, **RECOGNIZING** April 4-10, 2021 as National Library Week in the City of Cincinnati, and **ENCOURAGING** all residents to visit a Cincinnati and Hamilton County Public Library branch in person or online during this week.

Recommendation PASS

Sponsors: Landsman and Keating

MR. SMITHERMAN

MR. GOODIN

5. [202101247](#) **MOTION**, submitted by Vice Mayor Smitherman and Councilmember Goodin, **WE MOVE** that funds from the American Rescue Plan Act be allocated to construct a new Cincinnati Police Department (CPD) District 5 headquarters. This cost is estimated to be between \$20 - \$25 million dollars.

Recommendation BUDGET AND FINANCE COMMITTEE

Sponsors: Smitherman and Goodin

CITY MANAGER

6. [202100985](#) **REPORT**, dated 3/31/2021 submitted by Paula Boggs Muething, City Manager, on a communication from the State of Ohio, Division of Liquor Control, advising of a permit application for WARD EMPIRE LLC, DBA ALABAMA QUE, 2733 Short Vine Street, Cincinnati, Ohio 45219. (#9398120, D5J, NEW) [Objections: NONE]

Recommendation FILE

Sponsors: City Manager

7. [202101216](#) **REPORT**, dated 3/31/2021, submitted by Paula Boggs Muething, City Manager, regarding MARIJUANA-ONLY WARNINGS/CITATIONS/ARRESTS MONTHLY REPORT, FEBRUARY 2021.

Recommendation FILE

Sponsors: City Manager

8. [202101227](#) **ORDINANCE** submitted by Paula Boggs Muething, City Manager, on 3/31/2021, **AUTHORIZING** the City Manager to apply for a grant in an amount up to \$150,000,000 from the Transportation Review Advisory Council (CFDA 20.205), awarded by and through the Ohio Department of Transportation, to provide resources for the construction associated with replacement of the Western Hills Viaduct; and **AUTHORIZING** the City Manager to enter into the necessary agreements with Hamilton County to jointly apply for these grant resources.

Recommendation BUDGET AND FINANCE COMMITTEE

Sponsors: City Manager

9. [202101228](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 3/31/2021, **AUTHORIZING** the City Manager to accept with gratitude a donation of artwork by artists Ellen Kochansky and Jamie Davis from the commercial real estate firm CBRE.

Recommendation BUDGET AND FINANCE COMMITTEE

Sponsors: City Manager

10. [202101229](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 3/31/2021, **AUTHORIZING** the City Manager to apply for, accept, and appropriate a grant in an amount of \$10,000 from Cincinnati Children's Hospital Medical Center for the purpose of supporting COVID-19 vaccinations and health equity in vulnerable Cincinnati communities; and **AUTHORIZING** the Finance Director to deposit the grant funds into Public Health Research Fund 350.

Recommendation BUDGET AND FINANCE COMMITTEE

Sponsors: City Manager

11. [202101230](#) **ORDINANCE** submitted by Paula Boggs Muething, City Manager, on 3/31/2021, **AUTHORIZING** the City Manager to execute a *Grant of Encroachment Easements* in favor of 2445 Gilbert, LLC, pursuant to which the City of Cincinnati will grant encroachment easements for existing projections encroaching upon the Gilbert Avenue public right-of-way in the Walnut Hills neighborhood of Cincinnati.

Recommendation BUDGET AND FINANCE COMMITTEE

Sponsors: City Manager

12. [202101231](#) **ORDINANCE** submitted by Paula Boggs Muething, City Manager, on 3/31/2021, **AUTHORIZING** the City Manager to vacate and sell to Uptown Transportation Authority, LLC approximately 0.1749 acres of the public right-of-way known as Bartle Avenue in the Avondale neighborhood of Cincinnati.

Recommendation

BUDGET AND FINANCE COMMITTEE

Sponsors: City Manager

13. [202101232](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 3/31/2021, **APPROVING AND AUTHORIZING** the City Manager to execute a *Community Reinvestment Area Tax Exemption Agreement* with 17E-Fifteen LLC, thereby authorizing an 8-year tax exemption for 100% of the value of improvements made to real property located at 17 E. 15th Street in the Over-the-Rhine neighborhood of Cincinnati, in connection with the remodeling of an existing building into approximately 3,576 square feet of residential space, consisting of 6 residential rental units, at a total construction cost of approximately \$300,000.

Recommendation BUDGET AND FINANCE COMMITTEE**Sponsors:** City Manager

14. [202101233](#) **RESOLUTION (LEGISLATIVE)** submitted by Paula Boggs Muething, City Manager, on 3/31/2021, **DECLARING** the necessity of assessing properties in Lighting Group 1 that benefit from special street lighting within the City of Cincinnati for the cost of such lighting for the three-year period beginning August 1, 2020.

Recommendation BUDGET AND FINANCE COMMITTEE**Sponsors:** City Manager**CLERK OF COUNCIL**

15. [202101224](#) **STATEMENT**, submitted by the Clerk of Council formally filing a copy of the Financial Disclosure Statement for Betsy Sundermann/Councilmember. (ETHICS)

Recommendation FILE**Sponsors:** Clerk of Council

16. [202101250](#) **REGISTRATION**, submitted by the Clerk of Council from Legislative Agent J. Douglas Moormann, Vice President, Development Strategies Group, 700 Walnut Street, Suite 450, Cincinnati, Ohio 45202. (CINCINNATI USA CONVENTION & VISITORS BUREAU)

Recommendation FILE**Sponsors:** Clerk of Council

17. [202101251](#) **REGISTRATION**, submitted by the Clerk of Council from Legislative Agent Charles H. Gerhardt, III, President & CEO, Development Strategies Group, 700 Walnut Street, Suite 450, Cincinnati, OH 45202. (CINCINNATI USA CONVENTION & VISITORS BUREAU)

Recommendation FILE**Sponsors:** Clerk of Council

18. [202101252](#) **STATEMENT**, submitted by the Clerk of Council formally filing a copy of the Financial Disclosure Statement for Cathy Bernardino Bailey/Greater Cincinnati Water Works/Director.

Recommendation FILE**Sponsors:** Clerk of Council

19. [202101253](#) **STATEMENT**, submitted by the Clerk of Council formally filing a copy of the Financial Disclosure Statement for Robert Bertsch/Community and Economic Development/Division Manager.

Recommendation FILE**Sponsors:** Clerk of Council

20. [202101254](#) **STATEMENT**, submitted by the Clerk of Council formally filing a copy of the Financial Disclosure Statement for Pamela S. Chandler/Deputy Director Chief Financial Officer/Greater Cincinnati Water Works.

Recommendation FILE

Sponsors: Clerk of Council

21. [202101255](#) **STATEMENT**, submitted by the Clerk of Council formally filing a copy of the Financial Disclosure Statement for Jarrod Keythe Bolden/Public Services/Superintendent.

Recommendation FILE

Sponsors: Clerk of Council

22. [202101256](#) **STATEMENT**, submitted by the Clerk of Council formally filing a copy of the Financial Disclosure Statement for Steven Paul Goodin/City Councilmember. (CITY)

Recommendation FILE

Sponsors: Clerk of Council

23. [202101257](#) **STATEMENT**, submitted by the Clerk of Council formally filing a copy of the Financial Disclosure Statement for Roy Jeffrey Hackworth/Community and Economic Development.

Recommendation FILE

Sponsors: Clerk of Council

24. [202101258](#) **STATEMENT**, submitted by the Clerk of Council formally filing a copy of the Financial Disclosure Statement for Curtis Allen Hines/DOTE/Interim Division Manager.

Recommendation FILE

Sponsors: Clerk of Council

25. [202101259](#) **STATEMENT**, submitted by the Clerk of Council formally filing a copy of the Financial Disclosure Statement for Alice Marie Hocht/Police/Division Manager.

Recommendation FILE

Sponsors: Clerk of Council

26. [202101260](#) **STATEMENT**, submitted by the Clerk of Council formally filing a copy of the Financial Disclosure Statement for James J McCord/ETS Deputy Director

Recommendation FILE

Sponsors: Clerk of Council

27. [202101261](#) **STATEMENT**, submitted by the Clerk of Council formally filing a copy of the Financial Disclosure Statement for Christopher Edward Charles Smitherman/City Council/Vice Mayor of Cincinnati. (CITY)

Recommendation FILE

Sponsors: Clerk of Council

BUDGET AND FINANCE COMMITTEE

28. [202101138](#) **MOTION**, submitted by Vice Mayor Smitherman and Councilmember Keating and Goodin, **WE MOVE** that a subcommittee of Economic Growth and Zoning be established to address matters related to small business in the City of Cincinnati.

Recommendation ADOPT

Sponsors: Smitherman, Keating and Goodin

29. [202101183](#) **ORDINANCE** submitted by Paula Boggs Muething, City Manager, on 3/24/2021, **AUTHORIZING** the City Manager to apply for, accept and appropriate a grant in the amount of \$303,230 from the Get Vaccinated OHIO Public Health Initiative, funded by the Ohio Department of Health, to support activities that will increase immunization rates in children under two years of age, school aged children and adolescents; and **AUTHORIZING** the Director of Finance to deposit the grant funds into Public Health Research Fund 350.

Recommendation PASS

Sponsors: City Manager

30. [202101184](#) **ORDINANCE** submitted by Paula Boggs Muething, City Manager, on 3/24/2021, **AUTHORIZING** the City Manager to accept and appropriate grant resources in the amount of \$20,000 from the Delta Dental Foundation's COVID-19 Dental Equipment Fund, to provide funds for the Cincinnati Health Department's purchase of COVID-19 related dental supplies and equipment, including personal protective equipment ("PPE"), air purifiers, teledentistry equipment, and other necessary resources; and **AUTHORIZING** the Director of Finance to receive and deposit the grant funds into Public Health Research Fund 350.

Recommendation PASS

Sponsors: City Manager

31. [202101188](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 3/24/2021, **AUTHORIZING** the transfer of the sum of \$60,850 within the General Fund from and to various operating budget accounts for the purpose of providing funds for the ongoing needs of City departments in accordance with the attached Schedule of Transfer; **AUTHORIZING** the transfer of the sum of \$1,744,743 within the Restricted Funds from and to various operating accounts for the purpose of providing funds for the ongoing needs of City departments in accordance with the attached Schedule of Transfer; and **AUTHORIZING** the appropriation of \$300,000 from the unappropriated surplus of 9-1-1 Cell Phone Fees Fund 364 for the purpose of realigning and providing funds for the ongoing needs of City departments in accordance with the attached Schedule of Transfer.

Recommendation PASS EMERGENCY

Sponsors: City Manager

32. [202101189](#) **MOTION**, dated 03/18/2021, submitted by Councilmember Mann, **Budget Policy Direction to City Administration for Recommended FY 2022 General Fund Operating Budget**. WE MOVE that the City administration prepare a Fiscal Year 2022 Recommended General Fund Operating Budget which respects the following policy guidelines and priorities: 1. The Fiscal Year 2022 General Fund Operating Budget must be balanced. While continuing to strive to have a structurally balanced budget, the fiscal impacts of the pandemic may necessitate the use of one-time sources to balance in Fiscal Year 2022. 2. Given the projected \$30.0 million gap between General Fund revenues and expenditures, federal stimulus funds should be used to offset the projected FY 2022 operating budget deficit based on the eligible uses of funds for pandemic related expenditures and/or loss of revenue. (BALANCE OF MOTION ON FILE IN CLERKS OFFICE)

Recommendation

ADOPT

Sponsors:

Mann

33. [202101190](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 3/24/2021, **ESTABLISHING** new capital improvement program project no. 980x199x211921, "Riverside Boat Ramp Improvements"; and **AUTHORIZING** the City Manager to apply for, accept, and appropriate a grant in an amount of up to \$200,000 from the Ohio Department of Natural Resources Waterways Safety Fund for the purpose of providing funding for the design and construction of the improved boat ramp, boat dock, and restrooms at the Riverside boat ramp.

Recommendation PASS EMERGENCYSponsors:

City Manager

34. [202101191](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 3/24/2021, **DETERMINING** to proceed with improving Walworth Avenue in the East End neighborhood of Cincinnati by constructing an extension thereto, together with curbs, street lighting, streetscaping, sidewalks, water mains, and storm and sanitary sewer; necessary remediation of soil in the related right-of-way; installing retaining walls; acquiring land necessary to construct and install the foregoing; and acquiring, constructing, and installing other related improvements, and of assessing certain lots adjacent to Walworth Avenue, as extended, for costs of those improvements, in accordance with Chapter 727 of the Ohio Revised Code. (COUNCILMEMBER KEATING IS EXCUSED FROM VOTING ON THIS ITEM)

Recommendation PASS EMERGENCYSponsors:

City Manager

35. [202101192](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 3/24/2021, **APPROVING AND AUTHORIZING** the City Manager to execute a *Community Reinvestment Area Tax Exemption Agreement* with 64 E McMicken LLC, an affiliate of Northcrown Property LLC thereby authorizing a 15-year tax exemption for 100% of the value of improvements made to real property located at 64 E. McMicken Avenue in the Over-the-Rhine neighborhood of Cincinnati, in connection with the remodeling of the existing building into approximately 1,370 square feet of commercial space and approximately 4,003 square feet of residential space, consisting of 6 apartments, at a total construction cost of approximately \$919,178. (COUNCILMEMBER KEATING IS EXCUSED FROM VOTING ON THIS ITEM)

Recommendation PASS EMERGENCYSponsors:

City Manager

36. [202101193](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 3/24/2021, **LEVYING** special assessments to pay for the costs of improving Walworth Avenue in the East End neighborhood of Cincinnati by constructing an extension thereto, together with curbs, street lighting, streetscaping, sidewalks, water mains, and storm and sanitary sewer; necessary remediation of soil in the related right-of-way; installing retaining walls; acquiring land necessary to construct and install the foregoing; and

acquiring, constructing, and installing other related improvements, and any financing and administrative expenses in connection therewith.
(COUNCILMEMBER KEATING IS EXCUSED FROM VOTING ON THIS ITEM)

Recommendation PASS EMERGENCY

Sponsors: City Manager

37. [202101194](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 3/24/2021, **APPROVING AND AUTHORIZING** the City Manager to execute a *Community Reinvestment Area Tax Exemption Agreement* with 116 E McMicken LLC, an affiliate of Northcrown Property LLC thereby authorizing a 15-year tax exemption for 100% of the value of improvements made to real property located at 116 E. McMicken Avenue in the Over-the-Rhine neighborhood of Cincinnati, in connection with the remodeling of the existing building into approximately 549 square feet of commercial space and approximately 5,183 square feet of residential space, consisting of 10 residential rental units, at a total construction cost of approximately \$869,325. (COUNCILMEMBER KEATING IS EXCUSED FROM VOTING ON THIS ITEM)

Recommendation PASS EMERGENCY

Sponsors: City Manager

38. [202101195](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 3/24/2021, **APPROVING AND AUTHORIZING** the execution of a Job Creation Tax Credit Agreement with Luma Financial Technologies, LLC, pursuant to which the company agrees to create 58 new jobs at 425 Walnut Street, Suite 2410 in the Central Business District of Cincinnati and, for a period of 4 years, the City agrees to provide an income tax credit equal to 35% of City income tax revenue from such new jobs.

Recommendation PASS EMERGENCY

Sponsors: City Manager

39. [202101196](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 3/24/2021, **APPROVING AND AUTHORIZING** the City Manager to execute a *Community Reinvestment Area Tax Exemption Agreement (LEED or Living Building Challenge)* with Robel 1 LLC, thereby authorizing a 15-year tax exemption for 100% of the value of improvements made to real property located at 18 W. Elder Street in the Over-the-Rhine neighborhood of Cincinnati, in connection with the remodeling of an existing building into approximately 500 square feet of commercial space and approximately 3,300 square feet of residential space, consisting of 7 residential rental units, which remodeling shall be completed in compliance with Leadership in Energy and Environmental Design Silver, Gold or Platinum standards or Living Building Challenge standards, at a total remodeling cost of approximately \$300,000.

Recommendation PASS EMERGENCY

Sponsors: City Manager

40. [202101197](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 3/24/2021, **APPROVING AND AUTHORIZING** the City Manager to execute a *Community Reinvestment Area Tax Exemption Agreement* with Northcrown 56 McMicken LLC, an affiliate of Northcrown Property LLC thereby

authorizing a 15-year tax exemption for 100% of the value of improvements made to real property located at 56 E. McMicken Avenue in the Over-the-Rhine neighborhood of Cincinnati, in connection with the remodeling of the existing building into approximately 1,081 square feet of commercial space and approximately 6,829 square feet of residential space, consisting of 13 apartments, at a total remodeling cost of approximately \$1,501,184. (COUNCILMEMBER KEATING IS EXCUSED FROM VOTING ON THIS ITEM)

Recommendation PASS EMERGENCY

Sponsors: City Manager

41. [202101220](#) **RESOLUTION (LEGISLATIVE) (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 3/29/2021, **AUTHORIZING** tax levies for the calendar year beginning January 1, 2022, certifying them to the Hamilton County Auditor pursuant to O.R.C. § 5705.34, and requesting the County Auditor and County Treasurer to pay monies that may be in the County Treasury and are lawfully applicable to the purpose of this calendar year to the City Treasurer pursuant to O.R.C. § 321.34.

Recommendation PASS EMERGENCY

Sponsors: City Manager

SUPPLEMENTAL ITEMS

LAW & PUBLIC SAFETY COMMITTEE

42. [202101104](#) **MOTION**, submitted by Councilmember Landsman, **WE HEREBY MOVE** that the Administration provide a brief, high-level report on what it would take in terms of additional crews and funding to achieve *optimum level of public services functioning* as it relates to sanitation, road treatment, snow removal, and street paving and maintenance. (STATEMENT ATTACHED).

Recommendation ADOPT

Sponsors: Landsman

ECONOMIC GROWTH & ZONING COMMITTEE

43. [202101209](#) **MOTION**, submitted by Councilmember Goodin, While Cincinnati continues to grapple with long-term, systemic fixes to its affordable housing shortage, it has become apparent that the location of such units remains an issue for many homeowners. A concentration of subsidized units in one neighborhood can artificially lower property values and deter market-rate and commercial development. Accordingly, **WE MOVE** that the Administration advise as to whether Council may limit the development of new subsidized housing units in neighborhoods which already contain 50 percent or more of such units in their existing housing stock.

Recommendation ADOPT

Sponsors: Goodin

ANNOUNCEMENTS

Adjournment

Date: March 26, 2021

To: Mayor John Cranley

From: Andrew W. Garth, City Solicitor *AWG | EJSN*

Subject: **Ordinance – Modifying Title VII, Section 723-43 – Westwood Mobile Vending Zone (B VERSION)**

Transmitted herewith is an ordinance captioned as follows:

MODIFYING Title VII, “General Regulations,” of the Cincinnati Municipal Code by amending Section 723-42, “Mobile Food Vending; Definitions,” and Section 723-44, “Mobile Food Vending; Operating Restrictions,” of Chapter 723, “Streets and Sidewalk, Use Regulations,” to establish a new designated zone for mobile food vending on Harrison Avenue in the Westwood neighborhood.

AWG/JRS/(lnk)
Attachment
333290

City of Cincinnati

An Ordinance No. _____

JRS/B

AWG/ESW

- 2021

MODIFYING Title VII, “General Regulations,” of the Cincinnati Municipal Code by amending Section 723-42, “Mobile Food Vending; Definitions,” and Section 723-44, “Mobile Food Vending; Operating Restrictions,” of Chapter 723, “Streets and Sidewalk, Use Regulations,” to establish a new designated zone for mobile food vending on Harrison Avenue in the Westwood neighborhood.

WHEREAS, revocable street privileges are the primary tool used by the City to provide permission for mobile food vendors to access the public right-of-way to provide for public safety, and to regulate and manage mobile food vendors in the public right-of-way; and

WHEREAS, Section 723-42, “Mobile Food Vending; Definitions,” and Section 723-44, “Mobile Food Vending; Operating Restrictions,” of Cincinnati Municipal Code Chapter 723, “Streets and Sidewalk, Use Regulations,” require that mobile food vendors operating in the public right-of-way do so within designated zones established by City Council; and

WHEREAS, in order to support the City’s mobile food vendors and to expand access to mobile food vending across the City, the Council wishes to establish a new designated zone for mobile food vendors on Harrison Avenue in the Westwood neighborhood; now, therefore,

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

Section 1. That Section 723-42, “Mobile Food Vending; Definitions,” of Chapter 723, “Streets and Sidewalk, Use Regulations,” of the Cincinnati Municipal Code is hereby amended as follows:

Sec. 723-42. - Mobile Food Vending; Definitions.

For purposes of this chapter, the following words shall have the meanings respectively ascribed to them, unless a different meaning is clearly indicated by the context.

- (a) “Mobile Food Vending Unit” shall be defined as a commercially manufactured, motorized or otherwise mobile unit, truck or cart that is readily movable, and from which non-alcoholic beverages and/or ready-to-eat food is cooked, wrapped, packaged, processed or portioned for service, sale or distribution.

- (b) “Mobile Food Vendor” shall be defined as any person who sells or offers for sale food or beverages from a Mobile Food Vending Unit in any public, private or restricted space.
- (c) “Designated Zones” shall include all individually identified zones defined in this section.
- (d) The “Court Street Market Zone” shall be defined as the designated parking spaces on East Court Street, southern most side, from the east line of Vine Street extending eastward approximately 130 feet.
- (e) The “Purple People Bridge Zone” shall be defined as the East and South portions of the concrete pad, measuring 18 feet by 23 feet in size on the East side of the L and N Bridge, South of Pete Rose Way, on the corner of Pete Rose Way, the bridge approach adjacent to the Sawyer Point Parking area, and the grassy area west of the bridge on Pete Rose Way.
- (f) The “Fountain Square/South Vine Street Zone” shall be defined as the area from the east curb lane of Vine Street between the Fifth Street crosswalk and the mid-block crosswalk, except where prohibited by marked loading zones.
- (g) The “Fountain Square/North Fifth Street Zone” shall be defined as the area from the north curb lane of Fifth Street east of the mid-block crosswalk to the Walnut Street crosswalk.
- (h) The “Fountain Square/South Fifth Street Zone” shall be defined as the area from the south right turn lane (the “Drop Lane”) on Fifth Street from the start of the Drop Lane to the Walnut Street crosswalk, except where prohibited by marked taxi stand zone.
- (i) The “Fountain Square/North Vine Street Zone” shall be defined as the designated parking spaces on Vine Street, eastern most side, beginning approximately 180 feet

south of the southern curb line of Sixth Street and extending southward approximately 60 feet.

- (j) The “University Hospital Zone” shall be defined as the designated parking spaces on Bellevue Avenue, eastern most side, beginning 40 feet south of the south line of Piedmont Avenue and extending southward approximately 40 feet.
- (k) The “Washington Park Zone” shall be defined as the designated parking spaces on the east side of Elm Street, beginning approximately 50 feet south of the southern curb line of West 14th Street and extending southward approximately 90 feet.
- (l) The “Over-the-Rhine 12th Street Zone” shall be defined as the designated spaces on the south side of East 12th Street beginning 50 feet west of the west curb line on Clay Street and extending 45 feet westward.
- (m) The “Westwood/Harrison Avenue Zone” shall be defined as the designated spaces on the east side of Harrison Avenue beginning approximately 30 feet north of the north curb line on Ruehlman Place and extending 50 feet northward.

Section 2. That Section 723-44, “Mobile Food Vending; Operating Restrictions,” of Chapter 723, “Streets and Sidewalk, Use Regulations,” of the Cincinnati Municipal Code is hereby amended as follows:

Sec. 723-44. - Mobile Food Vending; Operating Restrictions.

The city manager or his or her designee is authorized to grant revocable street privileges for the placement of mobile food vendors subject to the following restrictions:

- (a) Mobile food vending shall be allowed only:
 - i. Within the designated zones;
 - ii. On private property with the permission of the owner;
 - iii. In accordance with a permit or concessionaire agreement entered into pursuant to Chapter 739 of the Municipal Code; or

iv. As otherwise permitted by a revocable street privilege issued pursuant to Section 723-16 of the Municipal Code.

(b) Mobile food vendors who operate under a revocable street privilege issued pursuant to Section 723-16 of the Municipal Code or who operate under a permit or concessionaire agreement issued pursuant to Chapter 739 of the Municipal Code shall continue to be regulated by the provisions of those sections.

(c) Mobile food vendors must be actively engaged in vending operations at all times while occupying any space in the designated zones.

(d) Mobile food vendors may operate in the designated zones only during the hours listed below:

Designated Zone	Hours of Operation
Court Street Market Zone	6:00 a.m. - 3:00 p.m.
Purple People Bridge Zone	6:00 a.m. - 3:30 a.m.
Fountain Square/South Vine Street Zone	6:00 a.m. - 3:30 a.m.
Fountain Square/North Fifth Street Zone	6:00 a.m. - 3:30 a.m.
Fountain Square/South Fifth Street Zone	6:00 a.m. - 3:30 a.m.
Fountain Square/North Vine Street Zone	6:00 p.m. - 3:30 a.m.
University Hospital Zone	6:00 a.m. - 3:30 a.m.
Washington Park Zone	6:00 a.m. - 3:00 p.m.
Over-the-Rhine 12th Street Zone	6:00 p.m. - 3:30 a.m.
<u>Westwood Harrison Avenue Zone</u>	<u>6:00 a.m. – 12:00 a.m.</u>

(e) Mobile food vendors shall not occupy any space in the designated zones outside the hours of operation listed above.

(f) Spaces within the designated zones will be available on a first-come, first-served basis each day. Issuance of a revocable street privilege under this section does not guarantee access to a particular designated zone, nor does it guarantee that space will

be available. The designated zones are available only to mobile food vendors who have a valid revocable street privilege issued pursuant to this section.

- (g) Mobile food vendors shall keep the area within a 5 foot radius of their unit clear of all litter and debris arising from their operations.
- (h) Mobile food vendors shall be responsible for removing all waste generated by the internal operations of their unit. Such waste shall not be placed in city trash receptacles.
- (i) Mobile food vendors may not operate in any manner that blocks, obstructs, or restricts the free passage of vehicles or pedestrians in the lawful use of the sidewalks or highways or ingress or egress to the abutting property.
- (j) Mobile food vending units shall not exceed thirty-one feet (31') in length or eight feet, five inches (8'5") in width.
- (k) Revocable street privileges and food service licenses must be kept on the mobile food vending unit at all times and must be available for immediate inspection.
- (l) Mobile food vendors shall not park in a way that prevents other trucks from parking in otherwise available spaces.
- (m) Mobile food vendors shall place a tarp or other impermeable material under their unit when parked in order to protect the sidewalk or pavement from damage or staining.
- (n) Mobile food vendors may set up tables and chairs in the space immediately in front of their units, provided that the tables and chairs do not impede other trucks from parking in otherwise available spaces, and further provided that the tables and chairs are placed:

- i. Only on paved surfaces;
 - ii. In a location that does not block the entrance or exit of any building;
 - iii. In a location that does not block access to buses at bus stops, fire escapes, sidewalk access doors, traffic or street lighting equipment, utility valve boxes or other utility equipment;
 - iv. In a location that is not less than 5 feet from any alley, pedestrian crosswalk, driveway, curb cut, curb ramp or fire hydrant, and not less than 4 feet from any bicycle rack; and
 - v. So that an open area of not less than 4 feet is available for pedestrian traffic around the tables and chairs.
- (o) Mobile food vendors may display advertising consisting only of the mobile food vendor name and logo and any items sold or available from the mobile food vendor. All other advertising is prohibited.
- (p) Mobile food vendors shall not have access to locations within the designated zones during special events designated by the city pursuant to a special event permit issued under Chapter 765 of the Municipal Code or pursuant to a special notwithstanding ordinance.
- (q) In the case of mobile food vending units that are pulled or hauled by separate vehicles, the mobile food vending unit shall be detached from the vehicle by which it was hauled (the “hauling vehicle”). The hauling vehicle shall be parked in a regular, lawful parking space and shall not occupy space in any designated zone.
- (r) Mobile food vendors shall not utilize the city's electrical outlets, unless specifically authorized by the city, within the court street zone due to electrical current overload issues requiring frequent, subsequent repairs by the city.

Section 3. That existing Section 723-42, "Mobile Food Vending; Definitions," and Section 723-44, "Mobile Food Vending; Operating Restrictions," of Chapter 723, "Streets and Sidewalk, Use Regulations," of the Cincinnati Municipal Code are hereby repealed.

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

Section 5. That this ordinance shall take effect and be in force from and after the earliest time allowed by law.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

Additions indicated by underline; Deletions indicated by strikethrough.



Steven P. Goodin
Councilmember

March 24, 2021

MOTION

In 1911, a 6.4 acre property was purchased by the City of Cincinnati to establish a park in the suburb of Evanston. As the neighborhood grew, a pool, tennis and basketball courts, a baseball diamond and bleachers were added to Evanston Park, making it a fun-filled gathering place for the generations of families who lived in the area. In 1917, the Evanston Field House was built, which contained boys/girls restrooms and locker rooms, lifeguard quarters and an equipment room, and was also used for picnics and parties. Evanston Park is part of the Cincinnati Recreation Commission and, unfortunately, over the past 20 years, the Field House has fallen into disrepair. It is estimated a complete renovation of the Field House would cost between \$275,000-\$396,000. **WE MOVE** that funds from the American Rescue Plan Act be allocated to pay for renovation of the Evanston Field House.

Councilmember Steven Goodin



Jan-Michele Lemon Kearney
Councilmember

3/22/2021

MOTION

WE MOVE to appoint Anthony Johnson to the Salary History Working Group.

Jan-Michele Lemon Kearney

Date: March 25, 2021

To: Councilmembers Greg Landsman and Liz Keating
From: Andrew W. Garth, City Solicitor *AWG/LESW*
Subject: **Resolution – National Library Week**

Transmitted herewith is a resolution captioned as follows:

RECOGNIZING April 4-10, 2021 as National Library Week in the City of Cincinnati, and **ENCOURAGING** all residents to visit a Cincinnati and Hamilton County Public Library branch in person or online during this week.

AWG/LES/(lnk)
Attachment
334757

RESOLUTION NO. _____ - 2021

RECOGNIZING April 4-10, 2021 as National Library Week in the City of Cincinnati, and **ENCOURAGING** all residents to visit a Cincinnati and Hamilton County Public Library branch in person or online during this week.

WHEREAS, the Cincinnati and Hamilton County Public Library (“the Library”) helps build strong communities by ensuring equal access to resources for all Cincinnati and Hamilton County residents; working to transform neighborhoods through their essential partnerships, programs, and services; and promoting free exchange of information and ideas for all; and

WHEREAS, the Library is a much-needed community resource, with close to half a million cardholders; more than 14.5 million items borrowed, downloaded, or streamed; 229,827 meals distributed; 747,617 wi-fi sessions; more than 55,000 documents scanned or faxed; 2,424 COVID-19 tests administered with UC Health and the Health Collaborative; and over 1.9 million in-person visits in 2020 despite the pandemic; and

WHEREAS, the Library supports residents from birth through retirement by providing a breadth of resources and services to help them reach their personal goals, including early literacy tools for children and their parents; workforce development opportunities for adults of all experience levels; support for entrepreneurship, small businesses and non-profits; and access, training, and skill-building in new and emerging technologies; and

WHEREAS, the City of Cincinnati and the Library have partnered on projects to positively impact the community, including promoting the 2020 Census, working with the Cincinnati Metropolitan Housing Authority to provide Book Rich Environments for at-risk communities, and joining together to offer tenants’ rights and landlord education workshops in collaboration with the City of Cincinnati’s Department of Buildings and Inspections; and

WHEREAS, the Next Generation Library project (“the Project”) to re-envision Library facilities will improve all facilities located in the City of Cincinnati over the next nine years, helping to better serve today’s generation and generations to come; and

WHEREAS, the Project includes the \$7.3 million renovation and expansion of the Price Hill Branch, which opens to the public on April 12, 2021, and the \$8.3 million renovation and expansion of the Walnut Hills Branch, which broke ground in February 2021; and

WHEREAS, the Library has achieved strong community support as evidenced by nearly 63% of voters approving its tax levy in 2018, and the participation of over 3,000 community members in the development of its Facility Master Plan; and

WHEREAS, the Library was recognized nationally in 2020 after receiving the prestigious *Library Journal* Five-Star rating for eight consecutive years; and

WHEREAS, April 4-10, 2021 is a nationally recognized week to celebrate the invaluable contributions of the nation's more than 120,000 libraries, including those of Cincinnati's Public Library, its 42 locations, Board of Trustees, and the more than 700 staff who work tirelessly to transform the lives of Cincinnatians through lifelong learning activities, free access to information, and equal opportunities that move the community forward; now, therefore,

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

Section 1. That the Mayor and this Council hereby recognize April 4-10, 2021 as National Library Week in the City of Cincinnati, and that during this week, the City encourages all residents to visit a Cincinnati and Hamilton County Public Library branch in person or online.

Section 2. This resolution be spread upon the minutes of Council.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

Submitted by Councilmembers Keating and Landsman

City of Cincinnati



801 Plum Street, Suite 356
Cincinnati, Ohio 45202

Phone (513) 352-3464
Email christopher.smitherman@
cincinnati-oh.gov
Web www.cincinnati-oh.gov

802101247

Christopher E. C. Smitherman
Cincinnati Vice Mayor

March 29, 2021

MOTION

WE MOVE that funds from the American Rescue Plan Act be allocated to construct a new Cincinnati Police Department (CPD) District 5 headquarters. This cost is estimated to be between \$20 - \$25 million dollars.

Vice Mayor Christopher Smitherman

Councilmember Steven Goodin

Statement: Our CPD D5 officers have been in a swing space for too long. It is important that we move forward and meet our promise to deliver a permanent, state of the art location for District 5.

COMMITTEES

Chair: Law & Public Safety • Committees: Economic Growth & Zoning • Neighborhoods

Date: March 31, 2021

To: Mayor and Members of City Council

202100985

From: Paula Boggs Muething, City Manager

Subject: **Liquor License – NEW**

FINAL RECOMMENDATION REPORT

OBJECTIONS: None

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

APPLICATION: 9398120
PERMIT TYPE: NEW
CLASS: D5J
NAME: WARD EMPIRE LLC
DBA: ALABAMA QUE
2733 SHORT VINE
CINCINNATI, OH 45219

On February 19, 2021 Corryville Community Council was notified of this application and do not object.

Police Department Approval

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

MUST BE RECEIVED BY OHIO DIVISION OF LIQUOR CONTROL BY: April 13, 2021

March 31, 2021

To: Mayor and Members of City Council 202101216

From: Paula Boggs Muething, City Manager

Subject: Marijuana-Only Warnings/Citations/Arrests Monthly Report, February 2021

REFERENCE DOCUMENT #201901197

On August 7, 2019 the following item was referred for a report:

MOTION, submitted Vice Mayor Smitherman and Councilmembers Landsman and Sittenfeld and Pastor WE MOVE that the administration provide a monthly report to the Law and Public Safety Committee on the number of marijuana-only warnings/citations/arrests the Cincinnati Police Department has made by age, race, and neighborhood under City and state law. The report should include only warnings/citations/arrests for individuals with 100 grams or less of marijuana. The date to begin tracking the Marijuana violations is July 12, 2019 when the new marijuana city ordinance became law. (Statement Attached) (BALANCE OF MOTION ON FILE IN CLERK'S OFFICE)

Response

Attached is a report which breaks down the number of 910-23 warning violations issued by Cincinnati Police Officers during the month of February 2021. A total of 138 warnings were issued within the five districts and Central Business Section respectively. The race and age range of those receiving warnings is also broken down.

Attachment- 910-23 Monthly Warnings

CC: Colonel Eliot K. Isaac, Police Chief

February 2021, CMC 910-23; Marijuana Ordinance Violations

	<u>AGE BREAKDOWN</u>					<u>RACE BREAKDOWN</u>			
	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>		<u>B</u>	<u>W</u>	<u>O</u>	
<u>District</u>	<u>18-25</u>	<u>26-35</u>	<u>36-45</u>	<u>46+</u>	<u>Totals per District:</u>	<u>Black</u>	<u>White</u>	<u>Other</u>	<u>Totals by Race:</u>
CBS	1	0	0	0	1	1	0	0	1
Dst. 1	11	9	7	1	28	28	0	0	28
Dst. 2	1	2	3	1	7	6	1	0	7
Dst. 3	15	14	5	1	35	32	3	0	35
Dst. 4	20	17	7	0	44	40	4	0	44
Dst. 5	4	16	1	2	23	21	2	0	23
All	52	58	23	5	138	128	10	0	

March 31, 2021

To: Mayor and Members of City Council 202101227

From: Paula Boggs Muething, City Manager

Subject: **Ordinance – Western Hills Viaduct TRAC Grant Application**

Attached is an Ordinance captioned:

AUTHORIZING the City Manager to apply for a grant in an amount up to \$150,000,000 from the Transportation Review Advisory Council (CFDA 20.205), awarded by and through the Ohio Department of Transportation, to provide resources for the construction associated with replacement of the Western Hills Viaduct; and **AUTHORIZING** the City Manager to enter into the necessary agreements with Hamilton County to jointly apply for these grant resources.

Approval of this Ordinance would authorize the City Manager to apply for grant resources in an amount up to \$150,000,000 from the Transportation Review Advisory Council ("TRAC") program awarded by and through the Ohio Department of Transportation ("ODOT") for the construction associated with the replacement of the Western Hills Viaduct. The total current estimated cost of replacing the Western Hills Viaduct is \$335,000,000, including costs for design, right of way acquisition, construction, removals, and interim maintenance on the existing viaduct until a new viaduct is complete and operational.

If grant resources are awarded, a local match in an amount up to \$15,000,000 will be identified in future capital improvement program resources. A contribution of up to \$15,000,000 will also be needed from Hamilton County to meet the 20% match requirement. No new FTEs are associated with the acceptance of this grant.

The Department of Transportation and Engineering (DOTE) intends to submit this grant application by March 26, 2021. Due to the application deadline, this application will be submitted prior to the effective date of this Ordinance. DOTE will only accept grant resources for which the City Council has provided authorization.

The replacement of the Western Hills Viaduct is in accordance with the "Connect" goal to "Develop a regional transportation system that promotes economic vitality," and the strategy to "Plan, design, and implement a safe and sustainable transportation system," as described on pages 127-138 of Plan Cincinnati (2012).

The Administration recommends passage of this Ordinance.

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

Attachment





City of Cincinnati

MSS

AWG/EE

An Ordinance No. _____ - 2021

AUTHORIZING the City Manager to apply for a grant in an amount up to \$150,000,000 from the Transportation Review Advisory Council (CFDA 20.205), awarded by and through the Ohio Department of Transportation, to provide resources for construction associated with replacement of the Western Hills Viaduct; and **AUTHORIZING** the City Manager to enter into the necessary agreements with Hamilton County to jointly apply for these grant resources.

WHEREAS, the total current estimated cost of replacing the Western Hills Viaduct is \$335,000,000, including costs for design, right of way acquisition, construction, removals, and interim maintenance on the existing viaduct until a new viaduct is complete and operational; and

WHEREAS, a grant is available from the Transportation Review Advisory Council ("TRAC") (CFDA 20.205), awarded by and through the Ohio Department of Transportation, for the purpose of providing resources for construction associated with replacement of the Western Hills Viaduct; and

WHEREAS, the City previously applied for and was awarded grants in the amount of \$15,000,000 for design, right-of-way acquisition, and utility relocations associated with replacement of the Western Hills Viaduct; and

WHEREAS, if any grant resources are awarded, an amount up to \$15,000,000 will need to be identified in future capital improvement program resources, in addition to a local match contribution of up to \$15,000,000 from Hamilton County, to meet an anticipated 20% local match requirement; and

WHEREAS, applications for these grant resources will be submitted prior to the effective date of this ordinance to meet the application deadline of March 26, 2021; and

WHEREAS, if awarded grant funding, the Department of Transportation and Engineering will require authorization from the City Council in order to accept the grant and will only accept funding in an amount for which matching funds are available; and

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

WHEREAS, the Western Hills Viaduct is owned by Hamilton County but maintained by the City through contractual agreement, and the City Manager will therefore need to enter into an agreement with Hamilton County to jointly apply for the grant; and

WHEREAS, the replacement of the Western Hills Viaduct is in accordance with the "Connect" goal to "[d]evelop a regional transportation system that promotes economic vitality,"

and the strategy to “[p]lan, design and implement a safe sustainable transportation system,” as described on pages 127-138 of Plan Cincinnati (2012); now, therefore,

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

Section 1. That the City Manager is authorized to apply for a Transportation Review Advisory Council grant in an amount up to \$150,000,000, awarded by and through the Ohio Department of Transportation, for the purpose of providing resources for construction associated with replacement of the Western Hills Viaduct.

Section 2. That the City Manager is authorized to enter into any necessary agreements with Hamilton County in order to jointly apply for this grant.

Section 3. That the proper City officials are authorized to do all things necessary and proper to comply with the terms of this grant application and Sections 1 and 2 hereof.

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

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

March 31, 2021

To: Mayor and Members of City Council 202101228

From: Paula Boggs Muething, City Manager

Subject: **Emergency Ordinance – CBRE Artwork Donation to DECC**

Attached is an Emergency Ordinance captioned:

AUTHORIZING the City Manager to accept with gratitude a donation of artwork by artists Ellen Kochansky and Jamie Davis from the commercial real estate firm CBRE.

This Emergency Ordinance will authorize the City Manager to accept a donation of artwork titled “Sky Windows” by artists Ellen Kochansky and Jamie Davis from the commercial real estate firm CBRE. CBRE, the current owner of the artwork, has generously offered the artwork as a donation to the City, valued in 1993 at approximately \$17,000. The artwork will be installed and displayed at the Duke Energy Convention Center (DECC).

The reason for the emergency is the immediate need to accept the donation of artwork which would otherwise be disposed of due to renovations in the donor's office building where the artwork is currently on display.

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

Attachment

EMERGENCY

LES

City of Cincinnati

AWG/EESV

An Ordinance No. _____

- 2021

AUTHORIZING the City Manager to accept with gratitude a donation of artwork by artists Ellen Kochansky and Jamie Davis from the commercial real estate firm CBRE.

WHEREAS, the artwork titled "Sky Windows" was created by artists Ellen Kochansky and Jamie Davis; and

WHEREAS, the current owner of the artwork, CBRE, has generously offered the artwork, valued in 1993 at approximately \$17,000, as a donation to the City; and

WHEREAS, the artwork will be installed and displayed at the Duke Energy Convention Center; and

WHEREAS, Council considers acceptance of the donation of the artwork to be in the best interest of the City; now, therefore,

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

Section 1. That the City of Cincinnati hereby accepts the generous donation from CBRE of the artwork titled "Sky Windows" by artists Ellen Kochansky and Jamie Davis.

Section 2. That the City Manager is hereby authorized to accept said gift on behalf of the City of Cincinnati on the condition that the City gain full ownership rights over the artwork.

Section 3. That the City, in accepting the donation of the artwork, expressly disclaims any duty to display the artwork or to replace or repair the artwork if it is for any reason damaged or destroyed and that the City Manager shall have authority to maintain, remove, or repair the artwork at the City's sole discretion.

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

Section 5. That the City expresses its sincere gratitude to CBRE for this generous donation.

Section 6. 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 the donation of artwork which would otherwise be disposed of due to renovations in the donor's office building where the artwork is currently on display.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

March 31, 2021

To: Mayor and Members of City Council 202101229

From: Paula Boggs Muething, City Manager

Subject: **Emergency Ordinance – Cincinnati Children’s Hospital Medical Center COVID-19 Vaccination and Health Equity Grant**

Attached is an Emergency Ordinance captioned:

AUTHORIZING the City Manager to apply for, accept, and appropriate a grant in an amount of \$10,000 from Cincinnati Children’s Hospital Medical Center for the purpose of supporting COVID-19 vaccinations and health equity in vulnerable Cincinnati communities; and **AUTHORIZING** the Finance Director to deposit the grant funds into Public Health Research Fund 350.

This Emergency Ordinance would authorize the City Manager to apply for, accept and appropriate a grant in the amount of \$10,000 from the from Cincinnati Children’s Hospital Medical Center for the purpose of supporting COVID-19 vaccinations and health equity in vulnerable Cincinnati communities. This Emergency Ordinance would also authorize the Finance Director to deposit the grant funds into Public Health Research Fund 350.

No new FTEs are associated with the grant, and the grant resources do not require matching local funds.

The Cincinnati Health Department has already applied for this grant but will not accept any resources without approval from the City Council.

This Emergency Ordinance is in accordance with the Sustain goal to “Become a healthier Cincinnati” as described on page 181 of Plan Cincinnati (2012).

The reason for the emergency is the immediate need to accept grant resources in a timely manner so the Cincinnati Health Department can expend the funds by the June 30, 2021 deadline.

The Administration recommends passage of this Emergency Ordinance.

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

Attachment





EMERGENCY

City of Cincinnati

KMB

BWB

An Ordinance No. _____

- 2021

AUTHORIZING the City Manager to apply for, accept, and appropriate a grant in an amount of \$10,000 from Cincinnati Children's Hospital Medical Center for the purpose of supporting COVID-19 vaccinations and health equity in vulnerable Cincinnati communities; and **AUTHORIZING** the Finance Director to deposit the grant funds into Public Health Research Fund 350.

WHEREAS, there is a grant available from Cincinnati Children's Hospital Medical Center that will support the City, through the City of Cincinnati Health Department ("CHD"), to deploy COVID-19 vaccines and ensure health equity in vulnerable Cincinnati communities; and

WHEREAS, this grant does not require matching funds, and there are no new FTEs associated with this grant; and

WHEREAS, the CHD applied for this grant on March 12, 2021 and received an award notice on March 17, 2021, but will not accept any funds without approval of Council; and

WHEREAS, this ordinance is in accordance with the "Sustain" goal to "Become a healthier Cincinnati," as described on page 181 of Plan Cincinnati (2012); now, therefore,

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

Section 1. That the City Manager is hereby authorized to apply for, accept, and appropriate a grant in an amount of \$10,000 from Cincinnati Children's Hospital Medical Center for the purpose of supporting COVID-19 vaccinations and health equity in vulnerable Cincinnati communities.

Section 2. That the Finance Director is hereby authorized to receive and deposit the grant funds into Public Health Research Fund 350.

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

Section 4. That this ordinance shall be an emergency measure necessary for the preservation of public peace, health, safety, and general welfare and shall, subject to the terms of

Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to accept grant resources in a timely manner so the Cincinnati Health Department can expend the funds by the June 30, 2021 deadline.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

Date: March 31, 2021

To: Mayor and Members of City Council 202101230

From: Paula Boggs Muething, City Manager

Subject: ORDINANCE – GRANT OF ENCROACHMENT EASEMENTS – 2445 GILBERT, LLC
(2445-2449 GILBERT AVENUE)

Attached is an ordinance captioned as follows:

AUTHORIZING the City Manager to execute a *Grant of Encroachment Easements* in favor of 2445 Gilbert, LLC, pursuant to which the City of Cincinnati will grant encroachment easements for existing projections encroaching upon the Gilbert Avenue public right-of-way in the Walnut Hills neighborhood of Cincinnati.

2445 Gilbert, LLC (“Grantee”) owns the properties located at 2445-2449 Gilbert Avenue in the Walnut Hills neighborhood and has requested encroachment easements for existing balconies, bracketed hoods, and cornice to encroach upon portions of the Gilbert Avenue public right-of-way.

The City has determined that granting the easements to Grantee is not adverse to the City’s retained interest in the public right-of-way.

The fair market value of the easements is approximately \$300 which Grantee has deposited with the City Treasurer.

The City Planning Commission approved the easements at its meeting on February 19, 2021.

The Administration recommends passage of the attached ordinance.

Attachment I – Grant of Encroachment Easements

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

City of Cincinnati

An Ordinance No. _____

- 2021

AUTHORIZING the City Manager to execute a *Grant of Encroachment Easements* in favor of 2445 Gilbert, LLC, pursuant to which the City of Cincinnati will grant encroachment easements for existing projections encroaching upon the Gilbert Avenue public right-of-way in the Walnut Hills neighborhood of Cincinnati.

WHEREAS, 2445 Gilbert, LLC, an Ohio limited liability company ("Grantee"), owns the building located at 2445-2449 Gilbert Avenue in the Walnut Hills neighborhood of Cincinnati; and

WHEREAS, the City of Cincinnati owns the adjoining Gilbert Avenue public right-of-way, which is under the management of the City's Department of Transportation and Engineering ("DOTE"); and

WHEREAS, Grantee has requested encroachment easements from the City, as more particularly depicted and described in the *Grant of Encroachment Easements* attached to this ordinance as Attachment A and incorporated herein by reference, to permit existing balconies, existing bracketed hoods, and an existing cornice to encroach upon portions of the Gilbert Avenue public right-of-way; and

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

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

WHEREAS, the City's Real Estate Services Division has determined by appraisal that the fair market value of the easements is approximately \$300, which Grantee has agreed to pay; and

WHEREAS, the City Planning Commission, having the authority to approve the change in the use of City-owned property, approved the easements at its meeting on February 19, 2021; now, therefore,

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

Section 1. That the City Manager is hereby authorized to execute a *Grant of Encroachment Easements* in favor of 2445 Gilbert, LLC, an Ohio limited liability company (“Grantee”), owner of the building located at 2445-2449 Gilbert Avenue in the Walnut Hills neighborhood of Cincinnati, in substantially the form attached to this ordinance as Attachment A and incorporated herein by reference, pursuant to which the City of Cincinnati will grant to Grantee encroachment easements to permit existing balconies, existing bracketed hoods, and an existing cornice to encroach upon portions of the Gilbert Avenue public right-of-way.

Section 2. That granting the easements to Grantee (i) is not adverse to the City’s retained interest in the Gilbert Avenue public right-of-way and (ii) will not have an adverse effect on the usability or accessibility of any existing Gilbert Avenue public right-of-way facilities.

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

Section 4. That the fair market value of the easements, as determined by appraisal by the City’s Real Estate Services Division, is approximately \$300, which Grantee has agreed to pay.

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

Section 6. That the City’s Finance Director is authorized to transfer and appropriate such excess funds from Miscellaneous Permanent Improvement Fund 757 into Capital Improvement Program Project Account No. 980x233xYY2306, “Street Improvements,” in which “YY”

represents the last two digits of the fiscal year in which the closing occurs and the proceeds are received, referencing the latter fiscal year if the events occur in different fiscal years.

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

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

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

ATTACHMENT A

[SPACE ABOVE FOR RECORDER'S USE]

GRANT OF ENCROACHMENT EASEMENTS

(aerial encroachments over a portion of Gilbert Avenue)

This Grant of Encroachment Easements is granted as of the Effective Date (as defined on the signature page hereof) by the **CITY OF CINCINNATI**, an Ohio municipal corporation, 801 Plum Street, Cincinnati, OH 45202 (the "**City**"), in favor of **2445 GILBERT, LLC**, an Ohio limited liability company, the address of which is 4400 Liberty Hill, Cincinnati, Ohio 45202 ("**Grantee**").

Recitals:

A. By virtue of a *Quitclaim Deed* dated February 5, 2018, Grantee holds title to certain real property located at 2445-2449 Gilbert Avenue, as more particularly described on Exhibit A (Legal Description – Benefitted Property) and depicted on Exhibit B (Survey Plat) hereto (the "**Benefitted Property**").

B. The City owns the adjoining Gilbert Avenue public right-of-way, which is under the management of the City's Department of Transportation and Engineering ("**DOT**").

C. Grantee has requested the City to grant aerial encroachment easements for existing projections encroaching upon the Gilbert Avenue public right-of-way, i.e., existing balconies, existing bracketed hoods, and an existing cornice (collectively, the "**Improvements**").

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

E. The City's Real Estate Services Division has determined that the fair market value of the encroachment easements, as determined by appraisal, is \$300, which has been deposited with the Real Estate Services Division.

F. City Planning Commission, having the authority to approve the change in the use of City-owned property, approved the encroachment easements at its meeting on February 19, 2021.

G. Cincinnati City Council approved the encroachment easements by Ordinance No. ____-2021, passed on _____, 2021.

NOW THEREFORE, the parties do hereby agree as follows:

1. Grant of Encroachment Easements. The City does hereby grant to Grantee, on the terms and conditions set forth herein, as an appurtenance to and for the benefit of the Benefitted Property, non-exclusive aerial encroachment easements to maintain, repair, reconstruct, replace, and remove the Improvements over the Gilbert Avenue public right-of-way, as more particularly depicted on Exhibit B, and more particularly described on Exhibit C (Legal Description-Aerial Easements) hereto (the "**Aerial Easements**" or "**Aerial Easement Area**", as applicable). Grantee shall not make any modifications to the Improvements without the City's prior written consent. Notwithstanding anything herein to the contrary, the Aerial Easements shall automatically terminate upon (i) the complete demolition of the Improvements within the Aerial Easement Area, such that the Aerial Easements would be rendered unnecessary; (ii) upon written notice from the City, if the City determines that it needs the Aerial Easement Area, or any portion thereof for a municipal purpose, including, without limitation to the implementation of Americans with Disabilities Act ("**ADA**") regulations compliance or accessibility standards; (iii) or upon written notice from the City if the City determines that the Improvements are creating a public safety issue, such as noncompliance with ADA accessibility regulations, contributing to adverse impacts on the usability or accessibility of any public right-of-way facilities.

2. Construction, Maintenance, and Repairs.

(A) The Improvements shall be constructed and maintained in accordance with the plans and specifications approved by DOTE, and in accordance with applicable code standards. Once installed, Grantee shall not make any enlargements or other modifications to the Improvements without DOTE's prior written consent.

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

3. Insurance; Indemnification. At all times, and in addition to whatever other insurance and bond requirements as the City may from time to time require, Grantee shall maintain or cause to be maintained a policy of Commercial General Liability insurance, with an insurance company reasonably acceptable to the City and naming the City as an additional insured, in an amount not less than \$1,000,000 per occurrence, combined single limit/\$1,000,000 aggregate, or in such greater amount as the City may from time to time require. Grantee shall furnish to the City a certificate of insurance evidencing such insurance upon the City's request and, in any event, prior to undertaking any construction activities within the Aerial Easement Area. Grantee hereby waives all claims and rights of recovery against the City, and on behalf of Grantee's insurers, rights of subrogation, in connection with any damage to the Improvements, no matter how caused. Grantee shall defend (with counsel reasonably acceptable to the City), indemnify, and hold the City harmless from and against any and all claims, actions, losses, costs (including without limitation reasonable attorneys fees), liability and damages suffered or incurred by, or asserted against, the City in connection with the construction, maintenance, repair or other matters associated with the Improvements.

4. Covenants Running with the Land. The provisions hereof shall run with the land and shall be binding upon and inure to the benefit of the City and Grantee and Grantee's successors-in-interest with respect to the Benefitted Property.

5. Coordinated Report Conditions (CR #50-2020). The following additional conditions shall apply:

(A) Cincinnati Bell Telephone: All existing underground telephone facilities must remain in place, in service, and able to be accessed. Any damage to such facilities or any work done to relocate such facilities as a result of the construction of the Improvements shall be done at Grantee's sole cost and expense.

(B) Department of Transportation and Engineering:

(i) A DOTE street opening permit, obtained by a DOTE licensed street contractor, is required for all private improvements in the public right-of-way. All improvements in the public right-of-way must be built to City standards, policies and guidelines. Application for permits may be made at Room 425, City Hall, 801 Plum Street.

6. Exhibits. The following exhibits are attached hereto and made a part hereof:
Exhibit A – *Legal Description - Benefitted Property*
Exhibit B – *Survey Plat*
Exhibit C – *Legal Description-Aerial Easement Area*

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

CITY OF CINCINNATI

By: _____

Printed Name: _____

Title: _____

STATE OF OHIO)
) ss:
COUNTY OF HAMILTON)

The foregoing instrument was acknowledged before me this ____ day of _____, 2021 by _____, the _____ of the City of Cincinnati, an Ohio municipal corporation, on behalf of the municipal corporation. The notarial act certified hereby is an acknowledgement. No oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

Notary Public
My commission expires: _____

Approved by:

John S. Brazina, Director
Department of Transportation and Engineering

Approved as to Form by:

Assistant City Solicitor

[Grantee Signature Page Follows]

ACCEPTED AND AGREED TO BY:

2445 GILBERT, LLC,
an Ohio limited liability company

By: _____

Printed Name: _____

Title: _____

Date: _____, 2021

STATE OF OHIO)
) ss:
COUNTY OF HAMILTON)

The foregoing instrument was acknowledged before me this ____ day of _____, 2021 by _____, the _____ of **2445 Gilbert, LLC**, an Ohio limited liability company, on behalf of the company. The notarial act certified hereby is an acknowledgement. No oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

Notary Public
My commission expires: _____

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

EXHIBIT A

to Grant of Encroachment Easements

LEGAL DESCRIPTION - BENEFITTED PROPERTY

Situated in the City of Cincinnati, Hamilton County, Ohio being part of Lots 4 and 5 of Fred A. Kemper's Subdivision as recorded in Plat Book 2, page 59 of the Hamilton County, Ohio Records, and described as follows:

Beginning at the intersection of the west line of Gilbert Avenue as now improved and the north line of said Lot 4, said Place of Beginning is southwardly a distance of 97.47 feet from the intersection of the said west line of Gilbert Avenue and the south line of McMillan Street as now improved; thence southwardly along the said west line of Gilbert Avenue a distance of 66 feet to the south line of said Lot 5; thence westwardly along the south line of said Lot 5 a distance of 50.54 feet to the east line of Sedalia Alley; thence northwardly along the east line of Sedalia Alley a distance of 66 feet to the north line of said Lot 4; thence eastwardly along the north line of said Lot 4 a distance of 50.54 feet to the Place of Beginning.

Property Address:	<i>So</i> 2445 and 2449 Gilbert Avenue, Cincinnati, Ohio
Auditor's parcels:	068-0003-0227-00 and 068-0003-0228-0 <i>So</i>
Prior Instrument reference:	Official Record Book <u>13677</u> , Page <u>1637</u>

EXHIBIT B

to Grant of Encroachment Easements

Survey Plat

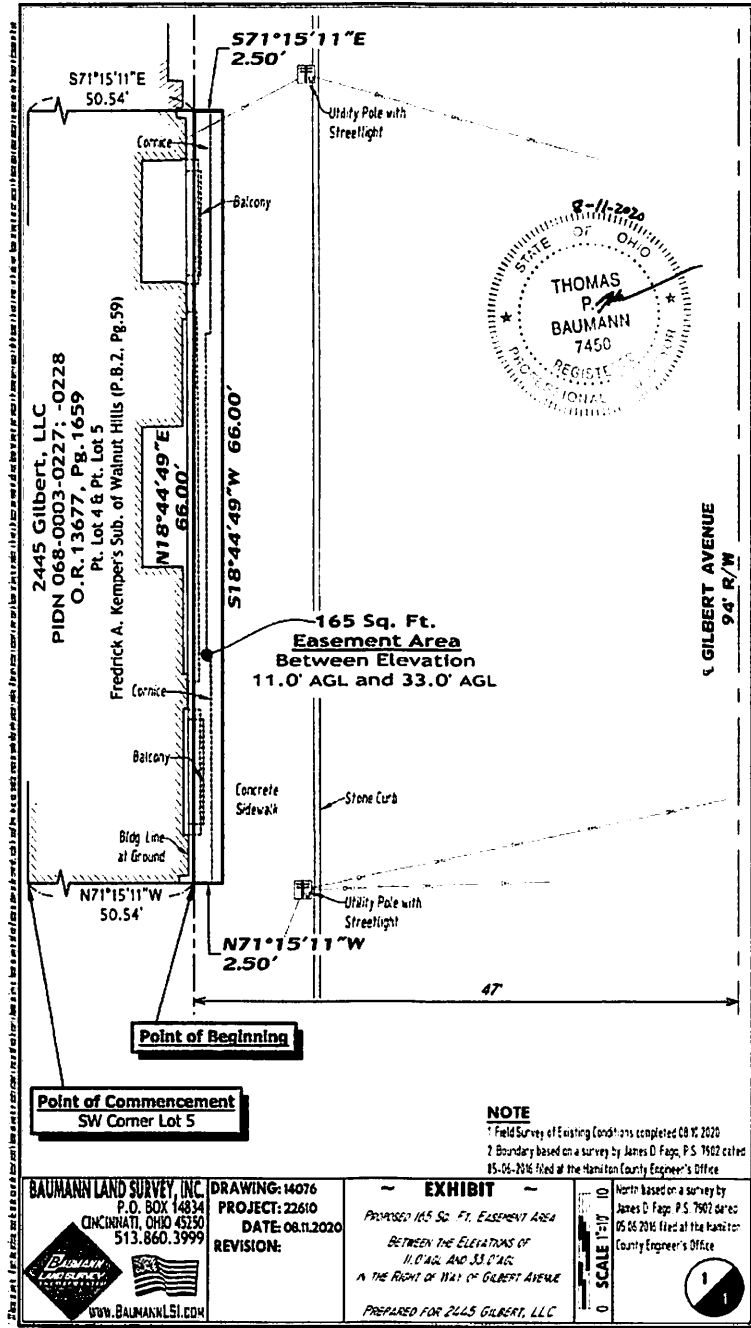


EXHIBIT C

to Grant of Encroachment Easements

Legal Description – Aerial Easement Area

Situate in Section 7, Town 3, Fractional Range 2, Millcreek Township, City of Cincinnati, Hamilton County, Ohio, and being part of Lot 4 and part of Lot 5 of Fredrick A. Kemper's Subdivision of Walnut Hills as recorded in P.B. 2, Pg. 59, and being in the right of way of Gilbert Avenue and being more particularly described as follows:

Commencing at the southwest corner of said Lot 5, thence, along the south line of said Lot 5, South $71^{\circ}15'11''$ East a distance of 50.54' to a point in the south line of said Lot 5 in the westerly right of way line of Gilbert Avenue and the Point of Beginning;

Thence, leaving the south line of said Lot 5 and along the westerly right of way line of Gilbert Avenue, North $18^{\circ}44'49''$ East a distance of 66.00 feet to a point in the north line of said Lot 4 in the westerly right of way line of Gilbert Avenue;

Thence, leaving the westerly right of way line of Gilbert Avenue and along the north line of said Lot 4, South $71^{\circ}15'11''$ East a distance of 2.50 feet to a point in the north line of said Lot 4;

Thence, leaving the north line of said Lot 4, South $18^{\circ}44'49''$ West a distance of 66.00 feet to a point in the south line of said Lot 5;

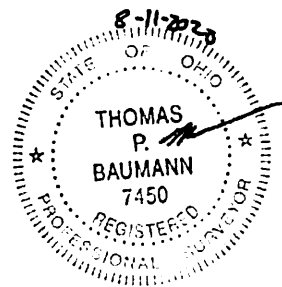
Thence, along the south line of said Lot 5, North $71^{\circ}15'11''$ West a distance of 2.50 feet to the Point of Beginning;

Containing 165 square feet and being a portion of the right of way of Elm Street between the elevations of 11.0'AGL and 33.0'AGL.

Subject to all existing easements and right-of-ways.

Bearing are based on a survey performed by James D. Fago dated 05.06.2016 and filed with the Hamilton County Engineer's Office

Prepared by: Baumann Land Survey, Inc.
Thomas P. Baumann, PS
Ohio Surveyor #: S-7450



[SPACE ABOVE FOR RECORDER'S USE]

GRANT OF ENCROACHMENT EASEMENTS

(aerial encroachments over a portion of Gilbert Avenue)

This Grant of Encroachment Easements is granted as of the Effective Date (as defined on the signature page hereof) by the **CITY OF CINCINNATI**, an Ohio municipal corporation, 801 Plum Street, Cincinnati, OH 45202 (the "**City**"), in favor of **2445 GILBERT, LLC**, an Ohio limited liability company, the address of which is 4400 Liberty Hill, Cincinnati, Ohio 45202 ("**Grantee**").

Recitals:

A. By virtue of a *Quitclaim Deed* dated February 5, 2018, Grantee holds title to certain real property located at 2445-2449 Gilbert Avenue, as more particularly described on Exhibit A (*Legal Description – Benefitted Property*) and depicted on Exhibit B (*Survey Plat*) hereto (the "**Benefitted Property**").

B. The City owns the adjoining Gilbert Avenue public right-of-way, which is under the management of the City's Department of Transportation and Engineering ("**DOT**").

C. Grantee has requested the City to grant aerial encroachment easements for existing projections encroaching upon the Gilbert Avenue public right-of-way, i.e., existing balconies, existing bracketed hoods, and an existing cornice (collectively, the "**Improvements**").

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

E. The City's Real Estate Services Division has determined that the fair market value of the encroachment easements, as determined by appraisal, is \$300, which has been deposited with the Real Estate Services Division.

F. City Planning Commission, having the authority to approve the change in the use of City-owned property, approved the encroachment easements at its meeting on February 19, 2021.

G. Cincinnati City Council approved the encroachment easements by Ordinance No. ____-2021, passed on _____, 2021.

NOW THEREFORE, the parties do hereby agree as follows:

1. Grant of Encroachment Easements. The City does hereby grant to Grantee, on the terms and conditions set forth herein, as an appurtenance to and for the benefit of the Benefitted Property, non-exclusive aerial encroachment easements to maintain, repair, reconstruct, replace, and remove the Improvements over the Gilbert Avenue public right-of-way, as more particularly depicted on Exhibit B, and more particularly described on Exhibit C (*Legal Description-Aerial Easements*) hereto (the "**Aerial Easements**" or "**Aerial Easement Area**", as applicable). Grantee shall not make any modifications to the Improvements without the City's prior written consent. Notwithstanding anything herein to the contrary, the Aerial Easements shall automatically terminate upon (i) the complete demolition of the Improvements within the Aerial Easement Area, such that the Aerial Easements would be rendered unnecessary; (ii) upon written notice from the City, if the City determines that it needs the Aerial Easement Area, or any portion thereof for a municipal purpose, including, without limitation to the implementation of Americans with Disabilities Act ("**ADA**") regulations compliance or accessibility standards; (iii) or upon written notice from the City if the City determines that the Improvements are creating a public safety issue, such as noncompliance with ADA accessibility regulations, contributing to adverse impacts on the usability or accessibility of any public right-of-way facilities.

2. Construction, Maintenance, and Repairs.

(A) The Improvements shall be constructed and maintained in accordance with the plans and specifications approved by DOTE, and in accordance with applicable code standards. Once installed, Grantee shall not make any enlargements or other modifications to the Improvements without DOTE's prior written consent.

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

3. Insurance; Indemnification. At all times, and in addition to whatever other insurance and bond requirements as the City may from time to time require, Grantee shall maintain or cause to be maintained a policy of Commercial General Liability insurance, with an insurance company reasonably acceptable to the City and naming the City as an additional insured, in an amount not less than \$1,000,000 per occurrence, combined single limit/\$1,000,000 aggregate, or in such greater amount as the City may from time to time require. Grantee shall furnish to the City a certificate of insurance evidencing such insurance upon the City's request and, in any event, prior to undertaking any construction activities within the Aerial Easement Area. Grantee hereby waives all claims and rights of recovery against the City, and on behalf of Grantee's insurers, rights of subrogation, in connection with any damage to the Improvements, no matter how caused. Grantee shall defend (with counsel reasonably acceptable to the City), indemnify, and hold the City harmless from and against any and all claims, actions, losses, costs (including without limitation reasonable attorneys fees), liability and damages suffered or incurred by, or asserted against, the City in connection with the construction, maintenance, repair or other matters associated with the Improvements.

4. Covenants Running with the Land. The provisions hereof shall run with the land and shall be binding upon and inure to the benefit of the City and Grantee and Grantee's successors-in-interest with respect to the Benefitted Property.

5. Coordinated Report Conditions (CR #50-2020). The following additional conditions shall apply:

(A) Cincinnati Bell Telephone: All existing underground telephone facilities must remain in place, in service, and able to be accessed. Any damage to such facilities or any work done to relocate such facilities as a result of the construction of the Improvements shall be done at Grantee's sole cost and expense.

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(i) A DOTE street opening permit, obtained by a DOTE licensed street contractor, is required for all private improvements in the public right-of-way. All improvements in the public right-of-way must be built to City standards, policies and guidelines. Application for permits may be made at Room 425, City Hall, 801 Plum Street.

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

Exhibit A – *Legal Description - Benefitted Property*

Exhibit B – *Survey Plat*

Exhibit C – *Legal Description-Aerial Easement Area*

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

CITY OF CINCINNATI

By: _____

Printed Name: _____

Title: _____

STATE OF OHIO)
) ss:
COUNTY OF HAMILTON)

The foregoing instrument was acknowledged before me this ____ day of _____, 2021 by _____, the _____ of the City of Cincinnati, an Ohio municipal corporation, on behalf of the municipal corporation. The notarial act certified hereby is an acknowledgement. No oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

Notary Public
My commission expires: _____

Approved by:

John S. Brazina, Director
Department of Transportation and Engineering

Approved as to Form by:

Assistant City Solicitor

[*Grantee Signature Page Follows*]

ACCEPTED AND AGREED TO BY:

2445 GILBERT, LLC,
an Ohio limited liability company

By: _____

Printed Name: _____

Title: _____

Date: _____, 2021

STATE OF OHIO)
) ss:
COUNTY OF HAMILTON)

The foregoing instrument was acknowledged before me this ____ day of _____, 2021 by _____, the _____ of **2445 Gilbert, LLC**, an Ohio limited liability company, on behalf of the company. The notarial act certified hereby is an acknowledgement. No oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

Notary Public
My commission expires: _____

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

EXHIBIT A

to Grant of Encroachment Easements

LEGAL DESCRIPTION - BENEFITTED PROPERTY

Situated in the City of Cincinnati, Hamilton County, Ohio being part of Lots 4 and 5 of Fred A. Kemper's Subdivision as recorded in Plat Book 2, page 59 of the Hamilton County, Ohio Records, and described as follows:

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Property Address:	<i>So</i> 2445 and 2449 Gilbert Avenue, Cincinnati, Ohio
Auditor's parcels:	068-0003-0227-00 and 068-0003-0228-0 <i>So</i>
Prior Instrument reference:	Official Record Book <u>13677</u> , Page <u>1637</u>

EXHIBIT B

to Grant of Encroachment Easements

Survey Plat

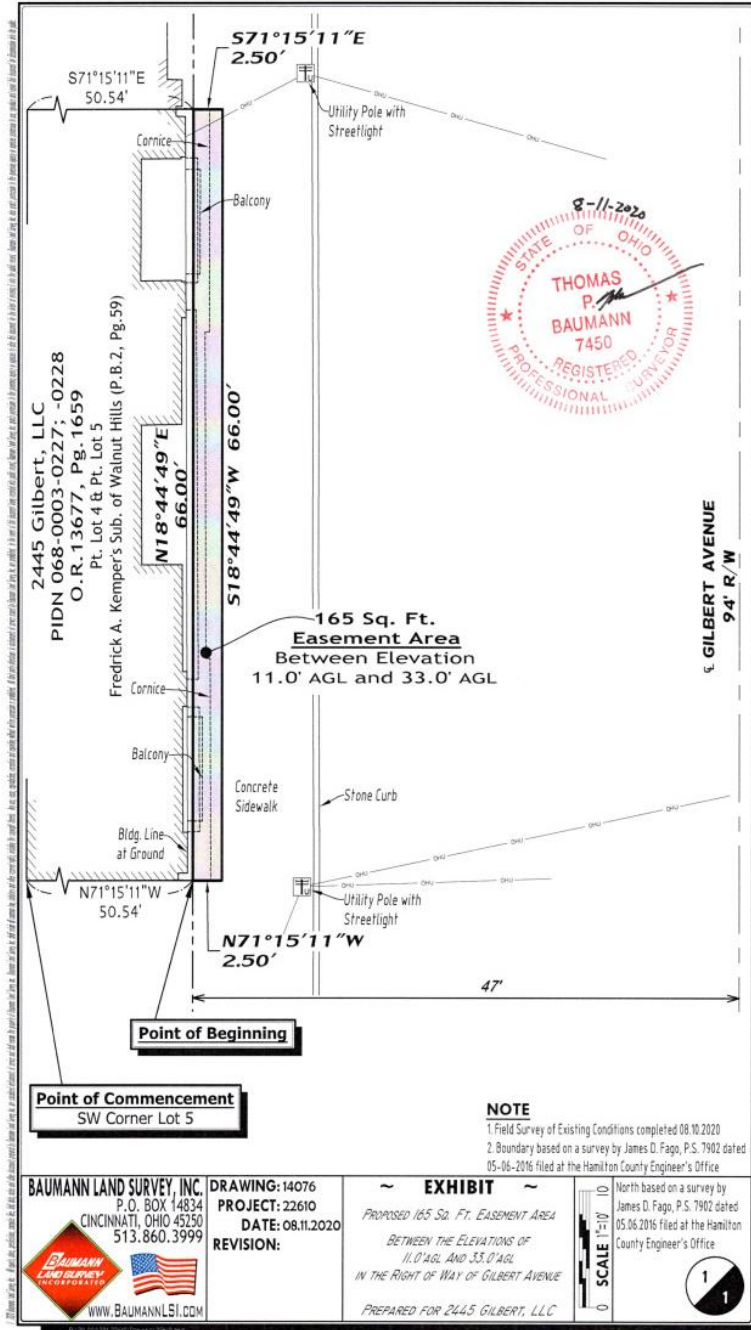


EXHIBIT C

to Grant of Encroachment Easements

Legal Description – Aerial Easement Area

Situate in Section 7, Town 3, Fractional Range 2, Millcreek Township, City of Cincinnati, Hamilton County, Ohio, and being part of Lot 4 and part of Lot 5 of Fredrick A. Kemper's Subdivision of Walnut Hills as recorded in P.B. 2, Pg. 59, and being in the right of way of Gilbert Avenue and being more particularly described as follows:

Commencing at the southwest corner of said Lot 5, thence, along the south line of said Lot 5, South $71^{\circ}15'11''$ East a distance of 50.54' to a point in the south line of said Lot 5 in the westerly right of way line of Gilbert Avenue and the Point of Beginning;

Thence, leaving the south line of said Lot 5 and along the westerly right of way line of Gilbert Avenue, North $18^{\circ}44'49''$ East a distance of 66.00 feet to a point in the north line of said Lot 4 in the westerly right of way line of Gilbert Avenue;

Thence, leaving the westerly right of way line of Gilbert Avenue and along the north line of said Lot 4, South $71^{\circ}15'11''$ East a distance of 2.50 feet to a point in the north line of said Lot 4;

Thence, leaving the north line of said Lot 4, South $18^{\circ}44'49''$ West a distance of 66.00 feet to a point in the south line of said Lot 5;

Thence, along the south line of said Lot 5, North $71^{\circ}15'11''$ West a distance of 2.50 feet to the Point of Beginning;

Containing 165 square feet and being a portion of the right of way of Elm Street between the elevations of 11.0'AGL and 33.0'AGL.

Subject to all existing easements and right-of-ways.

Bearing are based on a survey performed by James D. Fago dated 05.06.2016 and filed with the Hamilton County Engineer's Office

Prepared by: Baumann Land Survey, Inc.
Thomas P. Baumann, PS
Ohio Surveyor #: S-7450



Date: March 31, 2021

To: Mayor and Members of City Council 202101231
From: Paula Boggs Muething, City Manager
Subject: ORDINANCE – VACATION AND SALE OF A PORTION OF BARTLE AVENUE

Attached is an ordinance captioned as follows:

AUTHORIZING the City Manager to vacate and sell to Uptown Transportation Authority, LLC approximately 0.1749 acres of the public right-of-way known as Bartle Avenue in the Avondale neighborhood of Cincinnati.

Uptown Transportation Authority, LLC owns an adjoining property that abuts a 0.1749-acre portion of Bartle Avenue in Avondale. They would like to purchase this abutting portion of Bartle Avenue for incorporation into their adjoining property. Uptown Transportation Authority, LLC has obtained the written consent of all necessary abutters to the City's vacation and sale of the property.

The property is not needed for transportation or other municipal purposes.

The approximate fair market value of the property is \$114,300, which Uptown Transportation Authority, LLC has agreed to pay.

The City Planning Commission approved the vacation and sale of the property at its meeting on March 5, 2021.

The Administration recommends passage of the attached ordinance.

Attachment I – Property Sale Agreement

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

CHM

AWG/EE

- 2021

City of Cincinnati

An Ordinance No. _____

AUTHORIZING the City Manager to vacate and sell to Uptown Transportation Authority, LLC approximately 0.1749 acres of the public right-of-way known as Bartle Avenue in the Avondale neighborhood of Cincinnati.

WHEREAS, the City of Cincinnati owns approximately 0.1749 acres of real property designated as public right-of-way commonly known as Bartle Avenue, as more particularly depicted and described in the *Property Sale Agreement* attached to this ordinance as Attachment A and incorporated herein by reference (the "Property"), which Property is under the management and control of the City's Department of Transportation and Engineering ("DOTE"); and

WHEREAS, Uptown Transportation Authority, LLC, an Ohio limited liability company ("Petitioner"), owns an adjoining property and desires to purchase the Property from the City for incorporation into Petitioner's adjoining property; and

WHEREAS, Andrew D. Graf, Esq., a reputable attorney practicing in Hamilton County, Ohio, has provided the following: (i) an Attorney's Certificate of Title dated October 19, 2020, certifying that Petitioner is the owner of all real property abutting the Property; and (ii) the written consent of all necessary abutters to the City's vacation and sale of the Property to Petitioner; and

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

WHEREAS, pursuant to Cincinnati Municipal Code ("CMC") Sec. 331-1, the City may sell real property that is not needed for municipal purposes; and

WHEREAS, the City's Real Estate Services Division has determined, by professional appraisal, that the approximate fair market value of the Property is \$114,300, which Petitioner has agreed to pay; and

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

WHEREAS, the City Planning Commission, having the authority to approve the change in the use of City-owned property, approved the vacation and sale of the Property at its meeting on March 5, 2021; now, therefore,

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

Section 1. That the City Manager is hereby authorized to vacate and sell to Uptown Transportation Authority, LLC, an Ohio limited liability company ("Petitioner"), an approximately 0.1749 acre portion of the public right-of-way known as Bartle Avenue in Cincinnati, as more particularly described as follows (the "Property"):

SITUATE IN SECTION 8, TOWN 3, FRACTIONAL RANGE 2, CITY OF CINCINNATI, HAMILTON COUNTY, OHIO AND BEING PART OF THE RIGHT OF WAY OF BARTLE AVENUE OF HENRY T. MILLER SUBDIVISION AS RECORDED IN PLAT BOOK 1, PAGE 120 OF THE HAMILTON COUNTY, OHIO RECORDS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A SET CROSS NOTCH AT THE INTERSECTION OF THE EASTERLY RIGHT OF WAY OF BARTLE AVENUE WITH THE SOUTHERLY RIGHT OF WAY OF MARTIN LUTHER KING DRIVE; THENCE ALONG THE EASTERLY RIGHT OF WAY OF BARTLE AVENUE, SOUTH 06°24'05" WEST, 253.96 FEET TO THE SOUTHEAST TERMINUS OF BARTLE AVENUE; BEING WITNESSED BY AN EXISTING MAG NAIL WHICH IS 0.33 FEET WEST; THENCE ALONG THE SOUTHERLY TERMINUS OF BARTLE AVENUE, NORTH 84°01'55" WEST, 30.00 FEET TO THE SOUTHWEST TERMINUS OF BARTLE AVENUE, BEING WITNESSED BY AN EXISTING 5/8" IRON PIN WHICH IS 0.21 FEET SOUTH AND 1.03 FEET WEST; THENCE ALONG THE WESTERLY RIGHT OF WAY OF BARTLE AVENUE, NORTH 06°24'05" EAST, 254.08 FEET TO A SET 5/8" IRON PIN AND CAP (#7862) AT THE INTERSECTION OF THE SOUTHERLY RIGHT OF WAY OF MARTIN LUTHER KING DRIVE WITH THE WESTERLY RIGHT OF WAY OF BARTLE AVENUE; THENCE ALONG THE SOUTHERLY RIGHT OF WAY OF MARTIN LUTHER KING DRIVE, SOUTH 83°48'19" EAST, 30.00 FEET TO THE PLACE OF BEGINNING.

THUS CONTAINING 0.1749 ACRES OF LAND AND BEING SUBJECT TO ALL EASEMENTS AND RESTRICTIONS OF RECORD.

BEARINGS USED IN THIS LEGAL DESCRIPTION ARE
RELATIVE TO OHIO DEPARTMENT OF TRANSPORTATION
RIGHT OF WAY PLAN, HAM-17-3.81.

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

Section 3. That the fair market value of the Property, as determined by appraisal by the City's Real Estate Services Division, is approximately \$114,300, which Petitioner has agreed to pay.

Section 4. That eliminating competitive bidding in connection with the City's sale of the Property is in the best interest of the City because Petitioner owns all adjoining real property and has obtained the written consent of all abutters to the Property, and as a practical matter, only an abutting property owner would have any practical use for the Property.

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

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

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

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

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

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

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

ATTACHMENT A

Contract No. _____

Property: Bartle Avenue

PROPERTY SALE AGREEMENT

This Property Sale Agreement (this "**Agreement**") is made and entered into on the Effective Date (as defined on the signature page hereof) by and between the **CITY OF CINCINNATI**, an Ohio municipal corporation, the address of which for purposes of this Agreement is 801 Plum Street, Cincinnati, OH 45202 (the "**City**") and **UPTOWN TRANSPORTATION AUTHORITY, LLC**, an Ohio limited liability company whose tax mailing address is 619 Oak Street, Suite 1100, Cincinnati, OH 45206 ("**Purchaser**").

Recitals:

A. The City owns a 0.1749 acre tract of land dedicated as public right-of-way known as Bartle Avenue in the Avondale neighborhood of Cincinnati, Ohio, as depicted on Exhibit A (Survey Plat) and described on Exhibit B (Quitclaim Deed) hereto (the "**Sale Property**"). The Sale Property is under the management and control of the City's Department of Transportation and Engineering ("**DOT**").

B. Purchaser owns adjoining property that abuts the Sale Property, as depicted on Exhibit A hereto ("**Purchaser's Property**"). Purchaser has petitioned the City to vacate the Sale Property as public right-of-way and seeks to purchase it from the City.

C. Andrew D. Graf, Esq., a reputable attorney practicing in Hamilton County, Ohio, has provided the following: (i) an Attorney's Certificate of Title dated October 19, 2020, certifying that Purchaser is the owner of all real property abutting the Sale Property, and (ii) the written consent of all necessary abutters to the City's vacation and sale of the Sale Property to Purchaser, a copy of which is attached as Exhibit C (Attorney's Certificate of Title) hereto.

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

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

F. The City's Real Estate Services Division has determined, by a professional appraisal, that the fair market value of the Sale Property is \$114,300.00, which Purchaser is willing to pay.

G. The City has determined that eliminating competitive bidding in connection with the City's sale of the Sale Property is justified because Purchaser owns all real property that abuts the Sale Property, and as a practical matter no one other than an abutting property owner would have any use for it.

H. City Planning Commission, having the authority to approve the change in the use of City-owned property, approved the sale of the Sale Property to Purchaser at its meeting on March 5, 2021.

I. Execution of this Agreement was authorized by Cincinnati City Council by Ordinance No. []-2021, passed on [], 2021.

NOW, THEREFORE, the parties agree as follows:

1. **Purchase Price.** Subject to the terms and conditions set forth herein, the City hereby agrees to sell the Sale Property to Purchaser, and Purchaser hereby agrees to purchase the Sale

Property from the City for \$114,300 (the "**Purchase Price**"). Purchaser acknowledges that it is familiar with the condition of the Sale Property and, at Closing (as defined below), the City shall convey the Sale Property to Purchaser in "as is" condition. The City makes no representations or warranties to Purchaser with respect to the condition of the Sale Property and, from and after the Closing, the City shall have no liability of any kind to Purchaser for any defects, adverse environmental condition, or any other matters affecting the Sale Property.

2. Closing.

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

- (i) Title & Survey: Purchaser's approval of title to the Sale Property and, if obtained by Purchaser, an ALTA property survey of the Sale Property;
- (ii) Inspections, Utilities & Zoning/Building Code Requirements: Purchaser's approval of inspections of the Sale Property, including without limitation environmental assessments and soil assessments, all matters pertaining to utility service for the Sale Property, and all zoning and building code requirements that are applicable to the Sale Property;
- (iii) Plats and Legal Descriptions: Purchaser shall have provided the City with all plats and legal descriptions as required by DOTE, the City Planning Department, and the Hamilton County Auditor and Recorder in connection with the City's vacation and sale of the Sale Property;
- (iv) Abutter's Interests: Purchaser shall have provided the City with an attorney's certificate of title certifying the names of all abutters to the Sale Property.
- (v) Coordinated Report Conditions (CR #87-2019):
 - (a) DOTE:
 - 1. DOTE to review and approve proposed development prior to the sale to assess the impact on adjacent right-of-way.
 - 2. Abutting property owners must agree to the sale in writing.
 - 3. The existing utilities must be granted easements or relocated at petitioner's expense.
 - 4. No Auditor's parcels shall be landlocked by this vacation/sale. If possible, potential landlocked parcels should be consolidated with parcels having legal street frontage.
 - 5. The petitioner is required, at their expense, to provide the City with an acceptable legal description for the sale area that meets the recordable standards of the Hamilton County Recorder's Office.
 - 6. Bartels Avenue must be closed off at Martin Luther King Drive with a curb, sidewalk, and/or drive approach.

7. A DOTE street opening permit, obtained by a DOTE licensed street contractor, is required for all private improvements in the public right-of-way. All improvements in the public right-of-way must be built to City standards, policies and guidelines. Application for permits may be made at Room 425, City Hall, 801 Plum Street. Please note that plan drawings (2 sets), to be reviewed by DOTE, must be attached to the permit application.

(b) Duke Energy:

1. Duke Energy overhead electric facilities currently located within the right of way of this portion of Bartle Avenue could potentially be impacted by the granting of the vacation and sale as requested. In order to minimize disruption to existing utilities within said rights of way, Duke Energy reserves the right of unrestricted ingress and egress. No structures may be constructed within said utility area in conflict with such electric facilities, nor may the utility area be physically altered so as to (i) reduce the clearances of the facilities; (ii) impair the ability to maintain the facilities or; (iii) create a hazard to the utility's facilities.
2. Any party damaging said facilities shall be responsible for all costs and expenses associated with the repair or replacement of the same.
3. If the said overhead electric facilities are to remain in the existing location, Duke Energy Ohio, Inc., Land Services would request that an easement be granted in our customarily used easement form at the time of the closing of the properties and prior to the objections being lifted.

(c) Cincinnati Bell:

1. There are existing underground telephone facilities at this location.
2. The existing facilities must remain in place, in service and able to be accessed. Any damage done to the facilities, or any work done to relocate the facilities as a result of this request will be handled entirely at the property owner's expense.

(d) B&I:

1. Petitioner shall consolidate the Sale Property with its abutting properties upon closing on the Sale Property.

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

(C) Closing Date. Provided the Conditions have been satisfied, the Closing shall take place **30 days** after the Effective Date, or on such earlier or later date as the parties may agree upon.

(D) Closing Costs and Closing Documents. At the Closing, (i) Purchaser shall pay the Purchase Price in full, and (ii) the City shall convey all of its right, title and interest in and to the Sale Property to Purchaser by *Quitclaim Deed* in the form of Exhibit B. Purchaser shall pay all Hamilton County, Ohio recording fees, transfer tax, and any and all other customary closing costs associated with

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

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

(i) Purchaser 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 Purchaser and all actions necessary have been taken to constitute this Agreement, when executed and delivered, valid and binding obligations of Purchaser.

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

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

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

(v) The statements made in the documentation provided by Purchaser to the City have been reviewed by Purchaser 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.

(vi) Purchaser does not owe any outstanding fines, penalties, judgments, water or other utility charges or other amounts to the City.

5. General Provisions.

(A) Entire Agreement. This Agreement (including the exhibits hereto) contains the entire agreement between the parties with respect to the subject matter hereof and supersedes any and all prior

discussions, negotiations, representations or agreements, written or oral, between them respecting the subject matter hereof.

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

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

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

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

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

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

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

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

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

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

6. Exhibits. The following exhibits are attached hereto and made a part hereof:
Exhibit A – *Survey Plat*
Exhibit B – *Form of Quit Claim Deed*
Exhibit C – *Attorney's Certificate of Title*

[signature pages follow]

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

UPTOWN TRANSPORTATION AUTHORITY, LLC,
an Ohio limited liability company

By: _____

Printed Name: _____

Title: _____

Date: _____, 2021

[City signatures on the following page]

CITY OF CINCINNATI

By: _____

Printed Name: _____

Title: _____

Date: _____, 2021

Recommended by:

John S. Brazina, Director
Department of Transportation and Engineering

Approved as to Form:

Assistant City Solicitor

Certified Date: _____

Fund/Code: _____

Amount: _____

By: _____
Karen Alder, City Finance Director

SURVEY PLAT



EXHIBIT B
to Property Sale Agreement
FORM OF QUIT CLAIM DEED

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

QUITCLAIM DEED
(Portion of Bartle Avenue)

The **CITY OF CINCINNATI**, an Ohio municipal corporation (the "**City**"), for valuable consideration paid, hereby grants and conveys to **UPTOWN TRANSPORTATION AUTHORITY, LLC**, an Ohio limited liability company, whose tax mailing address is 619 Oak Street, Suite 1100, Cincinnati, OH 45206, ("**Grantee**"), all of the City's right, title and interest in and to the real property depicted on Exhibit A (*Survey Plat*) and described on Exhibit B (*Legal Description*) hereto (the "**Property**").

Property Address:	None; certain portions of former public right-of-way known as Bartle Avenue.
Auditor's parcels:	None (former public right-of-way)
Prior instrument reference:	None (former public right-of-way)

Pursuant to Ohio Revised Code Chapter 723 and Ordinance No. __-2021, passed by Cincinnati City Council on _____, 2021, the Property is hereby vacated as public right-of-way by the City.

(A) Creation of Utility Easement: This conveyance is subject to R.C. Section 723.041 so that any affected public utility shall be deemed to have a permanent easement in such vacated portions of Bartle Avenue for the purpose of maintaining, operating, renewing, reconstructing, and removing said utility facilities and for purposes of access to said facilities.

This conveyance was authorized by Ordinance No. __-2021, passed by Cincinnati City Council on _____, 2021.

Executed on _____, 2021.

CITY OF CINCINNATI

By: _____

Printed Name: _____

Title: _____

STATE OF OHIO)
) SS:
COUNTY OF HAMILTON)

The foregoing instrument was acknowledged before me this ____ day of _____, 2021 by _____, the _____ of the City of Cincinnati, an Ohio municipal corporation, on behalf of the municipal corporation. The notarial act certified hereby is an acknowledgment. No oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

Notary Public
My commission expires: _____

Approved by:

John S. Brazina, Director
Department of Transportation and Engineering

Approved as to Form:

Assistant City Solicitor

This instrument prepared by:

City of Cincinnati Law Department,
801 Plum Street, Suite 214,
Cincinnati, Ohio 45202

Exhibit A
to Quitclaim Deed
Survey Plat

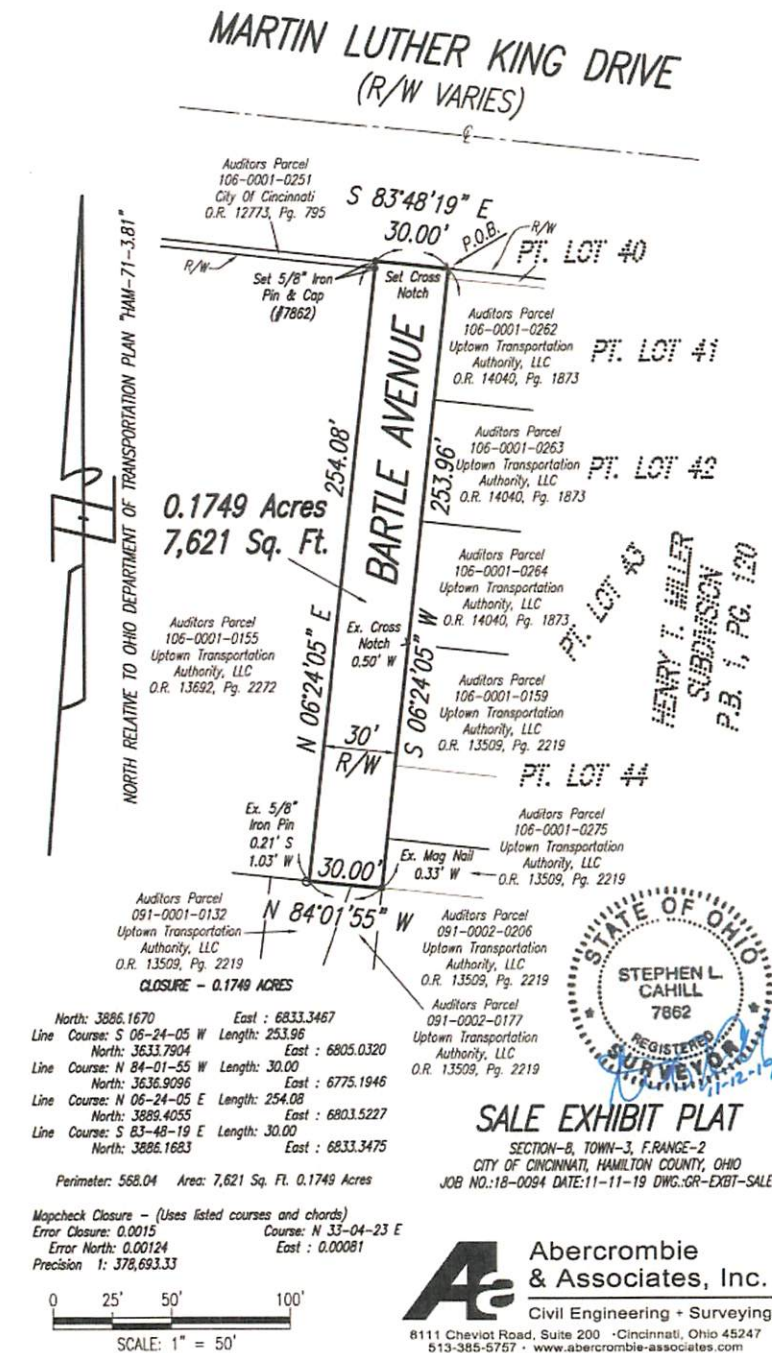


Exhibit B
to Quitclaim Deed
Legal Description

SITUATE IN SECTION 8, TOWN 3, FRACTIONAL RANGE 2, CITY OF CINCINNATI, HAMILTON COUNTY, OHIO AND BEING PART OF THE RIGHT OF WAY OF BARTLE AVENUE OF HENRY T. MILLER SUBDIVISION AS RECORDED IN PLAT BOOK 1, PAGE 120 OF THE HAMILTON COUNTY, OHIO RECORDS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A SET CROSS NOTCH AT THE INTERSECTION OF THE EASTERLY RIGHT OF WAY OF BARTLE AVENUE WITH THE SOUTHERLY RIGHT OF WAY OF MARTIN LUTHER KING DRIVE; THENCE ALONG THE EASTERLY RIGHT OF WAY OF BARTLE AVENUE, SOUTH 06°24'05" WEST, 253.96 FEET TO THE SOUTHEAST TERMINUS OF BARTLE AVENUE; BEING WITNESSED BY AN EXISTING MAG NAIL WHICH IS 0.33 FEET WEST; THENCE ALONG THE SOUTHERLY TERMINUS OF BARTLE AVENUE, NORTH 84°01'55" WEST, 30.00 FEET TO THE SOUTHWEST TERMINUS OF BARTLE AVENUE, BEING WITNESSED BY AN EXISTING 5/8" IRON PIN WHICH IS 0.21 FEET SOUTH AND 1.03 FEET WEST; THENCE ALONG THE WESTERLY RIGHT OF WAY OF BARTLE AVENUE, NORTH 06°24'05" EAST, 254.08 FEET TO A SET 5/8" IRON PIN AND CAP (#7862) AT THE INTERSECTION OF THE SOUTHERLY RIGHT OF WAY OF MARTIN LUTHER KING DRIVE WITH THE WESTERLY RIGHT OF WAY OF BARTLE AVENUE; THENCE ALONG THE SOUTHERLY RIGHT OF WAY OF MARTIN LUTHER KING DRIVE, SOUTH 83°48'19" EAST, 30.00 FEET TO THE PLACE OF BEGINNING.

THUS CONTAINING 0.1749 ACRES OF LAND AND BEING SUBJECT TO ALL EASEMENTS AND RESTRICTIONS OF RECORD.

BEARINGS USED IN THIS LEGAL DESCRIPTION ARE RELATIVE TO OHIO DEPARTMENT OF TRANSPORTATION RIGHT OF WAY PLAN, HAM-17-3.81.

BEING THE RESULT OF A SURVEY AND PLAT DATED 6/12/18 MADE BY STEPHEN L. CAHILL, PLS OF ABERCROMBIE & ASSOCIATES, INC, OHIO REGISTERED SURVEYOR #7862.

Exhibit C
to Property Sale Agreement
Attorney Certificate of Title

ATTORNEY'S CERTIFICATE OF TITLE
(purchase of public right-of-way)

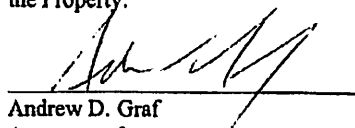
Uptown Transportation Authority, LLC ("Petitioner"), whose address is 619 Oak Street, Suite 1100, Cincinnati, Ohio 45206, has requested to purchase the public right-of-way known as Bartle Avenue as located between Martin Luther King Drive and Tax Parcels 091-0001-0132 and 091-0002-0177 and as more particularly described in Exhibit A hereto (the "Property").

NAME OF ABUTTING OWNER	Parcel(s) owned (address/parcel ID no.)
Uptown Transportation Authority	106-0001-0155-00
Uptown Transportation Authority	106-0001-0262-00
Uptown Transportation Authority	106-0001-0159-00
Uptown Transportation Authority	091-0002-0206-00
Uptown Transportation Authority	091-0001-0132-00
Uptown Transportation Authority	091-0002-0177-00

Cincinnati, Ohio

October 19, 2020

I, the undersigned attorney at law, practicing in Hamilton County, Ohio hereby certify that the above Petitioner(s) and the above listed owner(s) is/are all of the owner(s) of the land abutting on the Property.


Andrew D. Graf
Attorney at Law

Ohio Attorney Registration No. 0068608

Bartle Street Abutting Property Owners

Street	Owner	Parcel
515 Melish Ave	Uptown Transportation Authority (UTA)	106-0001-0155-00
3041 Reading Road	Uptown Transportation Authority (UTA)	106-0001-0262-00
3035 Reading Road	Uptown Transportation Authority (UTA)	106-0001-0159-00
Reading Road	Uptown Transportation Authority (UTA)	091-0002-0206-00
Bartle Street	Uptown Transportation Authority (UTA)	091-0001-0132-00
Bartle Street	Uptown Transportation Authority (UTA)	091-0002-0177-00

Contract No. _____

Property: Bartle Avenue

PROPERTY SALE AGREEMENT

This Property Sale Agreement (this "**Agreement**") is made and entered into on the Effective Date (as defined on the signature page hereof) by and between the **CITY OF CINCINNATI**, an Ohio municipal corporation, the address of which for purposes of this Agreement is 801 Plum Street, Cincinnati, OH 45202 (the "**City**") and **UPTOWN TRANSPORTATION AUTHORITY, LLC**, an Ohio limited liability company whose tax mailing address is 619 Oak Street, Suite 1100, Cincinnati, OH 45206 ("**Purchaser**").

Recitals:

A. The City owns a 0.1749 acre tract of land dedicated as public right-of-way known as Bartle Avenue in the Avondale neighborhood of Cincinnati, Ohio, as depicted on Exhibit A (*Survey Plat*) and described on Exhibit B (*Quitclaim Deed*) hereto (the "**Sale Property**"). The Sale Property is under the management and control of the City's Department of Transportation and Engineering ("**DOT**").

B. Purchaser owns adjoining property that abuts the Sale Property, as depicted on Exhibit A hereto ("**Purchaser's Property**"). Purchaser has petitioned the City to vacate the Sale Property as public right-of-way and seeks to purchase it from the City.

C. Andrew D. Graf, Esq., a reputable attorney practicing in Hamilton County, Ohio, has provided the following: (i) an Attorney's Certificate of Title dated October 19, 2020, certifying that Purchaser is the owner of all real property abutting the Sale Property, and (ii) the written consent of all necessary abutters to the City's vacation and sale of the Sale Property to Purchaser, a copy of which is attached as Exhibit C (*Attorney's Certificate of Title*) hereto.

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

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

F. The City's Real Estate Services Division has determined, by a professional appraisal, that the fair market value of the Sale Property is \$114,300.00, which Purchaser is willing to pay.

G. The City has determined that eliminating competitive bidding in connection with the City's sale of the Sale Property is justified because Purchaser owns all real property that abuts the Sale Property, and as a practical matter no one other than an abutting property owner would have any use for it.

H. City Planning Commission, having the authority to approve the change in the use of City-owned property, approved the sale of the Sale Property to Purchaser at its meeting on March 5, 2021.

I. Execution of this Agreement was authorized by Cincinnati City Council by Ordinance No. [____]-2021, passed on [____], 2021.

NOW, THEREFORE, the parties agree as follows:

1. **Purchase Price.** Subject to the terms and conditions set forth herein, the City hereby agrees to sell the Sale Property to Purchaser, and Purchaser hereby agrees to purchase the Sale

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

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discussions, negotiations, representations or agreements, written or oral, between them respecting the subject matter hereof.

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

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

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

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

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

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

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

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

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

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

6. Exhibits. The following exhibits are attached hereto and made a part hereof:
Exhibit A – *Survey Plat*
Exhibit B – *Form of Quit Claim Deed*
Exhibit C – *Attorney's Certificate of Title*

[signature pages follow]

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

UPTOWN TRANSPORTATION AUTHORITY, LLC,
an Ohio limited liability company

By: _____

Printed Name: _____

Title: _____

Date: _____, 2021

[City signatures on the following page]

CITY OF CINCINNATI

By: _____

Printed Name: _____

Title: _____

Date: _____, 2021

Recommended by:

John S. Brazina, Director
Department of Transportation and Engineering

Approved as to Form:

Assistant City Solicitor

Certified Date: _____

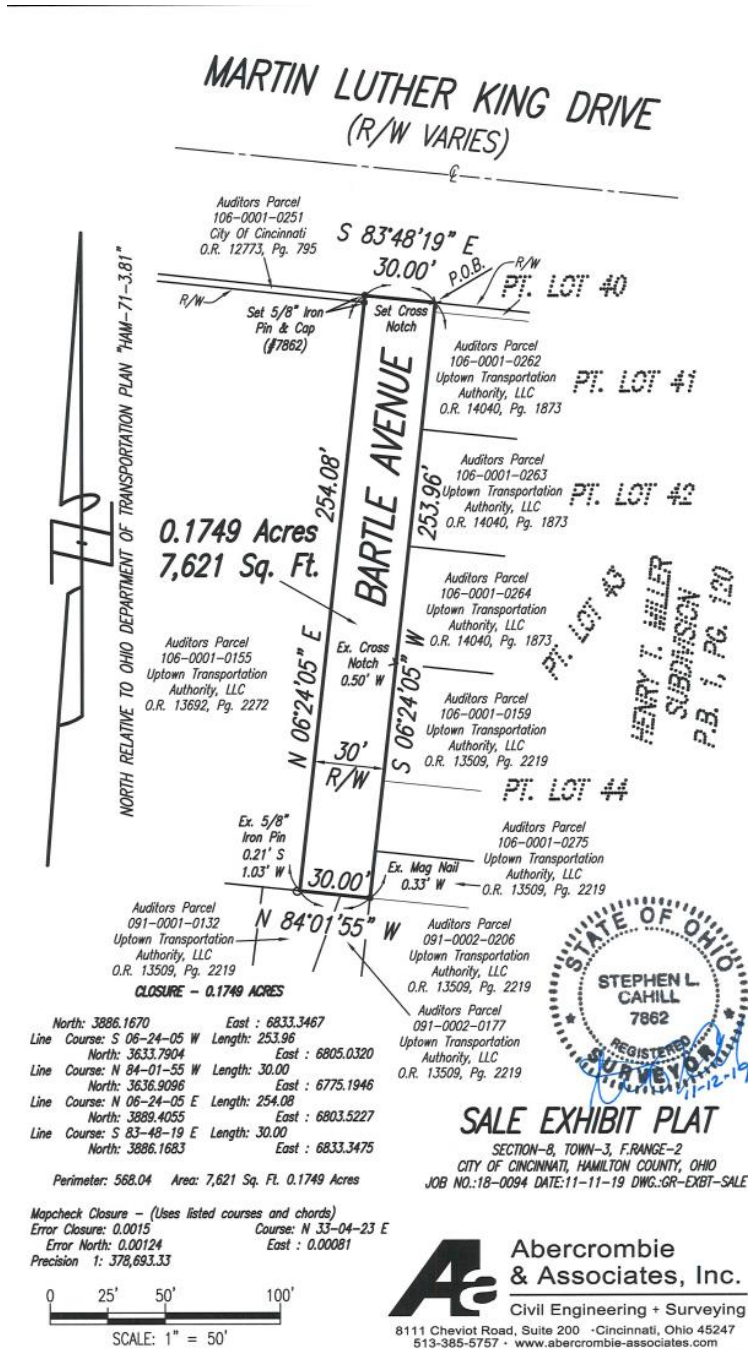
Fund/Code: _____

Amount: _____

By: _____
Karen Alder, City Finance Director

EXHIBIT A
to Property Sale Agreement

SURVEY PLAT



{00333712-1}

EXHIBIT B
to Property Sale Agreement
FORM OF QUIT CLAIM DEED

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

QUITCLAIM DEED
(Portion of Bartle Avenue)

The **CITY OF CINCINNATI**, an Ohio municipal corporation (the “**City**”), for valuable consideration paid, hereby grants and conveys to **UPTOWN TRANSPORTATION AUTHORITY, LLC**, an Ohio limited liability company, whose tax mailing address is 619 Oak Street, Suite 1100, Cincinnati, OH 45206, (“**Grantee**”), all of the City’s right, title and interest in and to the real property depicted on Exhibit A (*Survey Plat*) and described on Exhibit B (*Legal Description*) hereto (the “**Property**”).

Property Address:	None; certain portions of former public right-of-way known as Bartle Avenue.
Auditor’s parcels:	None (former public right-of-way)
Prior instrument reference:	None (former public right-of-way)

Pursuant to Ohio Revised Code Chapter 723 and Ordinance No. __-2021, passed by Cincinnati City Council on _____, 2021, the Property is hereby vacated as public right-of-way by the City.

(A) Creation of Utility Easement: This conveyance is subject to R.C. Section 723.041 so that any affected public utility shall be deemed to have a permanent easement in such vacated portions of Bartle Avenue for the purpose of maintaining, operating, renewing, reconstructing, and removing said utility facilities and for purposes of access to said facilities.

This conveyance was authorized by Ordinance No. __-2021, passed by Cincinnati City Council on _____, 2021.

Executed on _____, 2021.

CITY OF CINCINNATI

By: _____

Printed Name: _____

Title: _____

STATE OF OHIO)
) SS:
COUNTY OF HAMILTON)

The foregoing instrument was acknowledged before me this ____ day of _____, 2021 by _____, the _____ of the City of Cincinnati, an Ohio municipal corporation, on behalf of the municipal corporation. The notarial act certified hereby is an acknowledgment. No oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

Notary Public
My commission expires: _____

Approved by:

John S. Brazina, Director
Department of Transportation and Engineering

Approved as to Form:

Assistant City Solicitor

This instrument prepared by:

City of Cincinnati Law Department,
801 Plum Street, Suite 214,
Cincinnati, Ohio 45202

Exhibit A
to Quitclaim Deed
Survey Plat

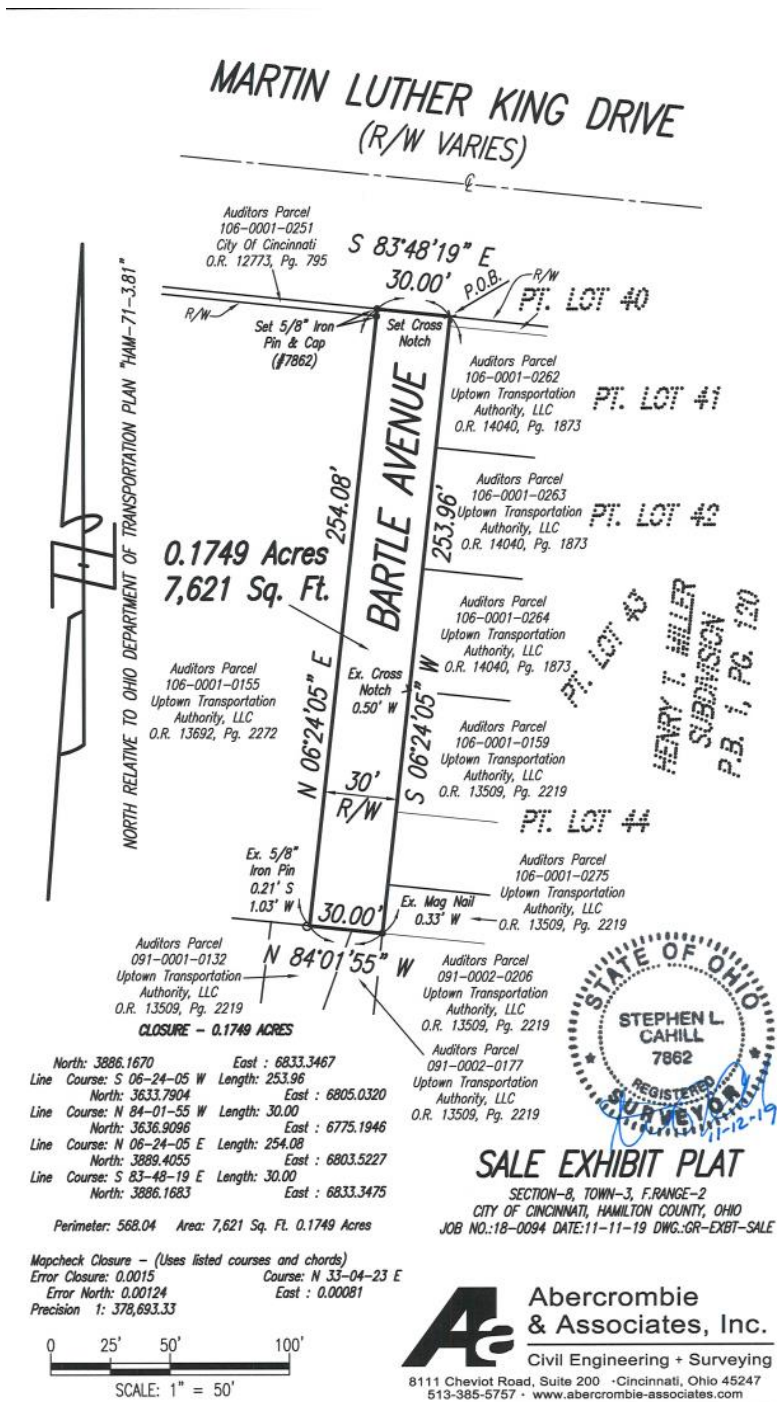


Exhibit B
to Quitclaim Deed
Legal Description

SITUATE IN SECTION 8, TOWN 3, FRACTIONAL RANGE 2, CITY OF CINCINNATI, HAMILTON COUNTY, OHIO AND BEING PART OF THE RIGHT OF WAY OF BARTLE AVENUE OF HENRY T. MILLER SUBDIVISION AS RECORDED IN PLAT BOOK 1, PAGE 120 OF THE HAMILTON COUNTY, OHIO RECORDS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A SET CROSS NOTCH AT THE INTERSECTION OF THE EASTERLY RIGHT OF WAY OF BARTLE AVENUE WITH THE SOUTHERLY RIGHT OF WAY OF MARTIN LUTHER KING DRIVE; THENCE ALONG THE EASTERLY RIGHT OF WAY OF BARTLE AVENUE, SOUTH 06°24'05" WEST, 253.96 FEET TO THE SOUTHEAST TERMINUS OF BARTLE AVENUE; BEING WITNESSED BY AN EXISTING MAG NAIL WHICH IS 0.33 FEET WEST; THENCE ALONG THE SOUTHERLY TERMINUS OF BARTLE AVENUE, NORTH 84°01'55" WEST, 30.00 FEET TO THE SOUTHWEST TERMINUS OF BARTLE AVENUE, BEING WITNESSED BY AN EXISTING 5/8" IRON PIN WHICH IS 0.21 FEET SOUTH AND 1.03 FEET WEST; THENCE ALONG THE WESTERLY RIGHT OF WAY OF BARTLE AVENUE, NORTH 06°24'05" EAST, 254.08 FEET TO A SET 5/8" IRON PIN AND CAP (#7862) AT THE INTERSECTION OF THE SOUTHERLY RIGHT OF WAY OF MARTIN LUTHER KING DRIVE WITH THE WESTERLY RIGHT OF WAY OF BARTLE AVENUE; THENCE ALONG THE SOUTHERLY RIGHT OF WAY OF MARTIN LUTHER KING DRIVE, SOUTH 83°48'19" EAST, 30.00 FEET TO THE PLACE OF BEGINNING.

THUS CONTAINING 0.1749 ACRES OF LAND AND BEING SUBJECT TO ALL EASEMENTS AND RESTRICTIONS OF RECORD.

BEARINGS USED IN THIS LEGAL DESCRIPTION ARE RELATIVE TO OHIO DEPARTMENT OF TRANSPORTATION RIGHT OF WAY PLAN, HAM-17-3.81.

BEING THE RESULT OF A SURVEY AND PLAT DATED 6/12/18 MADE BY STEPHEN L. CAHILL, PLS OF ABERCROMBIE & ASSOCIATES, INC, OHIO REGISTERED SURVEYOR #7862.

Exhibit C
to Property Sale Agreement
Attorney Certificate of Title

ATTORNEY'S CERTIFICATE OF TITLE
(purchase of public right-of-way)


Uptown Transportation Authority, LLC ("Petitioner"), whose address is 619 Oak Street, Suite 1100, Cincinnati, Ohio 45206, has requested to purchase the public right-of-way known as Bartle Avenue as located between Martin Luther King Drive and Tax Parcels 091-0001-0132 and 091-0002-0177 and as more particularly described in Exhibit A hereto (the "Property").

NAME OF ABUTTING OWNER	Parcel(s) owned (address/parcel ID no.)
Uptown Transportation Authority	106-0001-0155-00
Uptown Transportation Authority	106-0001-0262-00
Uptown Transportation Authority	106-0001-0159-00
Uptown Transportation Authority	091-0002-0206-00
Uptown Transportation Authority	091-0001-0132-00
Uptown Transportation Authority	091-0002-0177-00

Cincinnati, Ohio

October 19, 2020

I, the undersigned attorney at law, practicing in Hamilton County, Ohio hereby certify that the above Petitioner(s) and the above listed owner(s) is/are all of the owner(s) of the land abutting on the Property.


Andrew D. Graf
Attorney at Law

Ohio Attorney Registration No. 0068608

Bartle Street Abutting Property Owners

Street	Owner	Parcel
515 Melish Ave	Uptown Transportation Authority (UTA)	106-0001-0155-00
3041 Reading Road	Uptown Transportation Authority (UTA)	106-0001-0262-00
3035 Reading Road	Uptown Transportation Authority (UTA)	106-0001-0159-00
Reading Road	Uptown Transportation Authority (UTA)	091-0002-0206-00
Bartle Street	Uptown Transportation Authority (UTA)	091-0001-0132-00
Bartle Street	Uptown Transportation Authority (UTA)	091-0002-0177-00

March 31, 2021

To: Mayor and Members of City Council

202101232

From: Paula Boggs Muething, City Manager

Subject: **CRA TAX EXEMPTION AGREEMENT FOR 17E-FIFTEEN LLC**

Attached is an Emergency Ordinance captioned as follows:

APPROVING AND AUTHORIZING the City Manager to execute a *Community Reinvestment Area Tax Exemption Agreement* with 17E-Fifteen LLC, thereby authorizing an 8-year tax exemption for 100% of the value of improvements made to real property located at 17 E. 15th Street in the Over-the-Rhine neighborhood of Cincinnati, in connection with the remodeling of an existing building into approximately 3,576 square feet of residential space, consisting of 6 residential rental units, at a total construction cost of approximately \$300,000.

BACKGROUND/CURRENT CONDITIONS

17E-Fifteen, LLC owns and intends to renovate the residential property located at 17 E 15th Street in Over-the-Rhine, just south of Liberty Street, between Vine and Walnut Streets. The property has long been vacant, and the existing condition has put the building at great risk. Full stabilization and a gut renovation will be required to make the building habitable once again.

DEVELOPER INFORMATION

17E-Fifteen LLC is a limited liability corporation operated by Amparo Beltri, an individual developer. Ms. Beltri has done at least one other historic rehab in Over-the-Rhine prior to this project, at 1540 Elm Street.

PROJECT DESCRIPTION

The Developer is proposing a stabilization and gut renovation of the four-story, 3,576 sq ft historic property located at 17 E 15th Street to include six (6) market-rate one-bedroom, one-bathroom residential rental units. Rents will be on average \$1,000 per month. Total project cost is estimated to be \$609,368, with construction cost estimated to be \$300,000. The project is estimated to take seven months to complete

and will support the creation of 30 temporary construction jobs with a total payroll of \$200,000. The developer intends to commence construction in April 2021.

PROPOSED INCENTIVE

DCED is recommending an eight-year net 52% CRA tax exemption. The exemption applies only to the increase in improvement value attributed to the renovation.

Pursuant to the Commercial CRA policy established by City Council, this project is located in the Streetcar VTICA Area and is therefore subject to analysis based on project underwriting, VTICA contribution, and job creation to determine abatement terms. The project merits an eight-year net 52% CRA Tax Abatement based on the following criteria:

- Net 15% Streetcar VTICA contribution totals \$6,685 over eight years
- Project will create 30 temporary construction jobs with a total payroll of \$200,000
- Project provides a \$1.59 return for each dollar of City investment

SUMMARY	
Incentive Value	
Annual Net Abatement (Savings to Developer)	\$2,897
Total Term Net Abatement (Savings to Developer)	\$23,175
City's Portion of Property Taxes Forgone	\$5,752
Public Benefit	
CPS PILOT	
Annual CPS Pilot	\$1,838
Total Term CPS PILOT	\$14,707
VTICA	
Annual VTICA	\$836
Total Term VTICA PILOT	\$6,685
Income Tax (Max)	\$2,450
New Permanent Jobs	0
Total Public Benefit (CPS PILOT/VTICA PILOT/Income Tax)	\$23,842
Total Public Benefit ROI	\$1.03
City's ROI	\$1.59

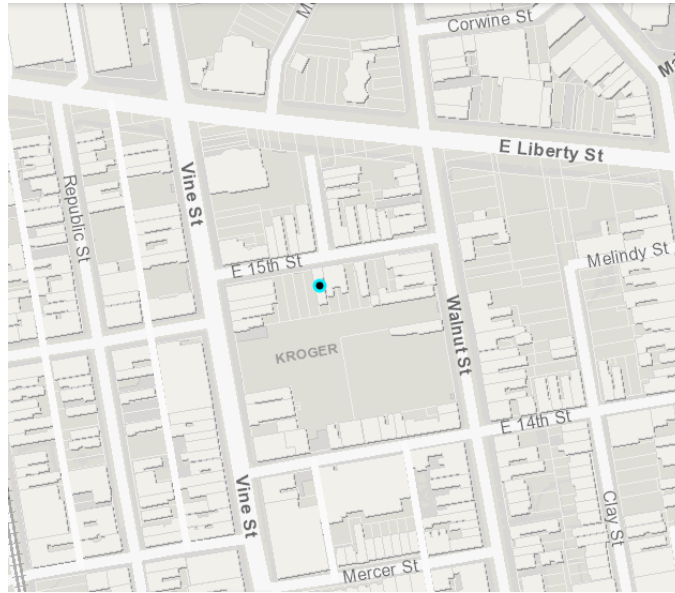
RECOMMENDATION

The Administration recommends approval of this Emergency Ordinance.

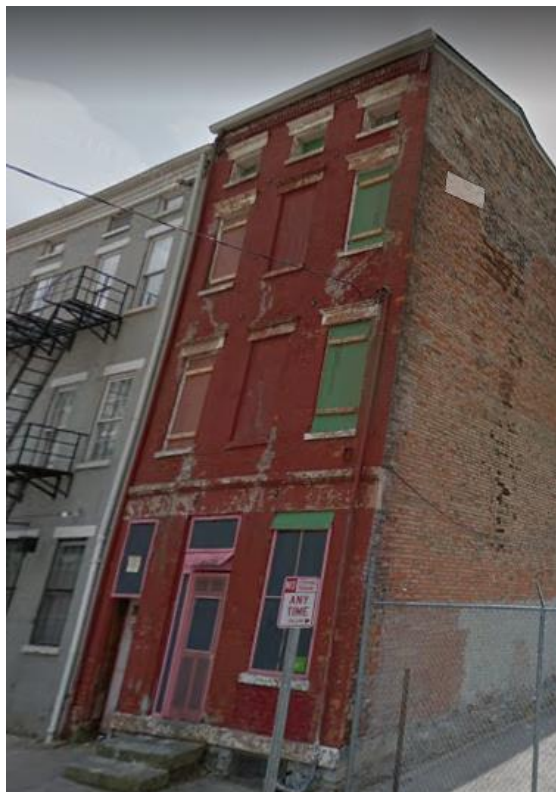
Attachment: A. Property location and photographs

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

Attachment A: Location and Photographs



Property Location



17 E 15th Street

EMERGENCY

JML

City of Cincinnati

AWG/ESW

An Ordinance No. _____ - 2021

APPROVING AND AUTHORIZING the City Manager to execute a *Community Reinvestment Area Tax Exemption Agreement* with 17E-Fifteen LLC, thereby authorizing an 8-year tax exemption for 100% of the value of improvements made to real property located at 17 E. 15th Street in the Over-the-Rhine neighborhood of Cincinnati, in connection with the remodeling of the existing building into approximately 3,576 square feet of residential space, consisting of 6 residential rental units, at a total construction cost of approximately \$300,000.

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

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

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

WHEREAS, 17E-Fifteen LLC (the “Company”) desires to remodel an existing building located on real property at 17 E. 15th Street located within the corporate boundaries of the City of Cincinnati into approximately 3,576 square feet of residential space, consisting of 6 residential rental units (the “Improvements”), provided that the appropriate development incentives are available to support the economic viability of the Improvements; and

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

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

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

such projects, and waived sharing or allocation of municipal income taxes in connection with such projects; and

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

WHEREAS, the Company has represented that it has entered into (or will enter into) a voluntary tax incentive contribution agreement with a third-party organization for amounts equal to 15% of the exempt real property taxes, which funds shall be committed by the third-party organization to pay for streetcar operations that specially benefit the property; and

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

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

Section 1. That Council approves a *Community Reinvestment Area Tax Exemption Agreement* with 17E-Fifteen LLC (the "Agreement"), thereby authorizing an 8-year tax exemption for 100% of the assessed value of improvements to be made to real property located at 17 E. 15th Street in Cincinnati, as calculated by the Hamilton County Auditor, in connection with the remodeling of the existing building into approximately 3,576 square feet of residential space, consisting of 6 residential rental units, to be completed at a total construction cost of approximately \$300,000.

Section 2. That Council authorizes the City Manager:

- (i) to execute the Agreement on behalf of the City in substantially the form of Attachment A to this ordinance; and
- (ii) to forward on behalf of Council a copy of the Agreement, within fifteen (15) days after execution, to the Director of the Ohio Development Services Agency in accordance with Ohio Revised Code Section 3735.671(F); and
- (iii) to submit on behalf of Council annual reports on the Agreement to the Director of the Ohio Development Services Agency and to the Board of Education of the Cincinnati City School District, in accordance with Ohio Revised Code Section 3735.672; and

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

Section 3. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to allow the remodeling described in this ordinance and the corresponding revitalization of the City of Cincinnati and the benefits to the City's economic welfare to begin at the earliest possible time.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

Attachment A to Ordinance

CRA Tax Exemption Agreement

SEE ATTACHED

Community Reinvestment Area Tax Exemption Agreement

This Community Reinvestment Area Tax Exemption Agreement (this "Agreement") is made and entered into as of the Effective Date (as defined on the signature page hereof) by and between the CITY OF CINCINNATI, an Ohio municipal corporation (the "City"), and 17E-FIFTEEN LLC, an Ohio limited liability company (the "Company").

Recitals:

- A. The City, through the adoption of Ordinance No. 274-2017 on September 27, 2017, designated the entire City of Cincinnati as a Community Reinvestment Area to encourage the development of real property and the acquisition of personal property in that area, pursuant to Ohio Revised Code Sections 3735.65 through 3735.70 (the "Statute").
- B. In accordance with the Statute, the Ohio Director of Development has forwarded to the City the Director's determination dated October 23, 2017, stating that the findings contained in Ordinance No. 274-2017 are valid and that the entire City is a Community Reinvestment Area under the Statute. By such determination, the Director of Development of the State of Ohio determined that the area within the corporate boundaries of the City of Cincinnati contains the characteristics set forth in the Statute and confirmed such area as a Community Reinvestment Area under the Statute.
- C. The Council of the City of Cincinnati has also passed Ordinance No. 275-2017 as of September 27, 2017, as amended by Ordinance No. 339-2018 passed on October 31, 2018 (the "Commercial Policy Ordinance"), which sets forth certain additional policies, conditions and limitations regarding newly constructed or remodeled commercial and residential structures in the Community Reinvestment Area.
- D. The Company is the sole owner of certain real property within the City, located at 17 East Fifteenth Street, Cincinnati, Ohio 45202 (the "Property"), as further described in Exhibit A (Legal Description of Property) hereto. Notwithstanding the foregoing, the Property shall not include any residential condominiums being developed in connection with the Project (as defined below) (the "Excluded Property"), and the Company acknowledges and agrees that the City's Community Reinvestment Area program entails separate applications by the owner of any residential condominium units included within the Project. For the avoidance of doubt, the Excluded Property shall not be exempt under this Agreement; however, this provision shall not be deemed to prohibit any owners from time to time of any Excluded Property from separately applying for a tax abatement in accordance with applicable law.
- E. The Company has proposed to remodel the building located on the Property, within the boundaries of the City of Cincinnati, as more fully described in Section 1 herein (the "Project"), provided that the appropriate development incentives are available to support the economic viability of the Project.
- F. The Statute provides that if any part of a project is to be used for commercial or industrial purposes, including projects containing four or more dwelling units, in order to be eligible for tax exemption the City and the Company must enter into an agreement pursuant to Ohio Revised Code Section 3735.671 prior to commencement of construction or remodeling.
- G. The City, having appropriate authority under the Statute for this type of project, agrees (as provided herein and subject to all conditions herein) to provide the Company with the tax exemption incentives stated herein, available under the Statute, for development of the Project.
- H. The Company has submitted to the City an application for this tax exemption agreement (the "Application"), a copy of which is attached hereto as Exhibit B, has remitted with the Application (i) the City application fee of One Thousand Two Hundred Fifty Dollars (\$1,250) made payable to

the City and (ii) in accordance with Ohio Revised Code Section 3735.672(C), the state application fee of Seven Hundred Fifty Dollars (\$750) made payable to the Ohio Development Services Agency ("ODSA"), to be forwarded to the ODSA with an executed copy of this Agreement.

- I. The Director of the City's Department of Community and Economic Development has recommended approval of the Application on the basis that the Company is qualified by financial responsibility and business experience to create and preserve employment opportunities and improve the economic climate of the City.
- J. The Board of Education of the Cincinnati City School District (the "Board of Education"), pursuant to that certain *Tax Incentive Agreement* effective as of April 28, 2020, has approved exemptions of up to one hundred percent (100%) of Community Reinvestment Area projects, waived advance notice and right to review such projects, and waived sharing or allocation of municipal income taxes in connection with such projects.
- K. The Company has entered into (or will enter into) an agreement with the Board of Education requiring the Company to pay the Board of Education amounts equal to thirty-three percent (33%) of the full amount of exempt real property taxes that would have been paid to Hamilton County if this Agreement were not in effect (the "Board of Education Agreement").
- L. The Company represents and warrants to the City that the Company and its major tenants, if any, do not intend to relocate part or all of their operations to the City from another county or municipal corporation in the State of Ohio (the "State").
- M. The Company represents that within the past five (5) years neither the Company, any related member of the Company, nor any entity to which the Company is a successor has discontinued operations at a project site in the State during the term of a property tax exemption agreement (under Ohio Revised Code Section 3735.671, 5709.62, 5709.63 or 5709.632) applicable to that site, and the Company acknowledges that misrepresentation hereunder will result in voiding of this Agreement.
- N. The Company represents and warrants to the City that the Company is not subject to an Enterprise Zone Agreement with the City of Cincinnati for the Property or the Project.
- O. City Council passed (i) Motion No. 201401368 on November 19, 2014, establishing a tax incentive policy that incentivizes each applicant for a real property tax abatement in the neighborhoods of Downtown and OTR to enter into a voluntary tax incentive contribution agreement with a third-party organization ("VTICA") for an amount equal to a percentage of the real property taxes that would have been payable on the abated property but for the City-authorized tax abatement (the "VTICA Contribution"), which funds shall be committed by a third-party organization to pay for streetcar operations that specially benefit the abated property, and (ii) Motion No. 201501592 on December 16, 2015, which established that the VTICA Contribution to be recognized by the Director of the Department of Community and Economic Development is 15% of the real property taxes that would have been payable on the abated property but for the City-authorized tax abatement. The Commercial Policy Ordinance confirmed that such motions have not been superseded and remain the will of Council.
- P. The Company acknowledges that Streetcar operations in the Central Business District and Over-the-Rhine will specially benefit the Project due to (a) the Streetcar's enhancement of public transit options in such neighborhoods and (b) the anticipated increase in property values attributable to public investment in Streetcar infrastructure.
- Q. The Company represents and warrants to the City that the Company has entered or will enter into a VTICA and shall pay the VTICA Contribution each year for the full term of the abatement.

- R. This Agreement has been authorized by Ordinance No. _____-2021, passed by Cincinnati City Council on _____, 2021.
- S. In determining to recommend and authorize this Agreement, the Department of Community and Economic Development and City Council, respectively, have acted in material reliance on the Company's representations in the Application and herein regarding the Project including, but not limited to, representations relating to the number of jobs to be created and/or retained by the Company, the Board of Education Agreement, the VTICA Contribution, and the Project's effect in promoting the general welfare of the people of Cincinnati by, for example, encouraging the development of real property located in the Community Reinvestment Area and thereby promoting economic growth and vitality in Cincinnati.

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

Section 1. Project. Upon issuance of the necessary zoning and building approvals, the Company agrees to remodel the existing building on the Property to include approximately 3,576 square feet of residential improvements, consisting of six residential units (the "Improvements"), at an estimated aggregate cost of \$300,000.00, to commence after the execution of this Agreement and to be completed no later than December 31, 2021; *provided*, however, that the Director of the Department of Community and Economic Development (the "Housing Officer") may, in his discretion, extend such deadline for a period of up to 12 months by written notice if, in the Director's judgment, the Company is proceeding in good faith towards completion. The remodeling shall be in compliance with applicable building code requirements and zoning regulations. In addition to the foregoing, (A) the Project shall comply with the Americans with Disabilities Act, together with any and all regulations or other binding directives promulgated pursuant thereto (collectively, the "ADA"), and (B) if (i) any building(s) within the Project is subject to the accessibility requirements of the ADA (e.g., by constituting a "place of public accommodation" or another category of structure to which the ADA is applicable) and (ii) such building(s) is not already required to meet the Contractual Minimum Accessibility Requirements (as defined below) pursuant to the ADA, applicable building code requirements, or by any other legal requirement, then the Company shall cause such building(s) to comply with the Contractual Minimum Accessibility Requirements in addition to any requirements pursuant to the ADA and the applicable building code or legal requirement. As used herein, "**Contractual Minimum Accessibility Requirements**" means that a building shall, at a minimum, include (1) at least one point of entry (as used in the ADA), accessible from a public right of way, with respect to which all architectural barriers (as used in the ADA) to entry have been eliminated, and (2) if such accessible point of entry is not a building's primary point of entry, conspicuous signage directing persons to such accessible point of entry.

Section 2. Real Property Tax Exemption. Subject to the satisfaction of the conditions set forth in this Agreement, the City approves exemption from real property taxation, pursuant to and to the fullest extent authorized by the Statute, of one hundred percent (100%) of the amount by which the Improvements increase the assessed value of the Property as determined by the Hamilton County Auditor, for a period of eight (8) years, provided that the Company shall have entered into the Board of Education Agreement. Within 120 days after completion of the Project (unless otherwise extended in writing by the City's Housing Officer), the Company must file the appropriate application for tax exemption with the City's Housing Officer. The Company is solely responsible to take this action. Upon receipt of the application for tax exemption, the City will proceed with the exemption authorized by this Agreement. In accordance with Ohio Revised Code Section 3735.67, the exemption is conditioned on verification by the Housing Officer of (A) the completion of remodeling, (B) the cost of remodeling, (C) the facts asserted in the application for exemption and (D) if a remodeled structure is a structure of historical or architectural significance as designated by the City, state or federal government, that the appropriateness of the remodeling has been certified in writing by the appropriate agency. If the required verification is made, the Housing Officer will forward the exemption application to the Hamilton County Auditor with the necessary certification by the Housing Officer. Subject to the conditions set forth in this Agreement, the

exemption commences the first tax year for which the Improvements would first be taxable were the Improvements not exempted from taxation. The dates provided in this paragraph refer to tax years in which the subject property is assessed, as opposed to years in which taxes are billed. No exemption shall commence after tax year 2022 nor extend beyond the earlier of (i) tax year 2029 or (ii) the end of the eighth (8th) year of exemption.

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

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

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

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

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

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

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

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

Section 11. Small Business Enterprise Program.

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

(i) Including qualified SBEs on solicitation lists.

(ii) Assuring that SBEs are solicited whenever they are potential sources.

The Company must advertise, on at least two separate occasions, both in local minority publications and in other local newspapers of general circulation, invitations to SBEs to provide services, to supply materials, or to bid on construction contracts, as applicable.

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

(iv) If any subcontracts are to be let, the Company shall require the prime contractor (if different from the Company) to take the above affirmative steps.

(v) Prior to the commencement of work under any subcontracts, the Company shall provide to the City a list of such subcontractors, including information as to the dollar amount of the subcontracts and such other information as may be requested by the City. The Company shall update the report monthly.

(vi) The Company shall periodically document its best efforts and affirmative steps to meet the above SBE participation goals by submitting such information as may be requested from time to time by the City.

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

Section 12. Jobs. The Company represents that, as of the date of the execution of this Agreement, the Company has no existing employment at the Property or in the State.

Section 13. Job Creation and Retention.

A. Jobs to be Created by Company. The Company agrees to use its best efforts to create 30 full-time temporary construction jobs at the Property in connection with the Project. The job creation and retention period shall be concurrent with remodeling.

B. Company's Estimated Payroll Increase. The Company's increase in the number of employees will result in approximately \$200,000.00 of additional annual payroll prior to the completion of the Project with respect to the full-time temporary construction jobs.

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

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

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

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

Section 16. Default. As provided in Ohio Revised Code Section 3735.671(C)(6), if the Company materially fails to fulfill its obligations under this Agreement, or if the City determines that the certification as to delinquent taxes required by this Agreement (Section 6 hereof) or the covenant of satisfaction of tax and other obligations (Section 7 hereof) is fraudulent, the City may terminate or modify the exemptions from taxation granted or authorized under this Agreement and may require the repayment by the Company of the amount of taxes that would have been payable had the Improvements not been exempted from taxation pursuant to this Agreement. A modification of exemption may be in the form of reduction in the number of years that eligible property is exempt and/or a reduction in the exemption percentage. The City shall provide written notice to the Company prior to finding the Company in default under this section. The notice shall provide the Company with not less than thirty (30) days to cure the default prior to City termination or modification of the exemptions under this Agreement. The City may extend the cure period as reasonably necessary under the circumstances. In the event of such termination or modification, the City is authorized to so notify the appropriate taxing authorities in order to effect the termination or modification. If repayment of previously exempt taxes is required by the City under this Section, such amount shall be paid as directed by the City within thirty (30) days of written demand. The City may secure repayment of such taxes by a lien on the Property in the amount required to be repaid. Such a lien shall attach, and may be perfected, collected, and enforced, in the same manner as a mortgage lien on real property, and shall otherwise have the same force and effect as a

mortgage lien on real property. Amounts due and not paid when due under this Section 16 shall bear interest at the rate specified in Ohio Revised Code Section 1343.03(A) (as in effect on the date of the City's payment demand).

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

Section 18. Revocation.

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

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

Section 19. False Statements; Penalties; Material Representations.

A. Generally. As required in connection with Ohio Revised Code Section 9.66(C), the Company affirmatively covenants that it has made no false statements to the State or the City in the process of obtaining approval for this Agreement. If any representative of the Company has knowingly made a false statement to the State or the City to obtain approval for this Agreement, or if the Company fails to provide any information expressly required under the Application, the Company shall be required to immediately return all benefits received under this Agreement (by payment of the amount of taxes exempted hereunder, paid as directed by the City within thirty (30) days of written demand) and the Company shall be ineligible for any future economic development assistance from the State, any State agency or any political subdivision of the State pursuant to Ohio Revised Code Section 9.66(C)(1). Amounts due and not paid under this Section 19 shall bear interest at the rate of twelve percent (12%) per year. Any person who

provides a false statement to secure economic development assistance (as defined in Ohio Revised Code Section 9.66) may be guilty of falsification, a misdemeanor of the first degree, pursuant to Ohio Revised Code Section 2921.13(F)(1), which is punishable by fine of not more than One Thousand Dollars (\$1,000) and/or a term of imprisonment of not more than six (6) months.

B. Material Representations – Board of Education Agreement and VTICA. The Parties acknowledge and agree that a material failure by the Company to comply with its representations concerning the Board of Education Agreement or VTICA Contribution shall constitute an event of default for purposes of Section 16 (*Default*) and the basis for revocation under Section 18 (*Revocation*). Subject to the terms of the VTICA, if the VTICA is unenforceable for reasons of infeasibility or otherwise, the Company shall enter into alternative arrangements providing for the economic equivalent of the VTICA Contribution in order to support streetcar operations. Such arrangements may include, but are not limited to, providing for the economic equivalent of the VTICA Contribution through formation of a special improvement district. For purposes of this Section 19.B, alternative arrangements must result in services substantially similar to those that would have been supported through the VTICA and at a value that is the economic equivalent of the VTICA Contribution, which value shall not be required to exceed the VTICA Contribution amount that would have been payable by the Company. Any determination of infeasibility or mechanism for providing alternative arrangements is subject to approval by the City at its sole discretion. Nothing in this Section 19.B shall operate to limit the City's enforcement authority under this Agreement including, without limitation, Section 16, Section 18, and Section 19.A.

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

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

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

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

To the City:

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

To the Company:

17E-FIFTEEN LLC
Attention: Amparo Beltri Orta, Member
1540 Elm St.
Cincinnati, Ohio 45202

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

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

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

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

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

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

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

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

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

Section 32. Legislative Action Required. As provided in Ohio Revised Code Section 3735.671(C)(10), the Company and the City acknowledge that this Agreement must be approved by formal action of the City Council of the City as a condition for this Agreement to take effect.

Notwithstanding anything to the contrary herein, this Agreement shall take effect after the later of the date of such approval or the final date of execution of this Agreement by all parties.

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

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

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

Section 36. Wage Enforcement.

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

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

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

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

(c) If this contract is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this contract is required to authorize, and

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

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

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

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

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

Section 38. Counterparts and Electronic Signatures. This Agreement may be executed by the parties hereto in two or more counterparts and each executed counterpart shall be considered an original but all of which together shall constitute one and the same instrument. This Agreement may be executed and delivered by electronic signature; any original signatures that are initially delivered electronically shall be physically delivered as soon as reasonably possible.

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

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

CITY OF CINCINNATI,
an Ohio municipal corporation

17E-FIFTEEN LLC,
an Ohio limited liability Company

By: _____
Paula Boggs Muething, City Manager

Date: _____, 2021

By: _____

Printed Name: _____

Title: _____

Date: _____, 2021

Authorized by resolution dated _____

Approved as to Form:

Assistant City Solicitor

Certified Date: _____

Fund/Code: _____

Amount: _____

By: _____
Karen Alder, City Finance Director

Exhibit A to CRA Agreement

LEGAL DESCRIPTION OF PROPERTY

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

Being Lot Number 60 of Hugh Moore's Subdivision, a Plat of which is recorded in Plat Book 2, Pages 184 and 185 of the Hamilton County, Ohio Records, said premises fronting 20 feet on the south side of East Fifteenth Street (formerly Mary Street) and having a depth of 90 feet, and lying 170 feet east of Vine Street.

Commonly known as: 17 East 15th Street, Cincinnati, OH-45202

Hamilton County

Parcel ID 080-0001-0069-00 **st**

Prior Instrument Reference: O.R 10968, Page 532 Deed Records of Hamilton County, OHIO.

Exhibit B to CRA Agreement
APPLICATION FOR TAX EXEMPTION
TO BE ATTACHED

Community Reinvestment Area Tax Exemption Agreement

This Community Reinvestment Area Tax Exemption Agreement (this "Agreement") is made and entered into as of the Effective Date (as defined on the signature page hereof) by and between the CITY OF CINCINNATI, an Ohio municipal corporation (the "City"), and 17E-FIFTEEN LLC, an Ohio limited liability company (the "Company").

Recitals:

- A. The City, through the adoption of Ordinance No. 274-2017 on September 27, 2017, designated the entire City of Cincinnati as a Community Reinvestment Area to encourage the development of real property and the acquisition of personal property in that area, pursuant to Ohio Revised Code Sections 3735.65 through 3735.70 (the "Statute").
- B. In accordance with the Statute, the Ohio Director of Development has forwarded to the City the Director's determination dated October 23, 2017, stating that the findings contained in Ordinance No. 274-2017 are valid and that the entire City is a Community Reinvestment Area under the Statute. By such determination, the Director of Development of the State of Ohio determined that the area within the corporate boundaries of the City of Cincinnati contains the characteristics set forth in the Statute and confirmed such area as a Community Reinvestment Area under the Statute.
- C. The Council of the City of Cincinnati has also passed Ordinance No. 275-2017 as of September 27, 2017, as amended by Ordinance No. 339-2018 passed on October 31, 2018 (the "Commercial Policy Ordinance"), which sets forth certain additional policies, conditions and limitations regarding newly constructed or remodeled commercial and residential structures in the Community Reinvestment Area.
- D. The Company is the sole owner of certain real property within the City, located at 17 East Fifteenth Street, Cincinnati, Ohio 45202 (the "Property"), as further described in Exhibit A (Legal Description of Property) hereto. Notwithstanding the foregoing, the Property shall not include any residential condominiums being developed in connection with the Project (as defined below) (the "Excluded Property"), and the Company acknowledges and agrees that the City's Community Reinvestment Area program entails separate applications by the owner of any residential condominium units included within the Project. For the avoidance of doubt, the Excluded Property shall not be exempt under this Agreement; however, this provision shall not be deemed to prohibit any owners from time to time of any Excluded Property from separately applying for a tax abatement in accordance with applicable law.
- E. The Company has proposed to remodel the building located on the Property, within the boundaries of the City of Cincinnati, as more fully described in Section 1 herein (the "Project"), provided that the appropriate development incentives are available to support the economic viability of the Project.
- F. The Statute provides that if any part of a project is to be used for commercial or industrial purposes, including projects containing four or more dwelling units, in order to be eligible for tax exemption the City and the Company must enter into an agreement pursuant to Ohio Revised Code Section 3735.671 prior to commencement of construction or remodeling.
- G. The City, having appropriate authority under the Statute for this type of project, agrees (as provided herein and subject to all conditions herein) to provide the Company with the tax exemption incentives stated herein, available under the Statute, for development of the Project.
- H. The Company has submitted to the City an application for this tax exemption agreement (the "Application"), a copy of which is attached hereto as Exhibit B, has remitted with the Application (i) the City application fee of One Thousand Two Hundred Fifty Dollars (\$1,250) made payable to

the City and (ii) in accordance with Ohio Revised Code Section 3735.672(C), the state application fee of Seven Hundred Fifty Dollars (\$750) made payable to the Ohio Development Services Agency ("ODSA"), to be forwarded to the ODSA with an executed copy of this Agreement.

- I. The Director of the City's Department of Community and Economic Development has recommended approval of the Application on the basis that the Company is qualified by financial responsibility and business experience to create and preserve employment opportunities and improve the economic climate of the City.
- J. The Board of Education of the Cincinnati City School District (the "Board of Education"), pursuant to that certain *Tax Incentive Agreement* effective as of April 28, 2020, has approved exemptions of up to one hundred percent (100%) of Community Reinvestment Area projects, waived advance notice and right to review such projects, and waived sharing or allocation of municipal income taxes in connection with such projects.
- K. The Company has entered into (or will enter into) an agreement with the Board of Education requiring the Company to pay the Board of Education amounts equal to thirty-three percent (33%) of the full amount of exempt real property taxes that would have been paid to Hamilton County if this Agreement were not in effect (the "Board of Education Agreement").
- L. The Company represents and warrants to the City that the Company and its major tenants, if any, do not intend to relocate part or all of their operations to the City from another county or municipal corporation in the State of Ohio (the "State").
- M. The Company represents that within the past five (5) years neither the Company, any related member of the Company, nor any entity to which the Company is a successor has discontinued operations at a project site in the State during the term of a property tax exemption agreement (under Ohio Revised Code Section 3735.671, 5709.62, 5709.63 or 5709.632) applicable to that site, and the Company acknowledges that misrepresentation hereunder will result in voiding of this Agreement.
- N. The Company represents and warrants to the City that the Company is not subject to an Enterprise Zone Agreement with the City of Cincinnati for the Property or the Project.
- O. City Council passed (i) Motion No. 201401368 on November 19, 2014, establishing a tax incentive policy that incentivizes each applicant for a real property tax abatement in the neighborhoods of Downtown and OTR to enter into a voluntary tax incentive contribution agreement with a third-party organization ("VTICA") for an amount equal to a percentage of the real property taxes that would have been payable on the abated property but for the City-authorized tax abatement (the "VTICA Contribution"), which funds shall be committed by a third-party organization to pay for streetcar operations that specially benefit the abated property, and (ii) Motion No. 201501592 on December 16, 2015, which established that the VTICA Contribution to be recognized by the Director of the Department of Community and Economic Development is 15% of the real property taxes that would have been payable on the abated property but for the City-authorized tax abatement. The Commercial Policy Ordinance confirmed that such motions have not been superseded and remain the will of Council.
- P. The Company acknowledges that Streetcar operations in the Central Business District and Over-the-Rhine will specially benefit the Project due to (a) the Streetcar's enhancement of public transit options in such neighborhoods and (b) the anticipated increase in property values attributable to public investment in Streetcar infrastructure.
- Q. The Company represents and warrants to the City that the Company has entered or will enter into a VTICA and shall pay the VTICA Contribution each year for the full term of the abatement.

- R. This Agreement has been authorized by Ordinance No. _____-2021, passed by Cincinnati City Council on _____, 2021.
- S. In determining to recommend and authorize this Agreement, the Department of Community and Economic Development and City Council, respectively, have acted in material reliance on the Company's representations in the Application and herein regarding the Project including, but not limited to, representations relating to the number of jobs to be created and/or retained by the Company, the Board of Education Agreement, the VTICA Contribution, and the Project's effect in promoting the general welfare of the people of Cincinnati by, for example, encouraging the development of real property located in the Community Reinvestment Area and thereby promoting economic growth and vitality in Cincinnati.

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

Section 1. Project. Upon issuance of the necessary zoning and building approvals, the Company agrees to remodel the existing building on the Property to include approximately 3,576 square feet of residential improvements, consisting of six residential units (the "Improvements"), at an estimated aggregate cost of \$300,000.00, to commence after the execution of this Agreement and to be completed no later than December 31, 2021; *provided*, however, that the Director of the Department of Community and Economic Development (the "Housing Officer") may, in his discretion, extend such deadline for a period of up to 12 months by written notice if, in the Director's judgment, the Company is proceeding in good faith towards completion. The remodeling shall be in compliance with applicable building code requirements and zoning regulations. In addition to the foregoing, (A) the Project shall comply with the Americans with Disabilities Act, together with any and all regulations or other binding directives promulgated pursuant thereto (collectively, the "**ADA**"), and (B) if (i) any building(s) within the Project is subject to the accessibility requirements of the ADA (e.g., by constituting a "place of public accommodation" or another category of structure to which the ADA is applicable) and (ii) such building(s) is not already required to meet the Contractual Minimum Accessibility Requirements (as defined below) pursuant to the ADA, applicable building code requirements, or by any other legal requirement, then the Company shall cause such building(s) to comply with the Contractual Minimum Accessibility Requirements in addition to any requirements pursuant to the ADA and the applicable building code or legal requirement. As used herein, "**Contractual Minimum Accessibility Requirements**" means that a building shall, at a minimum, include (1) at least one point of entry (as used in the ADA), accessible from a public right of way, with respect to which all architectural barriers (as used in the ADA) to entry have been eliminated, and (2) if such accessible point of entry is not a building's primary point of entry, conspicuous signage directing persons to such accessible point of entry.

Section 2. Real Property Tax Exemption. Subject to the satisfaction of the conditions set forth in this Agreement, the City approves exemption from real property taxation, pursuant to and to the fullest extent authorized by the Statute, of one hundred percent (100%) of the amount by which the Improvements increase the assessed value of the Property as determined by the Hamilton County Auditor, for a period of eight (8) years, provided that the Company shall have entered into the Board of Education Agreement. Within 120 days after completion of the Project (unless otherwise extended in writing by the City's Housing Officer), the Company must file the appropriate application for tax exemption with the City's Housing Officer. The Company is solely responsible to take this action. Upon receipt of the application for tax exemption, the City will proceed with the exemption authorized by this Agreement. In accordance with Ohio Revised Code Section 3735.67, the exemption is conditioned on verification by the Housing Officer of (A) the completion of remodeling, (B) the cost of remodeling, (C) the facts asserted in the application for exemption and (D) if a remodeled structure is a structure of historical or architectural significance as designated by the City, state or federal government, that the appropriateness of the remodeling has been certified in writing by the appropriate agency. If the required verification is made, the Housing Officer will forward the exemption application to the Hamilton County Auditor with the necessary certification by the Housing Officer. Subject to the conditions set forth in this Agreement, the

exemption commences the first tax year for which the Improvements would first be taxable were the Improvements not exempted from taxation. The dates provided in this paragraph refer to tax years in which the subject property is assessed, as opposed to years in which taxes are billed. No exemption shall commence after tax year 2022 nor extend beyond the earlier of (i) tax year 2029 or (ii) the end of the eighth (8th) year of exemption.

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

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

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

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

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

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

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

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

Section 11. Small Business Enterprise Program.

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

(i) Including qualified SBEs on solicitation lists.

(ii) Assuring that SBEs are solicited whenever they are potential sources.

The Company must advertise, on at least two separate occasions, both in local minority publications and in other local newspapers of general circulation, invitations to SBEs to provide services, to supply materials, or to bid on construction contracts, as applicable.

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

(iv) If any subcontracts are to be let, the Company shall require the prime contractor (if different from the Company) to take the above affirmative steps.

(v) Prior to the commencement of work under any subcontracts, the Company shall provide to the City a list of such subcontractors, including information as to the dollar amount of the subcontracts and such other information as may be requested by the City. The Company shall update the report monthly.

(vi) The Company shall periodically document its best efforts and affirmative steps to meet the above SBE participation goals by submitting such information as may be requested from time to time by the City.

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

Section 12. Jobs. The Company represents that, as of the date of the execution of this Agreement, the Company has no existing employment at the Property or in the State.

Section 13. Job Creation and Retention.

A. Jobs to be Created by Company. The Company agrees to use its best efforts to create 30 full-time temporary construction jobs at the Property in connection with the Project. The job creation and retention period shall be concurrent with remodeling.

B. Company's Estimated Payroll Increase. The Company's increase in the number of employees will result in approximately \$200,000.00 of additional annual payroll prior to the completion of the Project with respect to the full-time temporary construction jobs.

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

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

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

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

Section 16. Default. As provided in Ohio Revised Code Section 3735.671(C)(6), if the Company materially fails to fulfill its obligations under this Agreement, or if the City determines that the certification as to delinquent taxes required by this Agreement (Section 6 hereof) or the covenant of satisfaction of tax and other obligations (Section 7 hereof) is fraudulent, the City may terminate or modify the exemptions from taxation granted or authorized under this Agreement and may require the repayment by the Company of the amount of taxes that would have been payable had the Improvements not been exempted from taxation pursuant to this Agreement. A modification of exemption may be in the form of reduction in the number of years that eligible property is exempt and/or a reduction in the exemption percentage. The City shall provide written notice to the Company prior to finding the Company in default under this section. The notice shall provide the Company with not less than thirty (30) days to cure the default prior to City termination or modification of the exemptions under this Agreement. The City may extend the cure period as reasonably necessary under the circumstances. In the event of such termination or modification, the City is authorized to so notify the appropriate taxing authorities in order to effect the termination or modification. If repayment of previously exempt taxes is required by the City under this Section, such amount shall be paid as directed by the City within thirty (30) days of written demand. The City may secure repayment of such taxes by a lien on the Property in the amount required to be repaid. Such a lien shall attach, and may be perfected, collected, and enforced, in the same manner as a mortgage lien on real property, and shall otherwise have the same force and effect as a

mortgage lien on real property. Amounts due and not paid when due under this Section 16 shall bear interest at the rate specified in Ohio Revised Code Section 1343.03(A) (as in effect on the date of the City's payment demand).

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

Section 18. Revocation.

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

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

Section 19. False Statements; Penalties; Material Representations.

A. Generally. As required in connection with Ohio Revised Code Section 9.66(C), the Company affirmatively covenants that it has made no false statements to the State or the City in the process of obtaining approval for this Agreement. If any representative of the Company has knowingly made a false statement to the State or the City to obtain approval for this Agreement, or if the Company fails to provide any information expressly required under the Application, the Company shall be required to immediately return all benefits received under this Agreement (by payment of the amount of taxes exempted hereunder, paid as directed by the City within thirty (30) days of written demand) and the Company shall be ineligible for any future economic development assistance from the State, any State agency or any political subdivision of the State pursuant to Ohio Revised Code Section 9.66(C)(1). Amounts due and not paid under this Section 19 shall bear interest at the rate of twelve percent (12%) per year. Any person who

provides a false statement to secure economic development assistance (as defined in Ohio Revised Code Section 9.66) may be guilty of falsification, a misdemeanor of the first degree, pursuant to Ohio Revised Code Section 2921.13(F)(1), which is punishable by fine of not more than One Thousand Dollars (\$1,000) and/or a term of imprisonment of not more than six (6) months.

B. Material Representations – Board of Education Agreement and VTICA. The Parties acknowledge and agree that a material failure by the Company to comply with its representations concerning the Board of Education Agreement or VTICA Contribution shall constitute an event of default for purposes of Section 16 (*Default*) and the basis for revocation under Section 18 (*Revocation*). Subject to the terms of the VTICA, if the VTICA is unenforceable for reasons of infeasibility or otherwise, the Company shall enter into alternative arrangements providing for the economic equivalent of the VTICA Contribution in order to support streetcar operations. Such arrangements may include, but are not limited to, providing for the economic equivalent of the VTICA Contribution through formation of a special improvement district. For purposes of this Section 19.B, alternative arrangements must result in services substantially similar to those that would have been supported through the VTICA and at a value that is the economic equivalent of the VTICA Contribution, which value shall not be required to exceed the VTICA Contribution amount that would have been payable by the Company. Any determination of infeasibility or mechanism for providing alternative arrangements is subject to approval by the City at its sole discretion. Nothing in this Section 19.B shall operate to limit the City's enforcement authority under this Agreement including, without limitation, Section 16, Section 18, and Section 19.A.

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

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

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

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

To the City:

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

To the Company:

17E-FIFTEEN LLC
Attention: Amparo Beltri Orta, Member
1540 Elm St.
Cincinnati, Ohio 45202

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

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

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

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

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

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

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

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

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

Section 32. Legislative Action Required. As provided in Ohio Revised Code Section 3735.671(C)(10), the Company and the City acknowledge that this Agreement must be approved by formal action of the City Council of the City as a condition for this Agreement to take effect.

Notwithstanding anything to the contrary herein, this Agreement shall take effect after the later of the date of such approval or the final date of execution of this Agreement by all parties.

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

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

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

Section 36. Wage Enforcement.

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

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

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

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

(c) If this contract is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this contract is required to authorize, and

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

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

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

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

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

Section 38. Counterparts and Electronic Signatures. This Agreement may be executed by the parties hereto in two or more counterparts and each executed counterpart shall be considered an original but all of which together shall constitute one and the same instrument. This Agreement may be executed and delivered by electronic signature; any original signatures that are initially delivered electronically shall be physically delivered as soon as reasonably possible.

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

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

CITY OF CINCINNATI,
an Ohio municipal corporation

17E-FIFTEEN LLC,
an Ohio limited liability Company

By: _____
Paula Boggs Muething, City Manager

Date: _____, 2021

By: _____

Printed Name: _____

Title: _____

Date: _____, 2021

Authorized by resolution dated _____

Approved as to Form:

Assistant City Solicitor

Certified Date: _____

Fund/Code: _____

Amount: _____

By: _____
Karen Alder, City Finance Director

Exhibit A to CRA Agreement

LEGAL DESCRIPTION OF PROPERTY

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

Being Lot Number 60 of Hugh Moore's Subdivision, a Plat of which is recorded in Plat Book 2, Pages 184 and 185 of the Hamilton County, Ohio Records, said premises fronting 20 feet on the south side of East Fifteenth Street (formerly Mary Street) and having a depth of 90 feet, and lying 170 feet east of Vine Street.

Commonly known as: 17 East 15th Street, Cincinnati, OH-45202

Hamilton County

Parcel ID 080-0001-0069-00 **st**

Prior Instrument Reference: O.R 10968, Page 532 Deed Records of Hamilton County, OHIO.

Exhibit B to CRA Agreement
APPLICATION FOR TAX EXEMPTION
TO BE ATTACHED

Date: March 31, 2021

202101233

To: Mayor and Members of City Council

From: Paula Boggs Muething, City Manager

Subject: LEGISLATIVE RESOLUTION – DECLARING THE NECESSITY OF ASSESSING
PROPERTIES FOR SPECIAL STREETLIGHTING IN GROUP 1 RESIDENTIAL
DISTRICT (2020-2023)

Attached is a legislative resolution captioned as follows:

DECLARING the necessity of assessing properties in Lighting Group 1 that benefit from special street lighting within the City of Cincinnati for the cost of such lighting for the three-year period beginning August 1, 2020.

The Assessed Street Lighting program allows property owners to pay the added costs for enhanced or increased street lighting services. The Assessed Street Lighting program is divided into three groups; each group is assessed for a three-year period with one group being renewed each year. The groups are classified by the category of lighting and divided into individual districts usually consisting of a street segment.

- Group 1 consists of residential streets lighted by boulevard lights on decorative poles with underground wiring formerly owned by Duke Energy and now owned and maintained by the City.
- Group 2 consists of streets within the central business district. There are various types of lighting within this area, most of which is owned and maintained by the City.
- Group 3 is an assortment of lights and streets not included in Group 1 and Group 2. Included in this group are neighborhood business districts and new residential developments. The ownership and maintenance responsibility for the lighting in these areas is divided between Duke Energy and the City.

The lighting for Group 1 consists of 863 streetlights of various types and wattage's installed on boulevard poles. The estimated total assessment for Group 1 is \$374,944.89 for the three-year assessment period. The City pays for a portion of the total street lighting costs that are relatively equivalent to what is normally provided from City funds on non-assessed streets. This lighting credit, the City's share of the cost of this lighting, for Group 1 varies from \$0.33 to \$2.00 per foot for the period and is determined by the street classification. On streets that have both standard lighting and special lighting, a 2% credit to the total operating and maintenance costs is applied instead. The City also pays the assessments associated with lighting intersections and city, federal, and state property contained within an assessment district.

The annual assessment renewal process has four major steps, which require action by City Council.

- A Resolution of Necessity is prepared by the Law Department and submitted for passage.
- After Council passes the Resolution of Necessity, all property owners who will be assessed more than \$250.00 for the three-year period are notified and given an opportunity to object to the proposed assessment.
- After all objections to the proposed assessment have been addressed, an Ordinance Determining to Proceed is prepared by the Law Department and submitted for passage.
- Immediately following the Ordinance Determining to Proceed, an Assessing Ordinance is prepared and submitted.

The Administration recommends the passage of this legislative resolution.

Attachment I – Exhibit A, Summary of Group 1 Lighting Assessments by Street

cc: John Brazina, Director, Transportation and Engineering
Greg Long, Deputy Director, Transportation and Engineering
Curtis Hines, Transportation and Engineering
Kimberly Jackson, Transportation and Engineering

John B

Legislative Resolution

JRS

AWG/EESW

RESOLUTION NO. _____ - 2021

DECLARING the necessity of assessing properties in Lighting Group 1 that benefit from special street lighting within the City of Cincinnati for the cost of such lighting for the three-year period beginning August 1, 2020.

WHEREAS, R.C. Chapter 727 authorizes the City to levy and collect special assessments for the cost of special street lighting upon abutting, adjacent, contiguous, or specially benefitted lots or lands within the City; and

WHEREAS, Council has determined that properties abutting, adjacent, and contiguous to the streets or portions of streets identified on the attached Exhibit A specially benefit from the special street lighting thereon; now, therefore,

BE IT RESOLVED by the Council of the City of Cincinnati, State of Ohio, three-fourths of the members elected thereto concurring:

Section 1. That it is hereby declared necessary and conducive to the public health, safety, convenience, and general welfare to assess properties in Lighting Group 1 on the streets set forth in Exhibit A attached hereto that benefit from special street lighting, which assessments shall be for such properties' share of the cost of such lighting during the three-year period commencing on August 1, 2020.

Section 2. That the plans, specifications, and cost estimates corresponding to the proposed assessments are on file in the Clerk of Council's office, incorporated herein by reference, and hereby approved.

Section 3. That the City of Cincinnati shall pay from \$0.33 to \$2.00 per front foot for the City's share of the cost of the special lighting subject to the proposed assessment, depending on the street classification, which is equivalent to the estimated cost of lighting the streets to standard level street lighting and is greater than two percent of the total cost of the special street lighting.

Section 4. The balance of the cost shall be assessed by the front-foot method upon all lots and lands that specially benefit from the lighting, except public right-of-way bounding and abutting upon the street or portions thereof and lands owned by the federal or state government.

Section 5. That all properties along the portions of right of way listed on Exhibit A are found to be specially benefited by the special street lighting.

Section 6. That the assessments shall be paid in cash to the City Treasurer within 30 days after the passage of the assessing ordinance or, at the option of the property owner, in three annual installments with interest payable to the City; and that assessments not paid in cash within the 30-day period shall be certified to the County Auditor for collection by the County Treasurer in the same manner as real estate taxes are collected.

Section 7. That the City Manager or her designee shall prepare, in accordance with the method of assessment set forth in Sections 3 and 4 hereof, an estimate of the amount of the assessment against each lot or parcel to be assessed and shall file it in the Office of the Clerk of Council.

Section 8. That the Clerk of Council or a person designated by the Clerk shall serve notice of the passage of this resolution upon the owners of the parcels of land to be assessed by one of the methods authorized by R.C. 727.14, unless the estimate against an owner is over two hundred fifty dollars in which case such owner shall be notified by one of the methods authorized by R.C. 727.13. In addition, notice of the passage of this resolution shall be provided via advertisement in the City Bulletin pursuant to Article II, Section 6 of the City Charter.

Section 9. That the portion of the cost of any uncollectible assessments of federal, state, or City property shall be paid by the City out of a fund provided for this purpose.

Section 10. That notes and bonds of the City of Cincinnati may be issued in anticipation of the levy and collection of the special assessments.

Section 11. That this legislative resolution shall take effect and be in force from and after the earliest period allowed by law.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

EXHIBIT A

<u>Dist #</u>	<u>Street</u>	<u>Limits</u>	<u>Number of Lights</u>	<u>Proposed Rate per Front Foot per Year</u>	<u>Total Assessment</u>
1	ANDINA AVENUE	from the east line of Reading Road to the west line of Rhode Island Avenue	18	\$0.57	\$7,511.38
2	AVONLEA AVENUE	from the east line of Reading Road to the west line of Rhode Island Avenue	19	\$0.58	\$7,952.21
3	BAYARD AVENUE	from the north line of Erie Avenue to the south line of Victoria Avenue	18	\$0.57	\$7,736.13
4	BEAVERTON AVENUE	from the west line of Parkdale Avenue to approx. 487.41' west of west line of Elmshade Avenue	11	\$0.67	\$4,837.99
5	BEECHVIEW CIRCLE	from the south line of Montgomery Road to Rogers Park Place & to the south line of Beech View Subdivision	12	\$0.47	\$4,990.54
6	BELLA VISTA	from the east line of Reading Road to its east terminus	6	\$0.75	\$2,680.21
7	BELLEWOOD AVENUE	from the west line of Ridge Avenue to the east line of Lester Road	9	\$0.60	\$3,894.55
8	BERKLEY AVENUE	from the west line of Rhode Island Avenue to the east line of Reading Road	18	\$0.55	\$7,677.24
9	CASTELTON PLACE	from 140' south of the south line of Northwood Drive to its north terminus	8	\$0.66	\$3,509.13
10	CATALINA AVENUE	from the west line of Rhode Island Avenue to its west terminus	21	\$0.65	\$9,196.17
11	CHALFONTE PLACE	from the west line of Reading Road to its west terminus	6	\$0.63	\$2,614.11
12	CHEYENNE DRIVE	from the south line of Towanda Terrace to the west line of Maketewah View Subdivision	7	\$0.60	\$2,949.03
13	CLIFTON AVENUE	E.S. from the north line of Mc Millian Street to to the north line of Calhoun Street and from the south line of M. L. King Drive to 855' south of the south line of Ludlow Avenue. W.S. from the north line of Mc Millian Street to the south line of Dixmyth	68	\$1.55	\$34,136.34
14	CLIFTON AVENUE	from the south line of Ludlow Ave.: to 855' south of the south line of Ludlow Avenue E.S. the south line of Dixmyth Avenue W.S.	13	\$1.06	\$5,518.71
15	CLIFTON AVENUE	from the north line of Ludlow Avenue to the south line of Lafayette Avenue	38	\$0.46	\$13,203.83
16	CORONADO AVENUE	from the north line of Zula Avenue to the south line of Cleves Pike	17	\$0.80	\$7,657.82
17	CORVALLIS AVENUE	from the west line of Parkdale Avenue to approx. 466.92' west of the west line of Elmshade Avenue	11	\$0.61	\$4,774.08
18	COVEDALE AVENUE	from the north line of Cleves Pike to the south line of Sidney Road	15	\$0.64	\$6,556.46
19	EILEEN DRIVE	from the north line of Madison Road to the south line of Markbrite Avenue	10	\$0.68	\$4,406.65

Dist #	Street	Limits	Number of Lights	Proposed Rate per Front Foot per Year	Total Assessment
20	EPWORTH AVENUE	from the north line of Werk Road to the south line of Ramona Avenue	9	\$0.80	\$4,052.03
21	EUGENIE LANE	from the east line of Werk Road to the west line of LaFeuille Avenue	11	\$0.60	\$4,633.94
22	FAR HILLS DRIVE	Michigan Avenue, south and around Michigan Avenue	10	\$0.56	\$4,165.93
23	FENMORE DRIVE	from the west line of Paddock Road to the east line of Coad Drive	6	\$0.76	\$2,684.10
24	GARDEN LANE	from the west line of Rhode Island Avenue to the west terminus	14	\$0.57	\$6,114.71
25	GRAFTON AVENUE	from the north line of Dale Road to the north line of 5438 Grafton Avenue	13	\$0.54	\$5,526.91
26	GREENLAND PLACE	from the north line of Northwood Drive to 163 feet south of the south line of Miramar Court	6	\$0.65	\$2,629.16
27	HANSFORD PLACE	from the south line of Harrison Ave to the south terminus	8	\$0.69	\$3,533.43
28	HAYWARD AVENUE	from the south line of Principio Avenue to the north line of Arnold Street	12	\$0.69	\$5,299.41
29	JOHNSTONE PLACE	from the south line of Madison Road to the south terminus	8	\$0.64	\$3,498.04
30	KELLYWOOD AVENUE	from the north line of Guerley Road to the north terminus	10	\$0.64	\$4,367.02
31	KENOVA AVENUE	from the west line of Reading Road to a point approximately 1500' west of Reading Road	13	\$0.63	\$5,662.77
32	LACONIA AVENUE	from the north line of Dale Road to the north terminus	13	\$0.59	\$5,618.52
33	LAKELAND AVENUE	from the west line of Parkdale Avenue to approximately 505.08 feet west of Elmshade Avenue	10	\$0.67	\$4,403.15
34	LARRY AVENUE	from the east line of Hamilton Avenue to the east terminus	9	\$0.64	\$3,937.48
35	LAWN AVENUE	from the west line of Rhode Island Avenue to the west terminus	16	\$0.58	\$6,882.56
36	LILLIAN DRIVE	from the north line of Dale Road to the north terminus	10	\$0.61	\$4,343.95
37	LUDLOW AVENUE	from the south line of LaFayette Avenue to the west line of Whitfield Avenue	37	\$0.65	\$14,150.19
38	MANOR HILL DRIVE	from the north line of Ludlow Avenue to the north terminus	8	\$0.50	\$3,268.15
39	MARLINGTON AVENUE	from the east line of Westgate Avenue to the west line of Middlebrook Avenue from the south line of Marlinton Avenue to the north line of Downing Avenue	10	\$0.75	\$4,468.06
40	SOUTH CLEROSE CIRCLE	from the east line of Rosemont Avenue to the east line of Rosemont Avenue	12	\$0.65	\$5,255.35
41	NORTHAMPTON DRIVE	from the east line of Reading Road to the east terminus	5	\$0.64	\$2,187.63

<u>Dist #</u>	<u>Street</u>	<u>Limits</u>	<u>Number of Lights</u>	<u>Proposed Rate per Front Foot per Year</u>	<u>Total Assessment</u>
42	NORTHCUTT AVENUE	from the east line of Reading Road to the west line of Rhode Island Avenue	18	\$0.58	\$7,888.48
43	NORTHWOOD DRIVE	from 150 feet west of Reading Road to the east line of Castleton Place	11	\$0.61	\$4,771.39
44	ORCHARD LANE	the north line of Montgomery Road to approx. 1800' north of Montgomery Road	14	\$0.57	\$6,017.18
45	PORTSMOUTH AVENUE	the east line of Paxton Avenue to the north line of Victoria Avenue	26	\$0.65	\$11,387.28
46	RAWSON WOODS LANE	the west line of Middleton Avenue to the west terminus Rawson Woods Lane Rawson Woods Lane	7	\$0.27	\$2,560.48
47	RAYMAR DRIVE	from the south line of Victoria Avenue to the north line of Erie Avenue and the line of Raymar Drive	24	\$0.73	\$10,683.97
48	ROBINWOOD AVENUE	from from the north line of Kenova & the to west line of Scottwood to approximately 526.5' west of the west line of Elmshade Ave	13	\$0.71	\$5,763.99
49	ROOKWOOD DRIVE, EAST	from from the north line of Grandin Road to the north line of East Rookwood Drive from the east line of Rookwood Drive to the west line of Edwards Road from the east line of Rookwood Avenue to the south line of East Rookwood Drive	30	\$0.60	\$12,989.00
50	ROSECLIFF AVENUE	from from the west line of Reading Road to the east line of Parkdale Avenue	4	\$0.46	\$1,650.89
51	SCHULTE DRIVE	from from the north line of Cappel Drive north than east to the east terminus	10	\$0.68	\$4,408.44
52	SCOTTWOOD AVENUE	from from the south line of Shenandoah Avenue to the north line of Kenova Avenue	10	\$0.43	\$4,086.21
53	SHENANDOAH AVENUE	from from the west line of Reading Road to approximately 446.09' west of Elmshade Avenue	17	\$0.60	\$7,358.62
54	STRATFORD AVENUE	from the north line of DeVotie Avenue to the south line of Probasco Street	7	\$0.54	\$2,980.00
55	STRATFORD PLACE	from the east line of Paddock Road northeast to the northeast terminus	4	\$0.65	\$1,751.14
56	SUNCREST DRIVE	from the west line of Herschel Avenue to the north line of Griest Avenue	9	\$0.60	\$3,897.66
57	TOWANDA TERRACE	from the west line of Paddock Road to the west line of Maketwah View Subdivision	10	\$0.70	\$4,074.50
58	VICTORIA AVENUE	from the east line of Paxton Road to the west line of Erie Avenue	26	\$0.81	\$11,728.83

<u>Dist #</u>	<u>Street</u>	<u>Limits</u>	<u>Number of Lights</u>	<u>Proposed Rate per Front Foot per Year</u>	<u>Total Assessment</u>
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60	WERKASTLE LANE	from the east line of Werk Road to the west line of Eugenie Lane	7	\$0.52	\$2,876.06
61	YORKSHIRE PLACE	from the north line of Northwood Drive to the north terminus	7	\$0.78	\$3,142.66
62	U OF C	East side of Clifton Calhoun to M. L. King	23	\$1.82	\$11,781.75
Count of Assemblies			<u>863</u>	Total Assessment:	<u>\$374,944.89</u>

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62	U OF C	East side of Clifton Calhoun to M. L. King	23	\$1.82	\$11,781.75
Count of Assemblies			<u>863</u>	Total Assessment:	<u>\$374,944.89</u>

Clerk of Council

801 Plum Street, Room 308
Cincinnati, Ohio 45202
(513) 352-3246

\$25.00 FILING FEE*202101250***LEGISLATIVE AGENT/EMPLOYER INITIAL REGISTRATION STATEMENT**

This statement must be filed with the Clerk of Council within ten (10) days of engagement. Please read instructions and review Section 112-5 prior to filing. There is a \$25.00 fee for this filing. *Check or money order only made payable to "Clerk of Council"*. Upon termination of this engagement, there is an affirmative duty to notify the Clerk of Council within thirty (30) days the form may be obtained from Clerk. **ANY PERSON WHO KNOWINGLY FILES A FALSE STATEMENT IS GUILTY OF FALSIFICATION UNDER SECTION 2921.13 OF THE OHIO REVISED CODE, WHICH IS A MISDEMEANOR OF THE FIRST DEGREE.**

A. LEGISLATIVE AGENT INFORMATION

1. Full Name J. Douglas Moormann
2. Occupation Development Strategies Group
3. Title/Position Vice President
4. Business Address 700 Walnut Street Ste 450
Street Suite Number
Cincinnati OH 45202
City State Zip(+4)
5. Telephone Number (513) 651-4100
6. Date of Engagement as Legislative Agent March 15, 2021

B. EMPLOYER INFORMATION

1. Full name of company or organization Cincinnati USA Convention & Visitors Bureau
2. Type of Industry Tourism
3. Business Address 525 Vine Street, Suite 1200
Street Suite Number
Cincinnati OH 45202
City State Zip(+4)

C. BRIEF DESCRIPTION OF THE TYPE OF LEGISLATION TO WHICH LEGISLATIVE AGENT'S ENGAGEMENT RELATES.

Activities related to tourism and replacement revenue for COVID-related TOT losses.

25MAR'21AM9:50

CLERK OF COUNCIL


D. CATEGORICAL LISTING OF PRINCIPAL BUSINESS OR ACTIVITY OF EMPLOYER. PLEASE CHECK ALL THAT ARE APPLICABLE.

<input type="checkbox"/> Agriculture	<input type="checkbox"/> Environment	<input checked="" type="checkbox"/> Real Estate/Housing
<input type="checkbox"/> Alcohol/Tobacco	<input type="checkbox"/> Financial Institutions/Consumer Finance	<input checked="" type="checkbox"/> Retail and Commercial
<input checked="" type="checkbox"/> Arts/Entertainment	<input type="checkbox"/> Medical/Hospitals/Health Care	<input type="checkbox"/> Service Business
<input type="checkbox"/> Communications/Media	<input type="checkbox"/> Insurance	<input type="checkbox"/> Social Svs./Human Svs.
<input type="checkbox"/> Contractors/Construction	<input type="checkbox"/> Labor/Labor Organizations	<input type="checkbox"/> Science and Technology
<input type="checkbox"/> County/Local Government	<input type="checkbox"/> Legal	<input type="checkbox"/> State Employees
<input type="checkbox"/> Education	<input type="checkbox"/> Manufacturer	<input type="checkbox"/> State Government
<input type="checkbox"/> Energy/Utilities	<input type="checkbox"/> Public Interest	<input type="checkbox"/> Transportation

CERTIFICATION: THE UNDERSIGNED HEREBY CERTIFY THAT ALL REASONABLE EFFORTS AND DUE DILIGENCE HAVE BEEN UNDERTAKEN IN THE PREPARATION AND COMPLETION OF THIS STATEMENT AND THAT THE CONTENTS ARE TRUE AND ACCURATE TO THE BEST OF HIS OR HER KNOWLEDGE.

ALL SIGNATURES MUST BE ORIGINAL AND SIGNED PERSONALLY BY THE NAMED INDIVIDUAL.

J. Douglas Moormann
Type or Print Name of Legislative Agent


Signature of Legislative Agent

3/17/2021
Date

Julie Calvert
Type or Print Name of Person Signing for Employer

BY: 
Signature for Employer

President & CEO
Title

3/17/2021
Date

Clerk of Council

801 Plum Street, Room 308
Cincinnati, Ohio 45202
(513) 352-3246

\$25.00 FILING FEE**LEGISLATIVE AGENT/EMPLOYER INITIAL REGISTRATION STATEMENT**

This statement must be filed with the Clerk of Council within ten (10) days of engagement. Please read instructions and review Section 112-5 prior to filing. There is a \$25.00 fee for this filing. *Check or money order only made payable to "Clerk of Council".* Upon termination of this engagement, there is an affirmative duty to notify the Clerk of Council within thirty (30) days the form may be obtained from Clerk. **ANY PERSON WHO KNOWINGLY FILES A FALSE STATEMENT IS GUILTY OF FALSIFICATION UNDER SECTION 2921.13 OF THE OHIO REVISED CODE, WHICH IS A MISDEMEANOR OF THE FIRST DEGREE.**

A. LEGISLATIVE AGENT INFORMATION

1. Full Name Charles H. Gerhardt, III
2. Occupation Development Strategies Group
3. Title/Position President & CEO
4. Business Address 700 Walnut Street Ste 450

City
State
Zip(+4)

Cincinnati OH 45202
5. Telephone Number (513) 651-4100
6. Date of Engagement as Legislative Agent March 15, 2021

B. EMPLOYER INFORMATION

1. Full name of company or organization Cincinnati USA Convention & Visitors Bureau
2. Type of Industry Tourism
3. Business Address 525 Vine Street, Suite 1200

City
State
Zip(+4)

Cincinnati OH 45202

C. BRIEF DESCRIPTION OF THE TYPE OF LEGISLATION TO WHICH LEGISLATIVE AGENT'S ENGAGEMENT RELATES.

Activities related to tourism and replacement revenue for COVID-related TOT losses

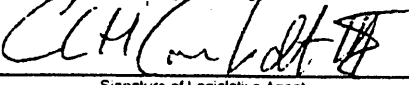
CLERK OF COUNCIL

D. CATEGORICAL LISTING OF PRINCIPAL BUSINESS OR ACTIVITY OF EMPLOYER. PLEASE CHECK ALL THAT ARE APPLICABLE.

<input type="checkbox"/> Agriculture	<input type="checkbox"/> Environment	<input checked="" type="checkbox"/> Real Estate/Housing
<input type="checkbox"/> Alcohol/Tobacco	<input type="checkbox"/> Financial Institutions/Consumer Finance	<input checked="" type="checkbox"/> Retail and Commercial
<input checked="" type="checkbox"/> Arts/Entertainment	<input type="checkbox"/> Medical/Hospitals/Health Care	<input type="checkbox"/> Service Business
<input type="checkbox"/> Communications/Media	<input type="checkbox"/> Insurance	<input type="checkbox"/> Social Svs./Human Svs.
<input type="checkbox"/> Contractors/Construction	<input type="checkbox"/> Labor/Labor Organizations	<input type="checkbox"/> Science and Technology
<input type="checkbox"/> County/Local Government	<input type="checkbox"/> Legal	<input type="checkbox"/> State Employees
<input type="checkbox"/> Education	<input type="checkbox"/> Manufacturer	<input type="checkbox"/> State Government
<input type="checkbox"/> Energy/Utilities	<input type="checkbox"/> Public Interest	<input type="checkbox"/> Transportation

CERTIFICATION: THE UNDERSIGNED HEREBY CERTIFY THAT ALL REASONABLE EFFORTS AND DUE DILIGENCE HAVE BEEN UNDERTAKEN IN THE PREPARATION AND COMPLETION OF THIS STATEMENT AND THAT THE CONTENTS ARE TRUE AND ACCURATE TO THE BEST OF HIS OR HER KNOWLEDGE.

ALL SIGNATURES MUST BE ORIGINAL AND SIGNED PERSONALLY BY THE NAMED INDIVIDUAL.

Charles H. Gerhardt, III
Type or Print Name of Legislative Agent

Signature of Legislative Agent

3/17/2021
Date

Julie Capert
Type or Print Name of Person Signing for Employer

BY: 
Signature for Employer

President + CEO
Title

3/17/2021
Date

City of Cincinnati



801 Plum Street, Suite 356
Cincinnati, Ohio 45202

Phone (513) 352-3464
Email christopher.smitherman@
cincinnati-oh.gov
Web www.cincinnati-oh.gov

202101138

Christopher E. C. Smitherman
Cincinnati Vice Mayor

March 16, 2021

MOTION

WE MOVE that a subcommittee of Economic Growth and Zoning be established to address matters related to small business in the City of Cincinnati.

Vice Mayor Christopher Smitherman

Councilmember Liz Keating

COMMITTEES

Chair: Law & Public Safety • Committees: Economic Growth & Zoning • Neighborhoods

Immediate Consideration

3-16-21

§ 87(2)(b)

March 24, 2021

202101183

To: Mayor and Members of City Council

From: Paula Boggs Muething, City Manager

Subject: **Ordinance – Get Vaccinated OHIO Grant**

Attached is an Ordinance captioned:

AUTHORIZING the City Manager to apply for, accept and appropriate a grant in the amount of \$303,230 from the Get Vaccinated OHIO Public Health Initiative, funded by the Ohio Department of Health, to support activities that will increase immunization rates in children under two years of age, school aged children and adolescents; and **AUTHORIZING** the Director of Finance to deposit the grant funds into Public Health Research Fund 350.

This Ordinance will authorize the City Manager to apply for, accept and appropriate a grant in the amount of \$303,230 from the Get Vaccinated OHIO Public Health Initiative, funded by the Ohio Department of Health, to support activities that will increase immunization rates in children under two years of age, school aged children and adolescents. This Ordinance will also authorize the Director of Finance to deposit the grant funds into Public Health Research Fund 350.

Get Vaccinated OHIO Public Health Initiative is in accordance with the “Sustain” goal to “become a healthier Cincinnati” as described on page 181 of Plan Cincinnati (2012).

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

Attachment





City of Cincinnati
An Ordinance No. _____

MSS

AWB

- 2021

AUTHORIZING the City Manager to apply for, accept, and appropriate a grant in the amount of \$303,230 from the Get Vaccinated OHIO Public Health Initiative, funded by the Ohio Department of Health, to support activities that will increase immunization rates in children under two years of age, school aged children and adolescents; and **AUTHORIZING** the Director of Finance to deposit the grant funds into Public Health Research Fund 350.

WHEREAS, a grant is available from the Get Vaccinated OHIO Public Health Initiative, funded by the Ohio Department of Health, in the amount of \$303,230 to support activities that will increase immunization rates in children under two years of age, school aged children, and adolescents; and

WHEREAS, grant activities will include immunization assessment, targeted reminder and recall, identifying disparities in low immunization levels, educational activities involving families and providers, assuring schools report vaccination rates and school education, and assuring the vaccination of high-risk infants exposed to hepatitis B disease as methods of increasing immunization rates for both public and private immunization providers; and

WHEREAS, the Cincinnati Health Department's grant application is due to the Ohio Department of Health on April 5, 2021, but no grant funds will be accepted without the approval of City Council; and

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

WHEREAS, this ordinance is in accordance with the "Sustain" goal to "[b]ecome a healthier Cincinnati" as described on page 181 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 in the amount of \$303,230 from the Get Vaccinated OHIO Public Health Initiative, funded by the Ohio Department of Health, to support activities that will increase immunization rates in children under two years of age, school aged children, and adolescents.

Section 2. That Council hereby authorizes the Director of Finance to deposit the funds into Public Health Research Fund 350.

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 hereof.

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

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

March 24, 2021

202101184

To: Mayor and Members of City Council

From: Paula Boggs Muething, City Manager

Subject: **Ordinance – Delta Dental Foundation COVID-19 Dental Equipment Grant**

Attached is an Ordinance captioned:

AUTHORIZING the City Manager to accept and appropriate grant resources in the amount of \$20,000 from the Delta Dental Foundation’s COVID-19 Dental Equipment Fund, to provide funds for the Cincinnati Health Department’s purchase of COVID-19 related dental supplies and equipment, including personal protective equipment (“PPE”), air purifiers, teledentistry equipment, and other necessary resources; and **AUTHORIZING** the Director of Finance to receive and deposit the grant funds into Public Health Research Fund 350.

This Ordinance will authorize the City Manager to accept and appropriate a grant in the amount of \$20,000 from the Delta Dental Foundation’s COVID-19 Dental Equipment Fund to provide funds for the Cincinnati Health Department’s purchase of COVID-19 related dental supplies and equipment, including personal protective equipment, air purifiers, teledentistry equipment, and other necessary resources. This Ordinance will also authorize the Director of Finance to deposit the grant funds into Public Health Research Fund 350.

Preventing and controlling COVID-19 cases is in accordance with the “Sustain” goal to “become a healthier Cincinnati” as described on page 181 of Plan Cincinnati (2012).

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

Attachment





City of Cincinnati

CFG

AWB

An Ordinance No. _____ -2021

AUTHORIZING the City Manager to apply for, accept and appropriate grant resources in the amount of \$20,000 from the Delta Dental Foundation's COVID-19 Dental Equipment Fund to provide funds for the Cincinnati Health Department's purchase of COVID-19 related dental supplies and equipment, including personal protective equipment, air purifiers, teledentistry equipment, and other necessary resources; and **AUTHORIZING** the Director of Finance to receive and deposit the grant funds into Public Health Research Fund 350.

WHEREAS, the Health Department applied for a grant of \$20,000 from the Delta Dental Foundation's COVID-19 Dental Equipment Fund to provide funds for the Cincinnati Health Department's purchase of COVID-19 related dental supplies and equipment, including personal protective equipment, air purifiers, teledentistry equipment, and other necessary resources; and

WHEREAS, the grant was approved by the Delta Dental Foundation on February 18, 2021, but should this Ordinance not be approved, the grant funding will not be accepted; and

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

WHEREAS, preventing and controlling COVID-19 cases is in accordance with the "Sustain" goal to "become a healthier Cincinnati" as described on page 181 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 grant resources in the amount of \$20,000 from the Delta Dental Foundation's COVID-19 Dental Equipment Fund to provide funds for the Cincinnati Health Department's purchase of COVID-19 related dental supplies and equipment, including personal protective equipment, air purifiers, teledentistry equipment, and other necessary resources.

Section 2. That the Director of Finance is authorized to deposit the grant funds into Public Health Research Fund 350.

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

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

Passed: _____, 2021

Mayor

Attest: _____
Clerk

March 24, 2021

202101188

To: Mayor and Members of City Council

From: Paula Boggs Muething, City Manager

Subject: Emergency Ordinance – FY 2021 Mid-Year Budget Adjustments

Attached is an Emergency Ordinance captioned:

AUTHORIZING the transfer of the sum of \$60,850 within the General Fund from and to various operating budget accounts for the purpose of providing funds for the ongoing needs of City departments in accordance with the attached Schedule of Transfer; **AUTHORIZING** the transfer of the sum of \$1,744,743 within the Restricted Funds from and to various operating accounts for the purpose of providing funds for the ongoing needs of City departments in accordance with the attached Schedule of Transfer; and **AUTHORIZING** the appropriation of \$300,000 from the unappropriated surplus of 9-1-1 Cell Phone Fees Fund 364 for the purpose of realigning and providing funds for the ongoing needs of City departments in accordance with the attached Schedule of Transfer.

This Emergency Ordinance authorizes the transfer of funds within appropriations in the General Fund and various restricted funds, and also authorizes the transfer of funds from the unappropriated surplus of 9-1-1 Cell Phone Fees Fund 364 to realign and provide funds for the ongoing needs of various City departments according to the attached Schedules of Transfer. A summary of each transfer is as follows:

- General Fund 050 – Savings in the Public Employees Assistance Program (PEAP) non-departmental account are being transferred to the Audit & Examiner's Fees non-departmental account to provide resources for a contractual increase related to the external accounting firm that works on the City's Comprehensive Annual Financial Report (CAFR).
- Water Works Fund 101 – Savings in the General Fund Overhead non-departmental account are being transferred to the Distribution Division. This will provide resources for additional non-personnel expenses in the division related to a higher than average number of water main breaks during FY 2021.
- Stormwater Management Fund 107 – Funds are being transferred within appropriations in this fund to provide necessary resources for the Private Lot Abatement Program (PLAP) in the Department of Buildings and Inspections. The need is based on an expected increased workload during the spring growing season and will be used to pay private contractors to abate tall grass, weeds, and litter on private lots.
- Citizens Jobs Fund 308 – This transfer within appropriations will transfer resources budgeted in the Department of Recreation to the City Manager's

Office. The summer youth employment program contract is being executed in the City Manager's Office.

- Streetcar Fund 455 – This transfer within appropriations will realign budgeted resources with actual expenses. The realignment will eliminate the need for the Department of Transportation and Engineering to process reimbursement interdepartmental (ID) bills related to streetcar expenses.
- 9-1-1 Cell Phone Fees Fund 364 – This transfer will provide resources for the Emergency Communications Center (ECC) to replace their uninterruptible power supply (UPS) which supplies consistent power to the 9-1-1 center and ensures that it remains operational during power failures and fluctuations. Funds are available in the unappropriated surplus of the fund to provide the necessary resources. Reimbursements from the Coronavirus Aid, Relief, and Economic Security (CARES) Act from FY 2020 are being utilized to cover the majority of the costs. The reimbursement was treated as revenue to the fund's unappropriated surplus since it was related to a prior-year expense.

The reason for the emergency is the immediate need to accomplish the authorized transfers and appropriations so that funding is in place for the remainder of FY 2021.

The Administration recommends passage of this Emergency Ordinance.

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

Attachments

EMERGENCY

City of Cincinnati

ZDS

BWB

An Ordinance No. _____

- 2021

AUTHORIZING the transfer of the sum of \$60,850 within the General Fund from and to various operating budget accounts for the purpose of providing funds for the ongoing needs of City departments in accordance with the attached Schedule of Transfer; **AUTHORIZING** the transfer of the sum of \$1,744,743 within the Restricted Funds from and to various operating accounts for the purpose of providing funds for the ongoing needs of City departments in accordance with the attached Schedule of Transfer; and **AUTHORIZING** the appropriation of \$300,000 from the unappropriated surplus of 9-1-1 Cell Phone Fees Fund 364 for the purpose of realigning and providing funds for the ongoing needs of City departments in accordance with the attached Schedule of Transfer.

WHEREAS, various transfers within the General Fund and various Restricted Funds are necessary to provide for the ongoing needs of various City departments; now, therefore,

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

Section 1. That the sum of \$60,850 existing within the General Fund is hereby transferred within said fund according to the attached Schedule of Transfer – Attachment A, for the purpose of providing funds for the ongoing needs of City departments.

Section 2. That the sum of \$1,744,743 existing within the various Restricted Funds is hereby transferred within said funds according to the attached Schedule of Transfer – Attachment B, for the purpose of providing funds to provide for the ongoing needs of City departments.

Section 3. That the sum of \$300,000 is hereby appropriated from the unappropriated surplus of the 9-1-1 Cell Phone Fees Fund according to the attached Schedule of Transfer – Attachment C, for the purpose of realigning and providing funds for the ongoing needs of City departments.

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

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 accomplish the authorized transfers and appropriations so that funding is in place for the remainder of FY 2021.

Passed: _____ 2021

John Cranley, Mayor

Attest: _____
Clerk

SCHEDULE OF TRANSFER

ATTACHMENT A

FY 2021 MID-YEAR ADJUSTMENT SCHEDULE OF TRANSFER

Fund 050 General Fund

REDUCTIONS					INCREASES				
	Fund	Agency	Appropriation Unit	\$ Amount		Fund	Agency	Appropriation Unit	\$ Amount
TRANSFER WITHIN APPROPRIATIONS					SUPPLEMENTAL APPROPRIATIONS				
SOURCE ACCOUNTS					USE ACCOUNTS				
NON-DEPARTMENTAL ACCOUNTS					NON-DEPARTMENTAL ACCOUNTS				
PUBLIC EMPLOYEES ASSISTANCE PROGRAM (PEAP)	050	919	7500	60,850	AUDIT AND EXAMINERS' FEES	050	941	7200	60,850
TOTAL FUND REDUCTIONS				60,850	TOTAL FUND INCREASES				60,850

SCHEDULE OF TRANSFER

ATTACHMENT B

FY 2021 MID-YEAR ADJUSTMENT SCHEDULE OF TRANSFER

Fund 101 Water Works

REDUCTIONS				INCREASES			
Fund	Agency	Appropriation Unit	\$ Amount	Fund	Agency	Appropriation Unit	\$ Amount
TRANSFER WITHIN APPROPRIATIONS				SUPPLEMENTAL APPROPRIATIONS			
SOURCE ACCOUNTS				USE ACCOUNTS			
GREATER CINCINNATI WATER WORKS				GREATER CINCINNATI WATER WORKS			
GENERAL FUND OVERHEAD				DISTRIBUTION			
101	944	7200	500,000	101	304	7200	500,000
TOTAL FUND REDUCTIONS			500,000	TOTAL FUND INCREASES			500,000

Fund 107 Stormwater Management

REDUCTIONS				INCREASES			
Fund	Agency	Appropriation Unit	\$ Amount	Fund	Agency	Appropriation Unit	\$ Amount
TRANSFER WITHIN APPROPRIATIONS				SUPPLEMENTAL APPROPRIATIONS			
SOURCE ACCOUNTS				USE ACCOUNTS			
PUBLIC SERVICES				BUILDINGS AND INSPECTIONS			
NEIGHBORHOOD OPERATIONS				PRIVATE LOT ABATEMENT PROGRAM			
107	253	7400	100,000	107	212	7200	100,000
TOTAL FUND REDUCTIONS			100,000	TOTAL FUND INCREASES			100,000

Fund 308 Citizens Jobs

REDUCTIONS				INCREASES			
Fund	Agency	Appropriation Unit	\$ Amount	Fund	Agency	Appropriation Unit	\$ Amount
TRANSFER WITHIN APPROPRIATIONS				SUPPLEMENTAL APPROPRIATIONS			
SOURCE ACCOUNTS				USE ACCOUNTS			
RECREATION				CITY MANAGER'S OFFICE			
SUPPORT SERVICES				CITY MANAGER			
308	199	7100	1,015,000	308	101	7200	1,015,000
TOTAL FUND REDUCTIONS			1,015,000	TOTAL FUND INCREASES			1,015,000

Fund 455 Streetcar Operations

REDUCTIONS				INCREASES			
Fund	Agency	Appropriation Unit	\$ Amount	Fund	Agency	Appropriation Unit	\$ Amount
TRANSFER WITHIN APPROPRIATIONS				SUPPLEMENTAL APPROPRIATIONS			
SOURCE ACCOUNTS				USE ACCOUNTS			
TRANSPORTATION AND ENGINEERING				NON-DEPARTMENTAL ACCOUNTS			
TRAFFIC ENGINEERING				TRAFFIC SERVICES			
455	239	7100	88,309	455	238	7100	88,309
TRAFFIC ENGINEERING				TRAFFIC SERVICES			
455	239	7500	41,434	455	238	7500	41,434
TOTAL FUND REDUCTIONS			129,743	TOTAL FUND INCREASES			129,743

SCHEDULE OF TRANSFER

ATTACHMENT C

FY 2021 MID-YEAR ADJUSTMENT SCHEDULE OF TRANSFER

Fund 364 9-1-1 Cell Phone Fees

<i>REDUCTIONS</i>				<i>INCREASES</i>			
Fund	Agency	Appropriation Unit	\$ Amount	Fund	Agency	Appropriation Unit	\$ Amount
TRANSFER WITHIN APPROPRIATIONS				SUPPLEMENTAL APPROPRIATIONS			
SOURCE ACCOUNTS				USE ACCOUNTS			
UNAPPROPRIATED SURPLUS				CITY MANAGER'S OFFICE			
	364		300,000		364	103 7300	300,000
				EMERGENCY COMMUNICATIONS CENTER			
TOTAL FUND REDUCTIONS			300,000	TOTAL FUND INCREASES			300,000

SCHEDULE OF TRANSFER

ATTACHMENT A

FY 2021 MID-YEAR ADJUSTMENT SCHEDULE OF TRANSFER

Fund 050 General Fund

<i>REDUCTIONS</i>					<i>INCREASES</i>				
	Fund	Agency	Appropriation Unit	\$ Amount		Fund	Agency	Appropriation Unit	\$ Amount
TRANSFER WITHIN APPROPRIATIONS					SUPPLEMENTAL APPROPRIATIONS				
SOURCE ACCOUNTS					USE ACCOUNTS				
NON-DEPARTMENTAL ACCOUNTS					NON-DEPARTMENTAL ACCOUNTS				
PUBLIC EMPLOYEES ASSISTANCE PROGRAM (PEAP)	050	919	7500	60,850	AUDIT AND EXAMINERS' FEES	050	941	7200	60,850
TOTAL FUND REDUCTIONS				60,850	TOTAL FUND INCREASES				60,850

SCHEDULE OF TRANSFER

ATTACHMENT B

FY 2021 MID-YEAR ADJUSTMENT SCHEDULE OF TRANSFER

Fund 101 Water Works

<i>REDUCTIONS</i>					<i>INCREASES</i>				
	Fund	Agency	Appropriation Unit	\$ Amount		Fund	Agency	Appropriation Unit	\$ Amount
TRANSFER WITHIN APPROPRIATIONS					SUPPLEMENTAL APPROPRIATIONS				
SOURCE ACCOUNTS					USE ACCOUNTS				
GREATER CINCINNATI WATER WORKS					GREATER CINCINNATI WATER WORKS				
GENERAL FUND OVERHEAD	101	944	7200	500,000	DISTRIBUTION	101	304	7200	500,000
TOTAL FUND REDUCTIONS				500,000	TOTAL FUND INCREASES				500,000

Fund 107 Stormwater Management

<i>REDUCTIONS</i>					<i>INCREASES</i>				
	Fund	Agency	Appropriation Unit	\$ Amount		Fund	Agency	Appropriation Unit	\$ Amount
TRANSFER WITHIN APPROPRIATIONS					SUPPLEMENTAL APPROPRIATIONS				
SOURCE ACCOUNTS					USE ACCOUNTS				
PUBLIC SERVICES					BUILDINGS AND INSPECTIONS				
NEIGHBORHOOD OPERATIONS	107	253	7400	100,000	PRIVATE LOT ABATEMENT PROGRAM	107	212	7200	100,000
TOTAL FUND REDUCTIONS				100,000	TOTAL FUND INCREASES				100,000

Fund 308 Citizens Jobs

<i>REDUCTIONS</i>					<i>INCREASES</i>				
	Fund	Agency	Appropriation Unit	\$ Amount		Fund	Agency	Appropriation Unit	\$ Amount
TRANSFER WITHIN APPROPRIATIONS					SUPPLEMENTAL APPROPRIATIONS				
SOURCE ACCOUNTS					USE ACCOUNTS				
RECREATION					CITY MANAGER'S OFFICE				
SUPPORT SERVICES	308	199	7100	1,015,000	CITY MANAGER	308	101	7200	1,015,000
TOTAL FUND REDUCTIONS				1,015,000	TOTAL FUND INCREASES				1,015,000

Fund 455 Streetcar Operations

<i>REDUCTIONS</i>					<i>INCREASES</i>				
	Fund	Agency	Appropriation Unit	\$ Amount		Fund	Agency	Appropriation Unit	\$ Amount
TRANSFER WITHIN APPROPRIATIONS					SUPPLEMENTAL APPROPRIATIONS				
SOURCE ACCOUNTS					USE ACCOUNTS				
TRANSPORTATION AND ENGINEERING					NON-DEPARTMENTAL ACCOUNTS				
TRAFFIC ENGINEERING	455	239	7100	88,309	TRAFFIC SERVICES	455	238	7100	88,309
TRAFFIC ENGINEERING	455	239	7500	41,434	TRAFFIC SERVICES	455	238	7500	41,434
TOTAL FUND REDUCTIONS				129,743	TOTAL FUND INCREASES				129,743

SCHEDULE OF TRANSFER

ATTACHMENT C

FY 2021 MID-YEAR ADJUSTMENT SCHEDULE OF TRANSFER

Fund 364 9-1-1 Cell Phone Fees

<i>REDUCTIONS</i>				<i>INCREASES</i>			
Fund	Agency	Appropriation Unit	\$ Amount	Fund	Agency	Appropriation Unit	\$ Amount
TRANSFER WITHIN APPROPRIATIONS				SUPPLEMENTAL APPROPRIATIONS			
SOURCE ACCOUNTS				USE ACCOUNTS			
UNAPPRORPRIATED SURPLUS				CITY MANAGER'S OFFICE			
	364		300,000		364	103 7300	300,000
TOTAL FUND REDUCTIONS				TOTAL FUND INCREASES			
			300,000				300,000



David S. Mann
Councilmember

202101189

March 18, 2021

MOTION

Budget Policy Direction to City Administration for Recommended FY 2022 General Fund Operating Budget

WE MOVE that the City administration prepare a Fiscal Year 2022 Recommended General Fund Operating Budget which respects the following policy guidelines and priorities:

1. The Fiscal Year 2022 General Fund Operating Budget must be balanced. While continuing to strive to have a structurally balanced budget, the fiscal impacts of the pandemic may necessitate the use of one-time sources to balance in Fiscal Year 2022.
2. Given the projected \$30.0 million gap between General Fund revenues and expenditures, federal stimulus funds should be used to offset the projected FY 2022 operating budget deficit based on the eligible uses of funds for pandemic related expenditures and/or loss of revenue.
3. Police and Fire should be funded consistent with bargaining agreements based on the departments' plans to reach their approved budgeted full strength complement of 1,059 police officers and 859 firefighters.
4. Other basic and core services should be maintained with recommendations to incrementally restore staff and services to levels necessary to meet the needs of our citizens as fully as possible. Based on departmental presentations to the Budget and Finance Committee, priority attention should be given to the needs of ECC, Public Services, DCED, CCA, Recreation and the capital needs of Parks. Pedestrian safety, affordable housing, public health, and environmentally friendly initiatives also should receive priority consideration by the administration.
5. The FY 2022 Operating Budget should be prepared consistent with the ordinance passed June 21, 2017, which directs the City Council to increase appropriations to human services over a five-year period to 1.5% of the General Fund Budget. Specifically, the FY 2022 appropriation should be 1.4% of last fiscal year's General Fund Budget.
6. The budget should maintain support for neighborhood groups, including Neighborhood Community Councils and Neighborhood Business Districts.
7. Council is still committed to building a fund balance to 16.7% or two months of prior year revenues within a reasonable time frame.



David S. Mann
Councilmember

8. The Budget should include long term maintenance costs when building medians and other traffic calming infrastructure.

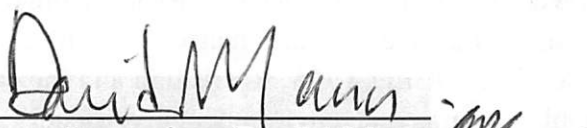
9. The Budget should include a fully funded greenspace maintenance budget that covers the needed maintenance requirements of all city managed properties.

10. The Budget should include funding for 40 recruits for Fire Recruit Class #118 to ensure that start date is no later than July 1, 2021, and for 40 recruits for Fire Recruit Class #119 to target a start date of April 1, 2022.

11. The Budget should include funding for 43 recruits for Police Recruit Class #111 to ensure that the start date is no later than July 1, 2021, and for 43 recruits for Police Recruit Class #112. Both classes would utilize funding from the COPS Hiring Grant Program awarded to the City.

12. The Budget should include funding for an Urban League of Greater Southwestern Ohio pilot youth mentoring program - HOPE, OPPORTUNITY, CHOICES AND CONSEQUENCES (H.O.C.C.) ACADEMY - for the upcoming summer to be part of the currently city-funded Community Police Partnering Center.

13. Motions signed by one or more Councilmembers and budget statements from one or more Councilmembers should be considered in preparing the Recommended Budget.


Councilmember David Mann

March 24, 2021

202101190

To: Mayor and Members of City Council

From: Paula Boggs Muething, City Manager

Subject: Emergency Ordinance – ODNR Waterway Safety Grant

Attached is an Emergency Ordinance captioned:

ESTABLISHING new capital improvement program project no. 980x199x211921, “Riverside Boat Ramp Improvements”; and **AUTHORIZING** the City Manager to apply for, accept, and appropriate a grant in an amount of up to \$200,000 from the Ohio Department of Natural Resources Waterways Safety Fund for the purpose of providing funding for the design and construction of the improved boat ramp, boat dock, and restrooms at the Riverside boat ramp.

This Emergency Ordinance authorizes the City Manager to apply for, accept, and appropriate a grant in the amount of up to \$200,000 from the State of Ohio, Ohio Department of Natural Resources (ODNR) Waterways Safety Fund (WSF) for the purpose of funding design and construction of a new loading dock, any repairs to the existing dock, renovation of the existing restrooms to be Americans with Disabilities Act (ADA) compliant, any ADA updates needed to access the dock, and any new lighting that is needed at the ramp and boat parking areas. In addition, this Emergency Ordinance also authorizes the Finance Director to establish new capital improvement program project account no. 980x199x211921, "Riverside Boat Ramp Improvements", for the purpose of providing grant resources for the engineering, design, and construction of the improvements.

The ODNR Waterways Safety Fund is a federally funded reimbursement grant program that provides 75% of project funding, so there is a 25% match required. The required match of \$50,000 will be offset by CRC providing engineering and design services, in-kind labor contributed by department staff and will provide the remaining cash funds from resources available in Recreation's Outdoor Facilities Renovation capital improvement program project account no. 980x199x211900, “Outdoor Facilities Renovation.” There are no new FTE are associated with the grant. While the grant application deadline is April 1st, 2021, funding will not be accepted without the approval of this Emergency Ordinance by the City Council.

This Emergency Ordinance is in accordance with the “Live” goal to “Create a more livable community,” as described on page 156 of Plan Cincinnati (2012).

The reason for the emergency is the immediate need to assure timely submission of the grant application and acceptance of any granted funds.

The Administration recommends passage of this Emergency Ordinance.

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



Attachment



EMERGENCY

City of Cincinnati

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An Ordinance No. _____

- 2021

ESTABLISHING new capital improvement program project no. 980x199x211921, "Riverside Boat Ramp Improvements"; and **AUTHORIZING** the City Manager to apply for, accept, and appropriate a grant in an amount of up to \$200,000 from the Ohio Department of Natural Resources Waterways Safety Fund for the purpose of providing funding for the design and construction of the improved boat ramp, boat dock, and restrooms at the Riverside boat ramp.

WHEREAS, a grant is available from the Ohio Department of Natural Resources ("ODNR") Waterways Safety Fund which will provide funding for the design and construction of a new loading dock, repairs to the existing dock, renovation of the existing restrooms to comply with the Americans with Disabilities Act ("ADA"), accessibility updates to the existing dock required under the ADA, and any necessary additional lighting at the ramp and boat parking areas for the facilities at the Riverside boat ramp; and

WHEREAS, the ODNR Waterways Safety Fund is a federally funded reimbursement grant program that provides up to 75% project funding and requires a 25% local match; and

WHEREAS, the required match of \$50,000 will be partially offset by Cincinnati Recreation Commission ("CRC") staff providing engineering and design services as in-kind labor and the remaining local match amount will come from resources available in capital improvement program project account no. 980x199x211900, "Outdoor Facilities Renovation"; and

WHEREAS, the application deadline for these grant resources is April 1, 2021, and CRC intends to apply by this date, but funding will not be accepted without authorization by City Council; and

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

WHEREAS, capital improvements to CRC facilities are in accordance with the "Live" goal to "Create a more livable community" as described on page 156 of Plan Cincinnati (2012); now, therefore,

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

Section 1. That the Finance Director is hereby authorized to establish new capital improvement program project account no. 980x199x211921, "Riverside Boat Ramp

Improvements” for the purpose of providing resources for the design and construction of the improved boat ramp, boat dock, and restrooms at the Riverside boat ramp.

Section 2. That the City Manager is hereby authorized to apply for, accept, and appropriate an amount of up to \$200,000 from Ohio Department of Natural Resources Waterways Safety Fund into the newly established capital improvement program project account no. 980x199x211921, “Riverside Boat Ramp Improvements.”

Section 3. That the proper City officials are hereby authorized to do all things necessary and proper to comply with the terms of Sections 1 and 2 hereof.

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 assure the timely submission of the grant application and acceptance of any granted funds.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

March 24, 2020

To: Mayor and Members of City Council

202101191

From: Paula Boggs Muething, City Manager

Subject: **ORDINANCE – DETERMINING TO PROCEED WALWORTH
SPECIAL ASSESSMENT**

Attached is an Emergency Ordinance captioned as follows:

DETERMINING to proceed with improving Walworth Avenue in the East End neighborhood of Cincinnati by constructing an extension thereto, together with curbs, street lighting, streetscaping, sidewalks, water mains, and storm and sanitary sewer; necessary remediation of soil in the related right-of-way; installing retaining walls; acquiring land necessary to construct and install the foregoing; and acquiring, constructing, and installing other related improvements, and of assessing certain lots adjacent to Walworth Avenue, as extended, for costs of those improvements, in accordance with Chapter 727 of the Ohio Revised Code.

BACKGROUND/CURRENT CONDITIONS

The project site is located at 3100 Walworth Avenue, Cincinnati in the East End neighborhood of Cincinnati. In total, the site includes 7.1410 acres of vacant, unimproved land where 39 single family lots have been created and construction has commenced on a number of the lots. The whole assembled site comprises the Homearama Development proposed by East End Developers LLC.

DEVELOPER INFORMATION

East End Developers, LLC, an affiliate of Meierjohan Building Group – led by Thomas J. Ackermann and Ralph Meierjohan, will be the developing entity of the site. T.J. Ackermann and Ralph Meierjohan have each been developing and building communities in the Greater Cincinnati area for the past 30 years. Together they have a large wealth of knowledge and experience in the field of real estate development, construction, and project management. Upon completion of public improvements and site preparation, third party home builders will purchase parcels for single-family home development from East End Developers, LLC.

PROJECT DESCRIPTION

Developer has remediated a contaminated brownfield site at 3101 Walworth Avenue in the East End neighborhood and prepared the site for the construction of 39 single family homes. This is the site of Homearama @ Walworth Junction in partnership with the Greater Cincinnati Home Builders Association. Developer will cause construction of the 39 single family homes; each home will consist of approximately 3,000 square feet of living space and range in sales price from \$800,000 to \$1,600,000. In addition, the Developer will be seeking LEED Neighborhood Development – a first in the City of Cincinnati – requiring all homes built in the subdivision to meet LEED Gold standards.

Developer will also construct several public infrastructure improvements. This includes sidewalks, extension of the Walworth Avenue Street, stormwater, sewer, public signage, remediation of certain environmental conditions and other related improvements to the Walworth Junction housing sub-division.

SPECIAL ASSESSMENT

This Ordinance is the second of three pieces of legislation being submitted in response to a petition received from owners comprising 33 lots within the Homearama site to assess the costs of the public infrastructure against the lots. The assessment will assess an estimated \$3,073,661.83 of eligible public infrastructure costs and associated financing costs over a 15-year period. The estimated per lot assessment is \$10,000 per year per lot. The remaining 6 lots have prefunded their associated public infrastructure costs.

City Council previously approved Legislative Resolution 23-2021 declaring the necessity of the assessment on March 15, 2021. Upon passage of this ordinance and the corresponding assessment ordinance, the legislative process for the Special Assessment will be completed. There will be additional legislation forthcoming regarding the public infrastructure financing legislation in cooperation with the Port Authority for this project

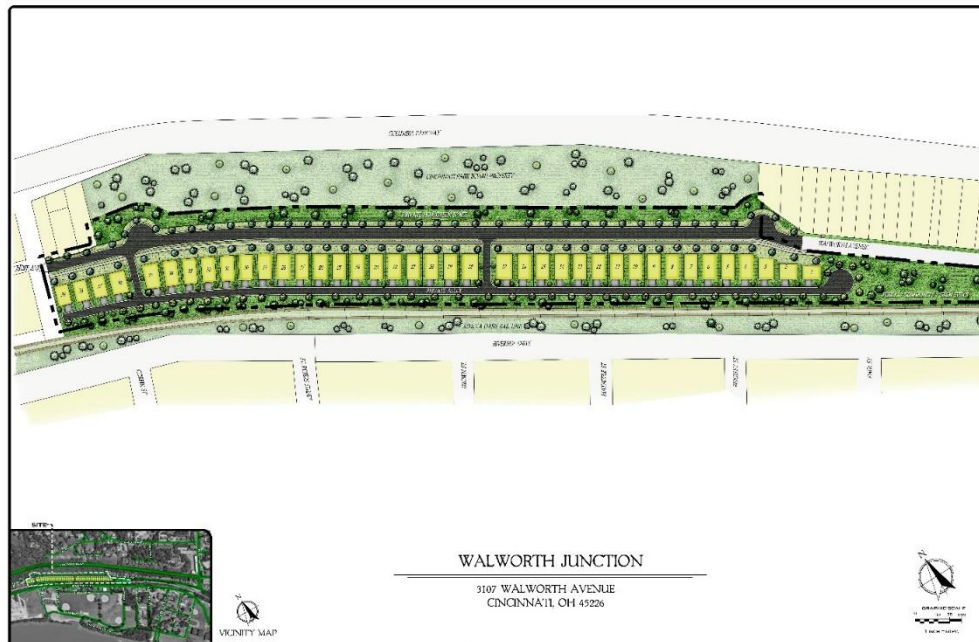
RECOMMENDATION

The Administration recommends approval of this Emergency Ordinance. The reason for the emergency clause is to facilitate the completion of the project and construction of all of the homes at the earliest possible time.

Attachment: A. Proposed Site Plan

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

Attachment A: Site Plan



EMERGENCY

City of Cincinnati

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An Ordinance No. _____

- 2021

DETERMINING to proceed with improving Walworth Avenue in the East End neighborhood of Cincinnati by constructing an extension thereto, together with curbs, street lighting, streetscaping, sidewalks, water mains, and storm and sanitary sewer; necessary remediation of soil in the related right-of-way; installing retaining walls; acquiring land necessary to construct and install the foregoing; and acquiring, constructing, and installing other related improvements, and of assessing certain lots adjacent to Walworth Avenue, as extended, for costs of those improvements, in accordance with Chapter 727 of the Ohio Revised Code.

WHEREAS, on March 17, 2021, Council adopted a resolution (the "Resolution") (i) declaring the necessity of improving Walworth Avenue by constructing an extension thereto, together with curbs, street lighting, streetscaping, sidewalks, water mains, and storm and sanitary sewer; remediation of soil in the related right-of-way; installing retaining walls; acquiring land necessary to construct and install the foregoing; and acquiring, constructing, and installing other related improvements (the "Public Infrastructure Improvements") and of assessing certain lots for the costs of the Public Infrastructure Improvements; (ii) accepting the petition of the owners of 100% of the lands benefitted and to be assessed requesting the Public Infrastructure Improvements, which is presently on file with the Clerk of Council (the "Petition"); and (iii) determining, among other things, that (a) the Public Infrastructure Improvements should be treated as a single improvement, (b) the "Assessable Cost" (as defined and described in the Petition) should be paid in the amount of \$3,073,661.83, together with interest and financing costs, from assessments levied for the Public Infrastructure Improvements against the assessed property (the "Special Assessments"), and (c) the City intends to cooperate with the Port of Greater Cincinnati Development Authority (the "Port Authority") to issue bonds or other indebtedness of the Port Authority to provide for the up-front costs of the Public Infrastructure Improvements, which indebtedness will be repaid via the collection of the Special Assessments; and

WHEREAS, pursuant to the Resolution, the estimated Special Assessments were prepared and placed on file in the Office of the Clerk of Council; and

WHEREAS, 100% of the owners of the lots and lands to be assessed waived, among other things, any further notice required by law in connection with the Public Infrastructure Improvements, and the right to object to and make claims for damages alleged to result from the Public Infrastructure Improvements; now, therefore,

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

Section 1. That Council determines to proceed with improving Walworth Avenue by constructing an extension thereto, together with curbs, street lighting, streetscaping, sidewalks,

water mains, and storm and sanitary sewer; necessary remediation of soil in the related right-of-way; installing retaining walls; acquiring land necessary to construct and install the foregoing; and acquiring, constructing, and installing other related improvements (the “Public Infrastructure Improvements”), as further described in the petition for the Public Infrastructure Improvements received from the owners of 100% of the lots and lands to be assessed and on file with the Clerk of Council (the “Petition”) and the plans, specifications, and profiles included therewith.

Section 2. That the Public Infrastructure Improvements shall be made in accordance with the provisions of the Resolution declaring the necessity of making the Public Infrastructure Improvements, which was adopted by this Council on March 17, 2021 (the “Resolution”), and in accordance with the plans, specifications, profiles, and estimates of cost of the Public Infrastructure Improvements, approved pursuant to the Resolution and now on file in the office of the Clerk of Council.

Section 3. That the portion of the “Assessable Cost” (as defined in the Resolution) of the Public Infrastructure Improvements to be assessed shall be \$3,073,661.83, together with interest and financing costs, and that this amount shall be assessed on the properties described in the Resolution and payable in 30 semi-annual installments or otherwise in the manner determined by the Hamilton County Treasurer, all as further described and provided in the Resolution.

Section 4. That the City intends to cooperate with the Port of Greater Cincinnati Development Authority (the “Port Authority”) to facilitate the issuance by the Port Authority of bonds or other indebtedness to pay for the up-front costs of the Public Infrastructure Improvements, a portion of which bonds or other indebtedness the City anticipates will be repaid via the special assessments collected.

Section 5. That Council adopts and approves the estimated assessments heretofore prepared and filed in the office of the Clerk of Council, as set forth in the Resolution.

Section 6. That Council, in compliance with Ohio Revised Code (“ORC”) Section 319.61, hereby authorizes the proper City officials to deliver a certified copy of this ordinance to the Hamilton County Auditor within 15 days after the date of passage hereof.

Section 7. That no claims for damages have been filed pursuant to ORC Section 727.18 or shall be inquired into before commencing and completing the Public Infrastructure Improvements, and the right to make such claims has been waived by the owners of 100% of the lots and lands to be assessed.

Section 8. That Council finds and determines that all formal actions of this Council concerning and relating to the passage of this ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law including the Charter of the City and ORC Section 121.22.

Section 9. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is to enable the construction contemplated hereby to proceed as scheduled and to effectuate the improvement of the City’s transportation network and increase the amount of developable land within Cincinnati as soon as possible.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

March 24, 2021

To: Mayor and Members of City Council

202101192

From: Paula Boggs Muething, City Manager

Subject: **COMMUNITY REINVESTMENT AREA TAX EXEMPTION
AGREEMENT FOR 64 E. MCMICKEN LLC**

Attached is an Emergency Ordinance captioned as follows:

APPROVING AND AUTHORIZING the City Manager to execute a *Community Reinvestment Area Tax Exemption Agreement* with 64 E McMicken LLC, an affiliate of Northcrown Property LLC thereby authorizing a 15-year tax exemption for 100% of the value of improvements made to real property located at 64 E. McMicken Avenue in the Over-the-Rhine neighborhood of Cincinnati, in connection with the remodeling of the existing building into approximately 1,370 square feet of commercial space and approximately 4,003 square feet of residential space, consisting of 6 apartments, at a total construction cost of approximately \$919,178.

BACKGROUND/CURRENT CONDITIONS

This property is a multi-story vacant building in the Over-the-Rhine neighborhood of Cincinnati. It is within the OTR Historic District. The property is within walking distance to Grant Park. The Developer submitted a CRA application to DCED requesting assistance in the redevelopment of this property.

DEVELOPER INFORMATION

64 E. McMicken LLC is an entity affiliate of Northcrown Property LLC, a neighborhood developer, who primarily redevelops vacant buildings in the Over the Rhine neighborhood surrounding Grant Park. In the past, they have stabilized the historic Crown Brewery Building located at 131 E. McMicken and have multiple projects underway north along E. McMicken.

PROJECT DESCRIPTION

Once completed, this project will consist of 6 apartment units and 1,370 square feet of commercial space. Rent will range between \$938-\$1,498 per month depending on the square footage of the unit (ranging from 469-899 square feet). In connection with this project, it is estimated that 20 temporary construction jobs are created at a total annual payroll of \$750,000.

This project is consistent with several of Plan Cincinnati's goals including the City's goal to remain competitive economically, and the City's goal to be good stewards of its resources—both built and environmental.

PROPOSED INCENTIVE

The Ordinance provides for a 100% (net 52%), 15-year CRA tax exemption for this property. The exemption applies only to the increase in value of the building attributable to the project improvements. Pursuant to the Commercial CRA policy established by City Council, this project is located within the Streetcar VTICA Area and is therefore subject to analysis based on project underwriting, VTICA contribution, and job creation to determine abatement terms.

The administration is recommending a 15 year CRA term to allow for the project to secure adequate construction and permanent financing using the realized savings. This project will result in a more vibrant commercial district along the McMicken corridor and bring much needed housing to the northern section of Over the Rhine.

SUMMARY	
Forgone Public Benefit if Project Does not Proceed	
CPS PILOT (Forgone New Revenue)	(\$56,327)
VTICA (Forgone New Revenue)	(\$25,603)
Income Tax (Forgone New Revenue)	(\$27,825)
Total Public Benefit Lost	(\$109,755)
Incentive Value	
Annual Net Incentive to Developer	\$8,876
Total Term Incentive to Developer	\$88,758
City's Portion of Property Taxes Forgone	\$22,029
Public Benefit	
CPS PILOT	
Annual CPS Pilot	\$5,633
Total Term CPS PILOT	\$56,327
VTICA	
Annual VTICA	\$2,560
Total Term VTICA	\$25,603
Income Tax (Max)	\$27,825
Total Public Benefit (CPS PILOT/VTICA /Income Tax)	\$109,755
Total Public Benefit ROI*	\$1.24
City's ROI*	\$4.98

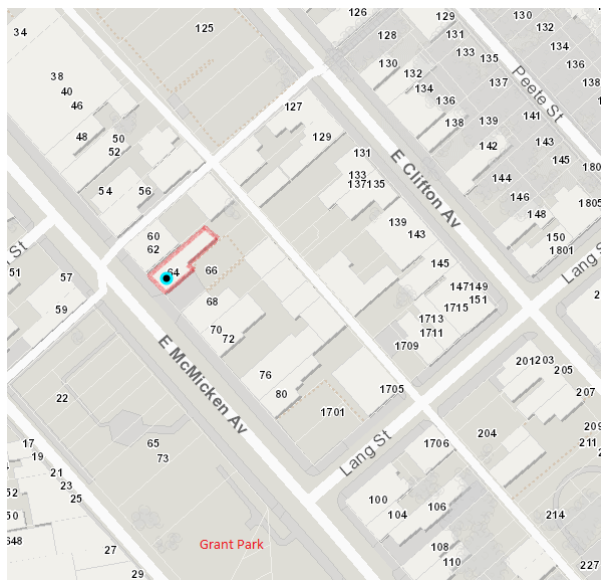
RECOMMENDATION

The Administration recommends approval of this Emergency Ordinance. The emergency clause in the Ordinance is required for the developer to maintain a strict project schedule.

Attachment: A. Property location and photographs

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

Attachment A: Location and Photographs



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City of Cincinnati

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An Ordinance No. _____ - 2021

APPROVING AND AUTHORIZING the City Manager to execute a *Community Reinvestment Area Tax Exemption Agreement* with 64 E. McMicken LLC, an affiliate of Northcrown Property LLC, thereby authorizing a 15-year tax exemption for 100% of the value of improvements made to real property located at 64 E. McMicken Avenue in the Over-the-Rhine neighborhood of Cincinnati, in connection with the remodeling of the existing building into approximately 1,370 square feet of commercial space and approximately 4,003 square feet of residential space, consisting of 6 apartments, at a total construction cost of approximately \$919,178.

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

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

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

WHEREAS, 64 E. McMicken LLC (the "Company") desires to remodel an existing building located on real property at 64 E. McMicken Avenue located within the corporate boundaries of the City of Cincinnati into approximately 1,370 square feet of commercial space and approximately 4,003 square feet of residential space, consisting of 6 apartments (the "Improvements"), provided that the appropriate development incentives are available to support the economic viability of the Improvements; and

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

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

WHEREAS, the Board of Education of the Cincinnati City School District (the "Board of Education"), pursuant to that certain *Tax Incentive Agreement* effective as of April 28, 2020 (as

may be amended, the “Board of Education Agreement”), has approved exemptions of up to 100% of Community Reinvestment Area projects, waived advance notice and the right to review such projects, and waived sharing or allocation of municipal income taxes in connection with such projects; and

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

WHEREAS, the Company has represented that it has entered into (or will enter into) a voluntary tax incentive contribution agreement with a third-party organization for amounts equal to 15% of the exempt real property taxes, which funds shall be committed by the third-party organization to pay for streetcar operations that specially benefit the property; and

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

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

Section 1. That Council approves a *Community Reinvestment Area Tax Exemption Agreement* with 64 E. McMicken LLC (the “Agreement”), thereby authorizing a 15-year tax exemption for 100% of the assessed value of improvements to be made to real property located at 64 E. McMicken Avenue in Cincinnati, as calculated by the Hamilton County Auditor, in connection with the remodeling of the existing building into approximately 1,370 square feet of commercial space and approximately 4,003 square feet of residential space, consisting of 6 apartments, to be completed at a total construction cost of approximately \$919,178.

Section 2. That Council authorizes the City Manager:

- (i) to execute the Agreement on behalf of the City in substantially the form of Attachment A to this ordinance; and
- (ii) to forward on behalf of Council a copy of the Agreement, within fifteen (15) days after execution, to the Director of the Ohio Development Services Agency in accordance with Ohio Revised Code Section 3735.671(F); and
- (iii) to submit on behalf of Council annual reports on the Agreement to the Director of the Ohio Development Services Agency and to the Board of Education of the Cincinnati City School District, in accordance with Ohio Revised Code Section 3735.672; and

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

Section 3. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to allow the remodeling described in this ordinance and the corresponding revitalization of the City of Cincinnati and the benefits to the City's economic welfare to begin at the earliest possible time.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

Attachment A to Ordinance

CRA Tax Exemption Agreement

SEE ATTACHED

Community Reinvestment Area Tax Exemption Agreement

This Community Reinvestment Area Tax Exemption Agreement (this "Agreement") is made and entered into as of the Effective Date (as defined on the signature page hereof) by and between the CITY OF CINCINNATI, an Ohio municipal corporation (the "City"), and 64 E. MCMICKEN LLC, an Ohio limited liability company and affiliate of Northcrown Property LLC (the "Company").

Recitals:

- A. The City, through the adoption of Ordinance No. 274-2017 on September 27, 2017, designated the entire City of Cincinnati as a Community Reinvestment Area to encourage the development of real property and the acquisition of personal property in that area, pursuant to Ohio Revised Code Sections 3735.65 through 3735.70 (the "Statute").
- B. In accordance with the Statute, the Ohio Director of Development has forwarded to the City the Director's determination dated October 23, 2017, stating that the findings contained in Ordinance No. 274-2017 are valid and that the entire City is a Community Reinvestment Area under the Statute. By such determination, the Director of Development of the State of Ohio determined that the area within the corporate boundaries of the City of Cincinnati contains the characteristics set forth in the Statute and confirmed such area as a Community Reinvestment Area under the Statute.
- C. The Council of the City of Cincinnati has also passed Ordinance No. 275-2017 as of September 27, 2017, as amended by Ordinance No. 339-2018 passed on October 31, 2018 (the "Commercial Policy Ordinance"), which sets forth certain additional policies, conditions and limitations regarding newly constructed or remodeled commercial and residential structures in the Community Reinvestment Area.
- D. The Company is the sole owner of certain real property within the City, located at 64 E. McMicken Ave., Cincinnati, Ohio 45202 (the "Property"), as further described in Exhibit A (Legal Description of Property) hereto. Notwithstanding the foregoing, the Property shall not include any residential condominiums being developed in connection with the Project (as defined below) (the "Excluded Property"), and the Company acknowledges and agrees that the City's Community Reinvestment Area program entails separate applications by the owner of any residential condominium units included within the Project. For the avoidance of doubt, the Excluded Property shall not be exempt under this Agreement; however, this provision shall not be deemed to prohibit any owners from time to time of any Excluded Property from separately applying for a tax abatement in accordance with applicable law.
- E. The Company has proposed to remodel the existing building located on the Property, within the boundaries of the City of Cincinnati, as more fully described in Section 1 herein (the "Project"), provided that the appropriate development incentives are available to support the economic viability of the Project.
- F. The Statute provides that if any part of a project is to be used for commercial or industrial purposes, including projects containing four or more dwelling units, in order to be eligible for tax exemption the City and the Company must enter into an agreement pursuant to Ohio Revised Code Section 3735.671 prior to commencement of construction or remodeling.
- G. The City, having appropriate authority under the Statute for this type of project, agrees (as provided herein and subject to all conditions herein) to provide the Company with the tax exemption incentives stated herein, available under the Statute, for development of the Project.
- H. The Company has submitted to the City an application for this tax exemption agreement (the "Application"), a copy of which is attached hereto as Exhibit B, has remitted with the Application (i) the City application fee of One Thousand Two Hundred Fifty Dollars (\$1,250) made payable to

the City and (ii) in accordance with Ohio Revised Code Section 3735.672(C), the state application fee of Seven Hundred Fifty Dollars (\$750) made payable to the Ohio Development Services Agency ("ODSA"), to be forwarded to the ODSA with an executed copy of this Agreement.

- I. The Director of the City's Department of Community and Economic Development has recommended approval of the Application on the basis that the Company is qualified by financial responsibility and business experience to create and preserve employment opportunities and improve the economic climate of the City.
- J. The Board of Education of the Cincinnati City School District (the "Board of Education"), pursuant to that certain *Tax Incentive Agreement* effective as of April 28, 2020, has approved exemptions of up to one hundred percent (100%) of Community Reinvestment Area projects, waived advance notice and right to review such projects, and waived sharing or allocation of municipal income taxes in connection with such projects.
- K. The Company has entered into (or will enter into) an agreement with the Board of Education requiring the Company to pay the Board of Education amounts equal to thirty-three percent (33%) of the full amount of exempt real property taxes that would have been paid to Hamilton County if this Agreement were not in effect (the "Board of Education Agreement").
- L. The Company represents and warrants to the City that the Company and its major tenants, if any, do not intend to relocate part or all of their operations to the City from another county or municipal corporation in the State of Ohio (the "State").
- M. The Company represents that within the past five (5) years neither the Company, nor any related member of the Company nor any entity to which the Company is a successor has discontinued operations at a project site in the State during the term of a property tax exemption agreement (under Ohio Revised Code Section 3735.671, 5709.62, 5709.63 or 5709.632) applicable to that site, and the Company acknowledges that misrepresentation hereunder will result in voiding of this Agreement.
- N. The Company represents and warrants to the City that the Company is not subject to an Enterprise Zone Agreement with the City of Cincinnati for the Property or the Project.
- O. City Council passed (i) Motion No. 201401368 on November 19, 2014, establishing a tax incentive policy that incentivizes each applicant for a real property tax abatement in the neighborhoods of Downtown and OTR to enter into a voluntary tax incentive contribution agreement with a third-party organization ("VTICA") for an amount equal to a percentage of the real property taxes that would have been payable on the abated property but for the City-authorized tax abatement (the "VTICA Contribution"), which funds shall be committed by a third-party organization to pay for streetcar operations that specially benefit the abated property, and (ii) Motion No. 201501592 on December 16, 2015, which established that the VTICA Contribution to be recognized by the Director of the Department of Community and Economic Development is 15% of the real property taxes that would have been payable on the abated property but for the City-authorized tax abatement. The Commercial Policy Ordinance confirmed that such motions have not been superseded and remain the will of Council.
- P. The Company acknowledges that Streetcar operations in the Central Business District and Over-the-Rhine will specially benefit the Project due to (a) the Streetcar's enhancement of public transit options in such neighborhoods and (b) the anticipated increase in property values attributable to public investment in Streetcar infrastructure.
- Q. The Company represents and warrants to the City that the Company has entered or will enter into a VTICA and shall pay the VTICA Contribution each year for the full term of the abatement.

R. This Agreement has been authorized by Ordinance No. _____-2021, passed by Cincinnati City Council on _____, 2021.

S. In determining to recommend and authorize this Agreement, the Department of Community and Economic Development and City Council, respectively, have acted in material reliance on the Company's representations in the Application and herein regarding the Project including, but not limited to, representations relating to the number of jobs to be created and/or retained by the Company, the Board of Education Agreement, the VTICA Contribution, and the Project's effect in promoting the general welfare of the people of Cincinnati by, for example, encouraging the development of real property located in the Community Reinvestment Area and thereby promoting economic growth and vitality in Cincinnati.

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

Section 1. Project. Upon issuance of the necessary zoning and building approvals, the Company agrees to remodel the existing building on the property on the Property into approximately 4,003 square feet of residential space consisting of six (6) apartment units and 1,370 square feet of commercial space (the "Improvements") at an estimated aggregate cost of \$919,178 to commence after the execution of this Agreement and to be completed no later than April 1, 2022; *provided*, however, that the Director of the Department of Community and Economic Development (the "Housing Officer") may, in his discretion, extend such deadline for a period of up to 12 months by written notice if, in the Director's judgment, the Company is proceeding in good faith towards completion. The remodeling shall be in compliance with applicable building code requirements and zoning regulations. In addition to the foregoing, (A) the Project shall comply with the Americans with Disabilities Act, together with any and all regulations or other binding directives promulgated pursuant thereto (collectively, the "**ADA**"), and (B) if (i) any building(s) within the Project is subject to the accessibility requirements of the ADA (e.g., by constituting a "place of public accommodation" or another category of structure to which the ADA is applicable) and (ii) such building(s) is not already required to meet the Contractual Minimum Accessibility Requirements (as defined below) pursuant to the ADA, applicable building code requirements, or by any other legal requirement, then the Company shall cause such building(s) to comply with the Contractual Minimum Accessibility Requirements in addition to any requirements pursuant to the ADA and the applicable building code or legal requirement. As used herein, "**Contractual Minimum Accessibility Requirements**" means that a building shall, at a minimum, include (1) at least one point of entry (as used in the ADA), accessible from a public right of way, with respect to which all architectural barriers (as used in the ADA) to entry have been eliminated, and (2) if such accessible point of entry is not a building's primary point of entry, conspicuous signage directing persons to such accessible point of entry.

Section 2. Real Property Tax Exemption. Subject to the satisfaction of the conditions set forth in this Agreement, the City approves exemption from real property taxation, pursuant to and to the fullest extent authorized by the Statute, of one hundred percent (100%) of the amount by which the Improvements increase the assessed value of the Property as determined by the Hamilton County Auditor, for a period of fifteen (15) years, provided that the Company shall have entered into the Board of Education Agreement. Within 120 days after completion of the Project (unless otherwise extended in writing by the City's Housing Officer), the Company must file the appropriate application for tax exemption with the City's Housing Officer. The Company is solely responsible to take this action. Upon receipt of the application for tax exemption, the City will proceed with the exemption authorized by this Agreement. In accordance with Ohio Revised Code Section 3735.67, the exemption is conditioned on verification by the Housing Officer of (A) the completion of remodeling, (B) the cost of remodeling, (C) the facts asserted in the application for exemption and (D) if a remodeled structure is a structure of historical or architectural significance as designated by the City, state or federal government, that the appropriateness of the remodeling has been certified in writing by the appropriate agency. If the required verification is made, the Housing Officer will forward the exemption application to the Hamilton County Auditor with the necessary certification by the Housing Officer. Subject to the conditions set forth in this Agreement, the

exemption commences the first tax year for which the Improvements would first be taxable were the Improvements not exempted from taxation. The dates provided in this paragraph refer to tax years in which the subject property is assessed, as opposed to years in which taxes are billed. No exemption shall commence after tax year 2022 nor extend beyond the earlier of (i) tax year 2036 or (ii) the end of the 15th year of exemption.

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

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

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

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

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

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

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

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

Section 11. Small Business Enterprise Program.¹

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

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

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

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

enforce specific performance of the terms of this Section. The provisions of CMC Section 323-99 are hereby incorporated by reference into this Agreement.

Section 12. Jobs. The Company represents that, as of the date of the execution of this Agreement, (i) the Company has three existing full-time employment positions with an annual payroll of approximately \$95,000 at the Property (the "Retained Jobs") and (ii) the Company has no other existing employment at the Property or in the State.

Section 13. Job Creation and Retention.

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

B. Jobs to be Created by Company. The Company agrees to use its best efforts to create 20 full-time temporary construction jobs at the Property in connection with the Project. In the case of the construction jobs, the job creation and retention period shall be concurrent with remodeling.

C. Company's Estimated Payroll Increase. The Company's increase in the number of employees will result in approximately \$750,000.00 of additional annual payroll prior to the completion of the Project with respect to the full-time temporary construction jobs.

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

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

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

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

Section 16. Default. As provided in Ohio Revised Code Section 3735.671(C)(6), if the Company materially fails to fulfill its obligations under this Agreement, or if the City determines that the certification as to delinquent taxes required by this Agreement (Section 6 hereof) or the covenant of satisfaction of tax and other obligations (Section 7 hereof) is fraudulent, the City may terminate or modify the exemptions from taxation granted or authorized under this Agreement and may require the repayment by the Company of the amount of taxes that would have been payable had the Improvements not been exempted from taxation pursuant to this Agreement. A modification of exemption may be in the form of reduction in the number of years that eligible property is exempt and/or a reduction in the exemption percentage. The City shall provide written notice to the Company prior to finding the Company in default

under this section. The notice shall provide the Company with not less than thirty (30) days to cure the default prior to City termination or modification of the exemptions under this Agreement. The City may extend the cure period as reasonably necessary under the circumstances. In the event of such termination or modification, the City is authorized to so notify the appropriate taxing authorities in order to effect the termination or modification. If repayment of previously exempt taxes is required by the City under this Section, such amount shall be paid as directed by the City within thirty (30) days of written demand. The City may secure repayment of such taxes by a lien on the Property in the amount required to be repaid. Such a lien shall attach, and may be perfected, collected, and enforced, in the same manner as a mortgage lien on real property, and shall otherwise have the same force and effect as a mortgage lien on real property. Amounts due and not paid when due under this Section 16 shall bear interest at the rate specified in Ohio Revised Code Section 1343.03(A) (as in effect on the date of the City's payment demand).

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

Section 18. Revocation.

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

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

Section 19. False Statements; Penalties; Material Representations.

A. Generally. As required in connection with Ohio Revised Code Section 9.66(C), the Company affirmatively covenants that it has made no false statements to the State or the City

in the process of obtaining approval for this Agreement. If any representative of the Company has knowingly made a false statement to the State or the City to obtain approval for this Agreement, or if the Company fails to provide any information expressly required under the Application, the Company shall be required to immediately return all benefits received under this Agreement (by payment of the amount of taxes exempted hereunder, paid as directed by the City within thirty (30) days of written demand) and the Company shall be ineligible for any future economic development assistance from the State, any State agency or any political subdivision of the State pursuant to Ohio Revised Code Section 9.66(C)(1). Amounts due and not paid under this Section 19 shall bear interest at the rate of twelve percent (12%) per year. Any person who provides a false statement to secure economic development assistance (as defined in Ohio Revised Code Section 9.66) may be guilty of falsification, a misdemeanor of the first degree, pursuant to Ohio Revised Code Section 2921.13(F)(1), which is punishable by fine of not more than One Thousand Dollars (\$1,000) and/or a term of imprisonment of not more than six (6) months.

B. Material Representations – Board of Education Agreement and VTICA. The Parties acknowledge and agree that a material failure by the Company to comply with its representations concerning the Board of Education Agreement or VTICA Contribution shall constitute an event of default for purposes of Section 16 (*Default*) and the basis for revocation under Section 18 (*Revocation*). Subject to the terms of the VTICA, if the VTICA is unenforceable for reasons of infeasibility or otherwise, the Company shall enter into alternative arrangements providing for the economic equivalent of the VTICA Contribution in order to support streetcar operations. Such arrangements may include, but are not limited to, providing for the economic equivalent of the VTICA Contribution through formation of a special improvement district. For purposes of this Section 19.B, alternative arrangements must result in services substantially similar to those that would have been supported through the VTICA and at a value that is the economic equivalent of the VTICA Contribution, which value shall not be required to exceed the VTICA Contribution amount that would have been payable by the Company. Any determination of infeasibility or mechanism for providing alternative arrangements is subject to approval by the City at its sole discretion. Nothing in this Section 19.B shall operate to limit the City's enforcement authority under this Agreement including, without limitation, Section 16, Section 18, and Section 19.A.

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

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

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

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

to such other address as is communicated in accordance with this Section):

To the City:

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

To the Company:

64 E. McMicken LLC
Attention: Jeremy Moore, Chief Operating Officer
131 E. McMicken Avenue
Cincinnati, Ohio 45202

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

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

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

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

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

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

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

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

abatement authorized by this Agreement shall be basis for revocation of the tax exemption under Section 18.

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

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

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

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

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

Section 36. Wage Enforcement.

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

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

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

(b) If this contract is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this contract is required to include

provisions in solicitations and contracts regarding a Development Site that all employers, Contractors or Subcontractors performing or proposing to perform work on a Development Site provide an initial sworn and notarized "Affidavit Regarding Wage Theft and Payroll Fraud" on a form prescribed by the city manager or his or her designee and, within 30 days of an Adverse Determination or Complaint of Wage Theft or Payroll Fraud, shall provide an "Amended Affidavit Regarding Wage Theft and Payroll Fraud" on a form prescribed by the city manager or his or her designee.

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

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

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

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

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

Section 38. Counterparts and Electronic Signatures. This Agreement may be executed by the parties hereto in two or more counterparts and each executed counterpart shall be considered an original but all of which together shall constitute one and the same instrument. This Agreement may be executed and delivered by electronic signature; any original signatures that are initially delivered electronically shall be physically delivered as soon as reasonably possible.

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

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

CITY OF CINCINNATI,
an Ohio municipal corporation

64 E. MCMICKEN LLC,
an Ohio limited liability company

By: _____
Paula Boggs Muething, City Manager

Date: _____, 2021

By: _____

Printed Name: _____

Title: _____

Date: _____, 2021

Authorized by resolution dated _____

Approved as to Form:

Assistant City Solicitor

Certified Date: _____

Fund/Code: _____

Amount: _____

By: _____

Karen Alder, City Finance Director

Exhibit A to CRA Agreement

LEGAL DESCRIPTION OF PROPERTY

Parcel No. 94-5(298 & 299 Cons.)
64 E. McMicken Avenue, Cincinnati, Ohio
Prior Instrument Reference: Official Record Book 13688, Page 1365

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

Being all of Lot Eight (8) and the easterly twenty-three (23) feet of Lot Nine (9) of the subdivision by the executors of James Findlay, deceased, of Block 2 of Findlay and Ludlow's Subdivision as recorded in Deed Book 70, Page 134, Recorder's office, Hamilton County, Ohio.

Exhibit B to CRA Agreement
APPLICATION FOR TAX EXEMPTION

TO BE ATTACHED

Attachment A to Ordinance

CRA Tax Exemption Agreement

SEE ATTACHED

Community Reinvestment Area Tax Exemption Agreement

This Community Reinvestment Area Tax Exemption Agreement (this "Agreement") is made and entered into as of the Effective Date (as defined on the signature page hereof) by and between the CITY OF CINCINNATI, an Ohio municipal corporation (the "City"), and 64 E. MCMICKEN LLC, an Ohio limited liability company and affiliate of Northcrown Property LLC (the "Company").

Recitals:

- A. The City, through the adoption of Ordinance No. 274-2017 on September 27, 2017, designated the entire City of Cincinnati as a Community Reinvestment Area to encourage the development of real property and the acquisition of personal property in that area, pursuant to Ohio Revised Code Sections 3735.65 through 3735.70 (the "Statute").
- B. In accordance with the Statute, the Ohio Director of Development has forwarded to the City the Director's determination dated October 23, 2017, stating that the findings contained in Ordinance No. 274-2017 are valid and that the entire City is a Community Reinvestment Area under the Statute. By such determination, the Director of Development of the State of Ohio determined that the area within the corporate boundaries of the City of Cincinnati contains the characteristics set forth in the Statute and confirmed such area as a Community Reinvestment Area under the Statute.
- C. The Council of the City of Cincinnati has also passed Ordinance No. 275-2017 as of September 27, 2017, as amended by Ordinance No. 339-2018 passed on October 31, 2018 (the "Commercial Policy Ordinance"), which sets forth certain additional policies, conditions and limitations regarding newly constructed or remodeled commercial and residential structures in the Community Reinvestment Area.
- D. The Company is the sole owner of certain real property within the City, located at 64 E. McMicken Ave., Cincinnati, Ohio 45202 (the "Property"), as further described in Exhibit A (Legal Description of Property) hereto. Notwithstanding the foregoing, the Property shall not include any residential condominiums being developed in connection with the Project (as defined below) (the "Excluded Property"), and the Company acknowledges and agrees that the City's Community Reinvestment Area program entails separate applications by the owner of any residential condominium units included within the Project. For the avoidance of doubt, the Excluded Property shall not be exempt under this Agreement; however, this provision shall not be deemed to prohibit any owners from time to time of any Excluded Property from separately applying for a tax abatement in accordance with applicable law.
- E. The Company has proposed to remodel the existing building located on the Property, within the boundaries of the City of Cincinnati, as more fully described in Section 1 herein (the "Project"), provided that the appropriate development incentives are available to support the economic viability of the Project.
- F. The Statute provides that if any part of a project is to be used for commercial or industrial purposes, including projects containing four or more dwelling units, in order to be eligible for tax exemption the City and the Company must enter into an agreement pursuant to Ohio Revised Code Section 3735.671 prior to commencement of construction or remodeling.
- G. The City, having appropriate authority under the Statute for this type of project, agrees (as provided herein and subject to all conditions herein) to provide the Company with the tax exemption incentives stated herein, available under the Statute, for development of the Project.
- H. The Company has submitted to the City an application for this tax exemption agreement (the "Application"), a copy of which is attached hereto as Exhibit B, has remitted with the Application (i) the City application fee of One Thousand Two Hundred Fifty Dollars (\$1,250) made payable to

the City and (ii) in accordance with Ohio Revised Code Section 3735.672(C), the state application fee of Seven Hundred Fifty Dollars (\$750) made payable to the Ohio Development Services Agency ("ODSA"), to be forwarded to the ODSA with an executed copy of this Agreement.

- I. The Director of the City's Department of Community and Economic Development has recommended approval of the Application on the basis that the Company is qualified by financial responsibility and business experience to create and preserve employment opportunities and improve the economic climate of the City.
- J. The Board of Education of the Cincinnati City School District (the "Board of Education"), pursuant to that certain *Tax Incentive Agreement* effective as of April 28, 2020, has approved exemptions of up to one hundred percent (100%) of Community Reinvestment Area projects, waived advance notice and right to review such projects, and waived sharing or allocation of municipal income taxes in connection with such projects.
- K. The Company has entered into (or will enter into) an agreement with the Board of Education requiring the Company to pay the Board of Education amounts equal to thirty-three percent (33%) of the full amount of exempt real property taxes that would have been paid to Hamilton County if this Agreement were not in effect (the "Board of Education Agreement").
- L. The Company represents and warrants to the City that the Company and its major tenants, if any, do not intend to relocate part or all of their operations to the City from another county or municipal corporation in the State of Ohio (the "State").
- M. The Company represents that within the past five (5) years neither the Company, nor any related member of the Company nor any entity to which the Company is a successor has discontinued operations at a project site in the State during the term of a property tax exemption agreement (under Ohio Revised Code Section 3735.671, 5709.62, 5709.63 or 5709.632) applicable to that site, and the Company acknowledges that misrepresentation hereunder will result in voiding of this Agreement.
- N. The Company represents and warrants to the City that the Company is not subject to an Enterprise Zone Agreement with the City of Cincinnati for the Property or the Project.
- O. City Council passed (i) Motion No. 201401368 on November 19, 2014, establishing a tax incentive policy that incentivizes each applicant for a real property tax abatement in the neighborhoods of Downtown and OTR to enter into a voluntary tax incentive contribution agreement with a third-party organization ("VTICA") for an amount equal to a percentage of the real property taxes that would have been payable on the abated property but for the City-authorized tax abatement (the "VTICA Contribution"), which funds shall be committed by a third-party organization to pay for streetcar operations that specially benefit the abated property, and (ii) Motion No. 201501592 on December 16, 2015, which established that the VTICA Contribution to be recognized by the Director of the Department of Community and Economic Development is 15% of the real property taxes that would have been payable on the abated property but for the City-authorized tax abatement. The Commercial Policy Ordinance confirmed that such motions have not been superseded and remain the will of Council.
- P. The Company acknowledges that Streetcar operations in the Central Business District and Over-the-Rhine will specially benefit the Project due to (a) the Streetcar's enhancement of public transit options in such neighborhoods and (b) the anticipated increase in property values attributable to public investment in Streetcar infrastructure.
- Q. The Company represents and warrants to the City that the Company has entered or will enter into a VTICA and shall pay the VTICA Contribution each year for the full term of the abatement.

- R. This Agreement has been authorized by Ordinance No. _____-2021, passed by Cincinnati City Council on _____, 2021.
- S. In determining to recommend and authorize this Agreement, the Department of Community and Economic Development and City Council, respectively, have acted in material reliance on the Company's representations in the Application and herein regarding the Project including, but not limited to, representations relating to the number of jobs to be created and/or retained by the Company, the Board of Education Agreement, the VTICA Contribution, and the Project's effect in promoting the general welfare of the people of Cincinnati by, for example, encouraging the development of real property located in the Community Reinvestment Area and thereby promoting economic growth and vitality in Cincinnati.

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

Section 1. Project. Upon issuance of the necessary zoning and building approvals, the Company agrees to remodel the existing building on the property on the Property into approximately 4,003 square feet of residential space consisting of six (6) apartment units and 1,370 square feet of commercial space (the "Improvements") at an estimated aggregate cost of \$919,178 to commence after the execution of this Agreement and to be completed no later than April 1, 2022; *provided*, however, that the Director of the Department of Community and Economic Development (the "Housing Officer") may, in his discretion, extend such deadline for a period of up to 12 months by written notice if, in the Director's judgment, the Company is proceeding in good faith towards completion. The remodeling shall be in compliance with applicable building code requirements and zoning regulations. In addition to the foregoing, (A) the Project shall comply with the Americans with Disabilities Act, together with any and all regulations or other binding directives promulgated pursuant thereto (collectively, the "**ADA**"), and (B) if (i) any building(s) within the Project is subject to the accessibility requirements of the ADA (e.g., by constituting a "place of public accommodation" or another category of structure to which the ADA is applicable) and (ii) such building(s) is not already required to meet the Contractual Minimum Accessibility Requirements (as defined below) pursuant to the ADA, applicable building code requirements, or by any other legal requirement, then the Company shall cause such building(s) to comply with the Contractual Minimum Accessibility Requirements in addition to any requirements pursuant to the ADA and the applicable building code or legal requirement. As used herein, "**Contractual Minimum Accessibility Requirements**" means that a building shall, at a minimum, include (1) at least one point of entry (as used in the ADA), accessible from a public right of way, with respect to which all architectural barriers (as used in the ADA) to entry have been eliminated, and (2) if such accessible point of entry is not a building's primary point of entry, conspicuous signage directing persons to such accessible point of entry.

Section 2. Real Property Tax Exemption. Subject to the satisfaction of the conditions set forth in this Agreement, the City approves exemption from real property taxation, pursuant to and to the fullest extent authorized by the Statute, of one hundred percent (100%) of the amount by which the Improvements increase the assessed value of the Property as determined by the Hamilton County Auditor, for a period of fifteen (15) years, provided that the Company shall have entered into the Board of Education Agreement. Within 120 days after completion of the Project (unless otherwise extended in writing by the City's Housing Officer), the Company must file the appropriate application for tax exemption with the City's Housing Officer. The Company is solely responsible to take this action. Upon receipt of the application for tax exemption, the City will proceed with the exemption authorized by this Agreement. In accordance with Ohio Revised Code Section 3735.67, the exemption is conditioned on verification by the Housing Officer of (A) the completion of remodeling, (B) the cost of remodeling, (C) the facts asserted in the application for exemption and (D) if a remodeled structure is a structure of historical or architectural significance as designated by the City, state or federal government, that the appropriateness of the remodeling has been certified in writing by the appropriate agency. If the required verification is made, the Housing Officer will forward the exemption application to the Hamilton County Auditor with the necessary certification by the Housing Officer. Subject to the conditions set forth in this Agreement, the

exemption commences the first tax year for which the Improvements would first be taxable were the Improvements not exempted from taxation. The dates provided in this paragraph refer to tax years in which the subject property is assessed, as opposed to years in which taxes are billed. No exemption shall commence after tax year 2022 nor extend beyond the earlier of (i) tax year 2036 or (ii) the end of the 15th year of exemption.

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

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

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

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

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

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

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

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

Section 11. Small Business Enterprise Program.¹

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

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

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

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

enforce specific performance of the terms of this Section. The provisions of CMC Section 323-99 are hereby incorporated by reference into this Agreement.

Section 12. Jobs. The Company represents that, as of the date of the execution of this Agreement, (i) the Company has three existing full-time employment positions with an annual payroll of approximately \$95,000 at the Property (the "Retained Jobs") and (ii) the Company has no other existing employment at the Property or in the State.

Section 13. Job Creation and Retention.

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

B. Jobs to be Created by Company. The Company agrees to use its best efforts to create 20 full-time temporary construction jobs at the Property in connection with the Project. In the case of the construction jobs, the job creation and retention period shall be concurrent with remodeling.

C. Company's Estimated Payroll Increase. The Company's increase in the number of employees will result in approximately \$750,000.00 of additional annual payroll prior to the completion of the Project with respect to the full-time temporary construction jobs.

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

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

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

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

Section 16. Default. As provided in Ohio Revised Code Section 3735.671(C)(6), if the Company materially fails to fulfill its obligations under this Agreement, or if the City determines that the certification as to delinquent taxes required by this Agreement (Section 6 hereof) or the covenant of satisfaction of tax and other obligations (Section 7 hereof) is fraudulent, the City may terminate or modify the exemptions from taxation granted or authorized under this Agreement and may require the repayment by the Company of the amount of taxes that would have been payable had the Improvements not been exempted from taxation pursuant to this Agreement. A modification of exemption may be in the form of reduction in the number of years that eligible property is exempt and/or a reduction in the exemption percentage. The City shall provide written notice to the Company prior to finding the Company in default

under this section. The notice shall provide the Company with not less than thirty (30) days to cure the default prior to City termination or modification of the exemptions under this Agreement. The City may extend the cure period as reasonably necessary under the circumstances. In the event of such termination or modification, the City is authorized to so notify the appropriate taxing authorities in order to effect the termination or modification. If repayment of previously exempt taxes is required by the City under this Section, such amount shall be paid as directed by the City within thirty (30) days of written demand. The City may secure repayment of such taxes by a lien on the Property in the amount required to be repaid. Such a lien shall attach, and may be perfected, collected, and enforced, in the same manner as a mortgage lien on real property, and shall otherwise have the same force and effect as a mortgage lien on real property. Amounts due and not paid when due under this Section 16 shall bear interest at the rate specified in Ohio Revised Code Section 1343.03(A) (as in effect on the date of the City's payment demand).

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

Section 18. Revocation.

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

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

Section 19. False Statements; Penalties; Material Representations.

A. **Generally.** As required in connection with Ohio Revised Code Section 9.66(C), the Company affirmatively covenants that it has made no false statements to the State or the City

in the process of obtaining approval for this Agreement. If any representative of the Company has knowingly made a false statement to the State or the City to obtain approval for this Agreement, or if the Company fails to provide any information expressly required under the Application, the Company shall be required to immediately return all benefits received under this Agreement (by payment of the amount of taxes exempted hereunder, paid as directed by the City within thirty (30) days of written demand) and the Company shall be ineligible for any future economic development assistance from the State, any State agency or any political subdivision of the State pursuant to Ohio Revised Code Section 9.66(C)(1). Amounts due and not paid under this Section 19 shall bear interest at the rate of twelve percent (12%) per year. Any person who provides a false statement to secure economic development assistance (as defined in Ohio Revised Code Section 9.66) may be guilty of falsification, a misdemeanor of the first degree, pursuant to Ohio Revised Code Section 2921.13(F)(1), which is punishable by fine of not more than One Thousand Dollars (\$1,000) and/or a term of imprisonment of not more than six (6) months.

B. Material Representations – Board of Education Agreement and VTICA. The Parties acknowledge and agree that a material failure by the Company to comply with its representations concerning the Board of Education Agreement or VTICA Contribution shall constitute an event of default for purposes of Section 16 (*Default*) and the basis for revocation under Section 18 (*Revocation*). Subject to the terms of the VTICA, if the VTICA is unenforceable for reasons of infeasibility or otherwise, the Company shall enter into alternative arrangements providing for the economic equivalent of the VTICA Contribution in order to support streetcar operations. Such arrangements may include, but are not limited to, providing for the economic equivalent of the VTICA Contribution through formation of a special improvement district. For purposes of this Section 19.B, alternative arrangements must result in services substantially similar to those that would have been supported through the VTICA and at a value that is the economic equivalent of the VTICA Contribution, which value shall not be required to exceed the VTICA Contribution amount that would have been payable by the Company. Any determination of infeasibility or mechanism for providing alternative arrangements is subject to approval by the City at its sole discretion. Nothing in this Section 19.B shall operate to limit the City's enforcement authority under this Agreement including, without limitation, Section 16, Section 18, and Section 19.A.

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

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

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

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

to such other address as is communicated in accordance with this Section):

To the City:

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

To the Company:

64 E. McMicken LLC
Attention: Jeremy Moore, Chief Operating Officer
131 E. McMicken Avenue
Cincinnati, Ohio 45202

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

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

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

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

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

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

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

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

abatement authorized by this Agreement shall be basis for revocation of the tax exemption under Section 18.

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

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

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

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

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

Section 36. Wage Enforcement.

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

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

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

(b) If this contract is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this contract is required to include

provisions in solicitations and contracts regarding a Development Site that all employers, Contractors or Subcontractors performing or proposing to perform work on a Development Site provide an initial sworn and notarized "Affidavit Regarding Wage Theft and Payroll Fraud" on a form prescribed by the city manager or his or her designee and, within 30 days of an Adverse Determination or Complaint of Wage Theft or Payroll Fraud, shall provide an "Amended Affidavit Regarding Wage Theft and Payroll Fraud" on a form prescribed by the city manager or his or her designee.

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

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

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

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

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

Section 38. Counterparts and Electronic Signatures. This Agreement may be executed by the parties hereto in two or more counterparts and each executed counterpart shall be considered an original but all of which together shall constitute one and the same instrument. This Agreement may be executed and delivered by electronic signature; any original signatures that are initially delivered electronically shall be physically delivered as soon as reasonably possible.

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

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

CITY OF CINCINNATI,
an Ohio municipal corporation

64 E. MCMICKEN LLC,
an Ohio limited liability company

By: _____
Paula Boggs Muething, City Manager

Date: _____, 2021

By: _____

Printed Name: _____

Title: _____

Date: _____, 2021

Authorized by resolution dated _____

Approved as to Form:

Assistant City Solicitor

Certified Date: _____

Fund/Code: _____

Amount: _____

By: _____
Karen Alder, City Finance Director

Exhibit A to CRA Agreement

LEGAL DESCRIPTION OF PROPERTY

Parcel No. 94-5^{CONS} (298 & 299 Cons.)
64 E. McMicken Avenue, Cincinnati, Ohio
Prior Instrument Reference: Official Record Book 13688, Page 1365

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

Being all of Lot Eight (8) and the easterly twenty-three (23) feet of Lot Nine (9) of the subdivision by the executors of James Findlay, deceased, of Block 2 of Findlay and Ludlow's Subdivision as recorded in Deed Book 70, Page 134, Recorder's office, Hamilton County, Ohio.

Exhibit B to CRA Agreement
APPLICATION FOR TAX EXEMPTION

TO BE ATTACHED

March 24, 2020

To: Mayor and Members of City Council

202101193

From: Paula Boggs Muething, City Manager

Subject: **ORDINANCE – LEVYING SPECIAL ASSESSMENTS - WALWORTH**

Attached is an Emergency Ordinance captioned as follows:

LEVYING special assessments to pay for the costs of improving Walworth Avenue in the East End neighborhood of Cincinnati by constructing an extension thereto, together with curbs, street lighting, streetscaping, sidewalks, water mains, and storm and sanitary sewer; necessary remediation of soil in the related right-of-way; installing retaining walls; acquiring land necessary to construct and install the foregoing; and acquiring, constructing, and installing other related improvements, and any financing and administrative expenses in connection therewith.

BACKGROUND/CURRENT CONDITIONS

The project site is located at 3100 Walworth Avenue, Cincinnati in the East End neighborhood of Cincinnati. In total, the site includes 7.1410 acres of vacant, unimproved land where 39 single family lots have been created and construction has commenced on a number of the lots. The whole assembled site comprises the Homearama Development proposed by East End Developers LLC.

DEVELOPER INFORMATION

East End Developers, LLC, an affiliate of Meierjohan Building Group – led by Thomas J. Ackermann and Ralph Meierjohan, will be the developing entity of the site. T.J. Ackermann and Ralph Meierjohan have each been developing and building communities in the Greater Cincinnati area for the past 30 years. Together they have a large wealth of knowledge and experience in the field of real estate development, construction, and project management. Upon completion of public improvements and site preparation, third party home builders will purchase parcels for single-family home development from East End Developers, LLC.

PROJECT DESCRIPTION

Developer has remediated a contaminated brownfield site at 3101 Walworth Avenue in the East End neighborhood and prepared the site for the construction of 39 single

family homes. This is the site of Homearama @ Walworth Junction in partnership with the Greater Cincinnati Home Builders Association. Developer will cause construction of the 39 single family homes; each home will consist of approximately 3,000 square feet of living space and range in sales price from \$800,000 to \$1,600,000. In addition, the Developer will be seeking LEED Neighborhood Development – a first in the City of Cincinnati – requiring all homes built in the subdivision to meet LEED Gold standards.

Developer will also construct several public infrastructure improvements. This includes sidewalks, extension of the Walworth Avenue Street, stormwater, sewer, public signage, remediation of certain environmental conditions and other related improvements to the Walworth Junction housing sub-division.

SPECIAL ASSESSMENT

This Ordinance is the second of three pieces of legislation being submitted in response to a petition received from owners comprising 33 lots within the Homearama site to assess the costs of the public infrastructure against the lots. The assessment will assess an estimated \$3,073,661.83 of eligible public infrastructure costs and associated financing costs over a 15-year period. The estimated per lot assessment is \$10,000 per year per lot. The remaining 6 lots have prefunded their associated public infrastructure costs.

City Council previously approved Legislative Resolution 23-2021 declaring the necessity of the assessment on March 15, 2021. Upon passage of this ordinance and the corresponding determining to proceed ordinance, the legislative process for the Special Assessment will be completed. There will be additional legislation forthcoming regarding the public infrastructure financing legislation in cooperation with the Port Authority for this project

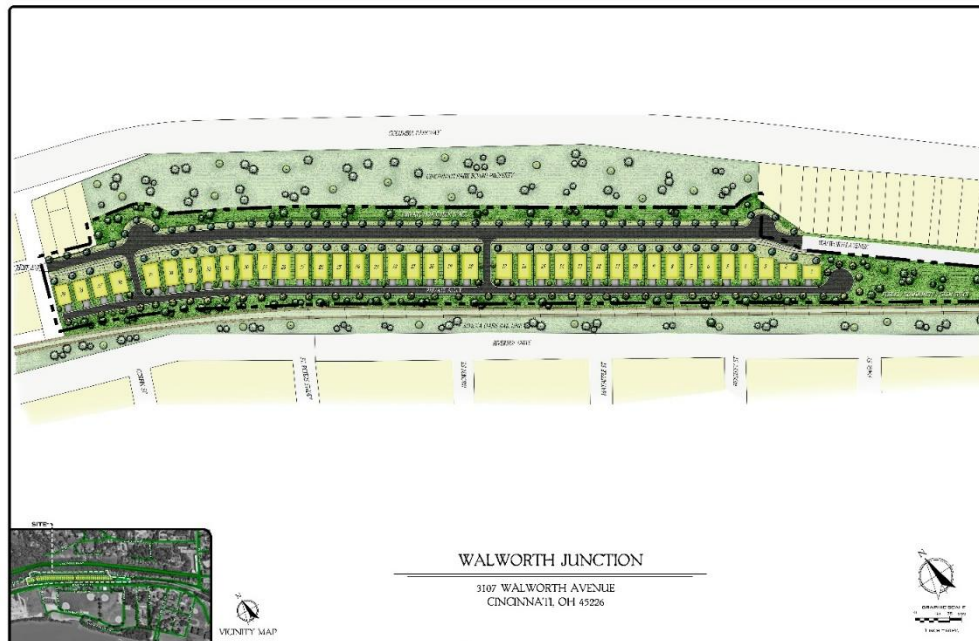
RECOMMENDATION

The Administration recommends approval of this Emergency Ordinance. The reason for the emergency clause is in order to facilitate the completion of the project and construction of all of the homes at the earliest possible time.

Attachment: A. Proposed Site Plan

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

Attachment A: Site Plan



EMERGENCY

City of Cincinnati

SSB

BWB

An Ordinance No. _____ - 2021

LEVYING special assessments to pay for the costs of improving Walworth Avenue in the East End neighborhood of Cincinnati by constructing an extension thereto, together with curbs, street lighting, streetscaping, sidewalks, water mains, and storm and sanitary sewer; necessary remediation of soil in the related right-of-way; installing retaining walls; acquiring land necessary to construct and install the foregoing; and acquiring, constructing, and installing other related improvements, and any financing and administrative expenses in connection therewith.

WHEREAS, on March 17, 2021, Council adopted a resolution (the "Resolution") declaring the necessity of improving Walworth Avenue by constructing an extension thereto, together with curbs, street lighting, streetscaping, sidewalks, water mains, and storm and sanitary sewer; remediation of soil in the related right-of-way; installing retaining walls; acquiring land necessary to construct and install the foregoing; and acquiring, constructing, and installing other related improvements (the "Public Infrastructure Improvements"); and

WHEREAS, Council has, pursuant to Chapter 727 of the Ohio Revised Code and the Resolution, determined the necessity of levying and collecting assessments for the costs of the Public Infrastructure Improvements (the "Special Assessments"), as provided in Chapter 727 of the Ohio Revised Code; and

WHEREAS, on the date hereof, Council enacted an ordinance (the "Determination to Proceed") (i) determining to proceed with the construction of the Public Infrastructure Improvements; (ii) adopting the estimated Special Assessments with respect to the Public Infrastructure Improvements, as prepared and filed with the Clerk of Council; and (iii) indicating that the City intends, by separate ordinance, to authorize cooperation with the Port of Greater Cincinnati Development Authority (the "Port Authority") in the issuance of bonds or other indebtedness of the Port Authority to finance the Assessable Cost (as defined in the Resolution) of the Public Infrastructure Improvements; and

WHEREAS, there are no outstanding objections to the estimated Special Assessments, the right to object having been waived by 100% of the owners of the Assessed Property (as defined in the Resolution); now, therefore,

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

Section 1. That the list of assessments ("Special Assessments") of the Assessable Cost of the Public Infrastructure Improvements (each as defined in the Resolution adopted by Council on March 17, 2021, with respect to improvements to Walworth Avenue (the "Resolution")), amounting in the aggregate to \$3,073,661.83, exclusive of interest thereon and administrative

expenses related thereto, as set forth in the Petition and as now on file in the office of the Clerk of Council, is hereby adopted and confirmed and there are hereby levied and assessed upon all of numbered lots 1 through 27, 29, 31 through 33, 36, and 38, included in the Assessed Property (as defined in the Resolution and as described and depicted on Exhibit A hereto) the amounts reported on such list of Special Assessments attached as Exhibit B hereto (the "Special Assessment Roll"), which includes the interest and financing costs. The Special Assessments with respect to each such lot within the Assessed Property shall be payable in 30 equal semi-annual installments commencing with the date on which the first installment of tax year 2022 real property taxes are due. The breakdown of the estimated assessments attached to the petition of the owner of the Assessed Property on file with the Clerk of Council (the "Petition") as Exhibit D thereto is hereby incorporated herein by reference.

Section 2. That Council further finds and determines that the Special Assessments which may be certified to the Hamilton County Auditor for collection are as set forth in the Special Assessment Roll attached hereto as Exhibit B. The appropriate officials from the City's Finance Department are (a) authorized to accept the Special Assessments from the appropriate County officials, deposit them into the appropriate account for the purpose of paying the costs of the Public Infrastructure Improvements, and disburse them for said purpose; and (b) authorized to take such other steps as are necessary to receive and process the Special Assessments.

Section 3. That Council hereby finds and determines that the Special Assessments are in proportion to the benefits received by each applicable lot within the Assessed Property, as set forth in the Special Assessment Roll, because each lot will benefit equally from access to the Public Infrastructure Improvements.

Section 4. That Council hereby finds and determines that all Special Assessments levied hereby shall be certified by the Clerk of Council or other appropriate City official to the

Hamilton County Auditor as provided by law, to be placed by him or her on the tax duplicate and collected as other taxes are collected.

Section 5. That the City anticipates that it will cooperate with the Port of Greater Cincinnati Development Authority (the “Port Authority”) to issue bonds or other indebtedness of the Port Authority to be repaid using the Special Assessments, which issuance will be authorized by a separate ordinance.

Section 6. That Council finds and determines that all formal actions of this Council concerning and relating to the passage of this ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law including the Charter of the City and Ohio Revised Code Section 121.22.

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 construction contemplated hereby to proceed as scheduled and to effectuate the improvement of the City’s transportation network and increase the amount of developable land within Cincinnati as soon as possible.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

EXHIBIT A

DESCRIPTION OF PROPERTY

Situate in Section 31, Town 4, Fractional Range 2, Columbia Township, City of Cincinnati, Hamilton County, Ohio and being more particularly described as follows:

Being all of Lot Numbers 1-39, inclusive and Open Space Parcels A and B of Walworth Junction Subdivision as recorded in Plat Book 480, Pages 29 - 31 of the Hamilton County, Ohio Records.

Lot 1 Parcel No. 031-0002-0114
Lot 2 Parcel No. 031-0002-0115
Lot 3 Parcel No. 031-0002-0116
Lot 4 Parcel No. 031-0002-0117
Lot 5 Parcel No. 031-0002-0118
Lot 6 Parcel No. 031-0002-0119
Lot 7 Parcel No. 031-0002-0120
Lot 8 Parcel No. 031-0002-0121
Lot 9 Parcel No. 031-0002-0122
Lot 10 Parcel No. 031-0002-0123
Lot 11 Parcel No. 031-0002-0124
Lot 12 Parcel No. 031-0002-0125
Lot 13 Parcel No. 031-0002-0126
Lot 14 Parcel No. 031-0002-0127
Lot 15 Parcel No. 031-0002-0128
Lot 16 Parcel No. 031-0002-0129
Lot 17 Parcel No. 031-0002-0130
Lot 18 Parcel No. 031-0002-0131
Lot 19 Parcel No. 031-0002-0132
Lot 20 Parcel No. 031-0002-0133

Lot 21 Parcel No. 031-0002-0134
Lot 22 Parcel No. 031-0002-0135
Lot 23 Parcel No. 031-0002-0136
Lot 24 Parcel No. 031-0002-0137
Lot 25 Parcel No. 031-0002-0138
Lot 26 Parcel No. 031-0002-0139
Lot 27 Parcel No. 031-0002-0140
Lot 28 Parcel No. 031-0002-0141
Lot 29 Parcel No. 031-0002-0142
Lot 30 Parcel No. 031-0002-0143
Lot 31 Parcel No. 031-0002-0144
Lot 32 Parcel No. 031-0002-0145
Lot 33 Parcel No. 031-0002-0146
Lot 34 Parcel No. 031-0002-0147
Lot 35 Parcel No. 031-0002-0148
Lot 36 Parcel No. 031-0002-0149
Lot 37 Parcel No. 031-0002-0150
Lot 38 Parcel No. 031-0002-0151
Lot 39 Parcel No. 031-0002-0152
O. S. "A" Parcel No.
O. S. "B" Parcel No.

EXHIBIT B

A <u>Assessed</u> <u>Lands Lot</u> <u>Number</u> (lot number references refer to the numbered lots within the Walworth Junction Subdivision Plat shown in Exhibit C above)	B <u>Aggregate</u> <u>Special</u> <u>Assessment</u>	C <u>Special Assessment By Lot</u> (B / 33)	D <u>Semi-Annual</u> <u>Installment of</u> <u>Special</u> <u>Assessment</u> (C / 30) (i.e., this amount is to be paid 30 times over a 15 year period commencing with the payment of the first installment of the tax year 2022 tax bill)
1	\$4,950,000	\$150,000	\$5000.00
2	\$4,950,000	\$150,000	\$5000.00
3	\$4,950,000	\$150,000	\$5000.00
4	\$4,950,000	\$150,000	\$5000.00
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6	\$4,950,000	\$150,000	\$5000.00
7	\$4,950,000	\$150,000	\$5000.00
8	\$4,950,000	\$150,000	\$5000.00
9	\$4,950,000	\$150,000	\$5000.00
10	\$4,950,000	\$150,000	\$5000.00
11	\$4,950,000	\$150,000	\$5000.00
12	\$4,950,000	\$150,000	\$5000.00
13	\$4,950,000	\$150,000	\$5000.00
14	\$4,950,000	\$150,000	\$5000.00
15	\$4,950,000	\$150,000	\$5000.00
16	\$4,950,000	\$150,000	\$5000.00
17	\$4,950,000	\$150,000	\$5000.00
18	\$4,950,000	\$150,000	\$5000.00
19	\$4,950,000	\$150,000	\$5000.00
20	\$4,950,000	\$150,000	\$5000.00
21	\$4,950,000	\$150,000	\$5000.00

B-1

22	\$4,950,000	\$150,000	\$5000.00
23	\$4,950,000	\$150,000	\$5000.00
24	\$4,950,000	\$150,000	\$5000.00
25	\$4,950,000	\$150,000	\$5000.00
26	\$4,950,000	\$150,000	\$5000.00
27	\$4,950,000	\$150,000	\$5000.00
29	\$4,950,000	\$150,000	\$5000.00
31	\$4,950,000	\$150,000	\$5000.00
32	\$4,950,000	\$150,000	\$5000.00
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EXHIBIT A

DESCRIPTION OF PROPERTY

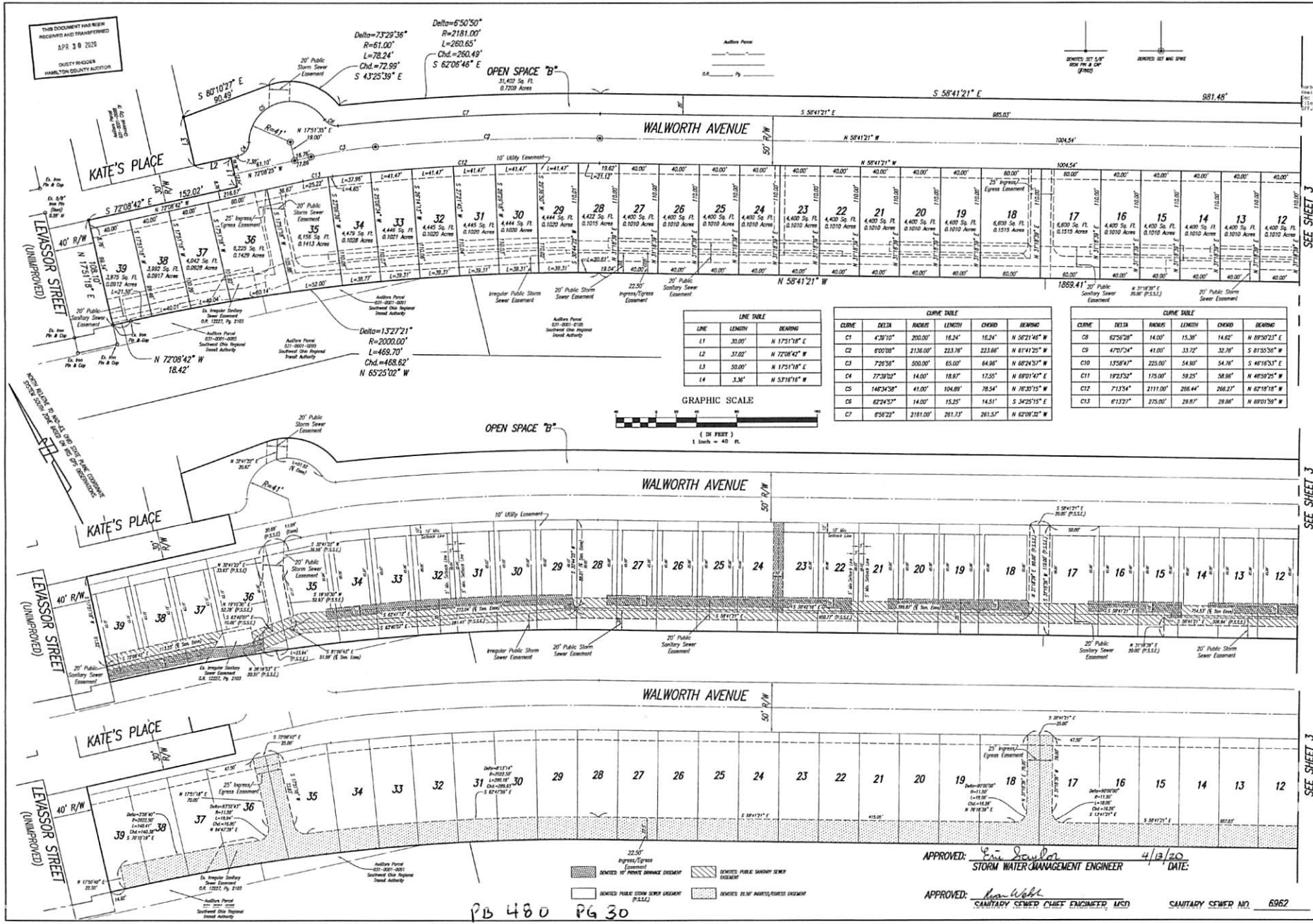
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Lot 38 Parcel No. 031-0002-0151
Lot 39 Parcel No. 031-0002-0152
O. S. "A" Parcel No.
O. S. "B" Parcel No.

THIS DOCUMENT HAS BEEN
RECEIVED AND TRANSFERRED
APR 30 2020
DUSTY INDOOR
HAMILTON COUNTY AUDITOR



RECORD PLAT

SECTION-31, TOWN-4, RANGE-2
COLUMBIA TOWNSHIP, CITY OF CINCINNATI
HAMILTON COUNTY, OHIO

APPROVED: *Eric Sawyer*
STORM WATER MANAGEMENT ENGINEER

APPROVED: *Don Webb*
SANITARY SEWER CHIEF ENGINEER, DCS

DATE: 4/3/20

SANITARY SEWER NO. 6362

10-4-19

J.C.

D.P.

1" = 50'

WALWORTH JUNCTION

SEE SHEET 3

SEE SHEET 3

SEE SHEET 3

Abercrombie & Associates, Inc.

Civil Engineering & Surveying

1111 Chestnut Street, Suite 200
Cincinnati, OH 45202
616.461.1337
www.aberacrombieandassociates.com

EXHIBIT B

A	B	C	D
<u>Assessed Lands Lot Number</u> (lot number references refer to the numbered lots within the Walworth Junction Subdivision Plat shown in Exhibit C above)	<u>Aggregate Special Assessment</u>	<u>Special Assessment By Lot</u> (B / 33)	<u>Semi-Annual Installment of Special Assessment</u> (C / 30) (i.e., this amount is to be paid 30 times over a 15 year period commencing with the payment of the first installment of the tax year 2022 tax bill)
1	\$4,950,000	\$150,000	\$5000.00
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38	\$4,950,000	\$150,000	\$5000.00

March 24, 2021

To: Mayor and Members of City Council

202101194

From: Paula Boggs Muething, City Manager

Subject: **COMMUNITY REINVESTMENT AREA TAX EXEMPTION
AGREEMENT FOR 116 E. McMICKEN LLC**

Attached is an Emergency Ordinance captioned as follows:

APPROVING AND AUTHORIZING the City Manager to execute a *Community Reinvestment Area Tax Exemption Agreement* with 116 E McMicken LLC, an affiliate of Northcrown Property LLC thereby authorizing a 15-year tax exemption for 100% of the value of improvements made to real property located at 116 E. McMicken Avenue in the Over-the-Rhine neighborhood of Cincinnati, in connection with the remodeling of the existing building into approximately 549 square feet of commercial space and approximately 5,183 square feet of residential space, consisting of 10 residential rental units, at a total construction cost of approximately \$869,325.

BACKGROUND/CURRENT CONDITIONS

This property is a multi-story vacant building in the Over-the-Rhine neighborhood of Cincinnati. It is within the OTR Historic District. The property is within walking distance to Grant Park. The Developer submitted a CRA application to DCED requesting assistance in the redevelopment of this property.

DEVELOPER INFORMATION

116 E. McMicken LLC is an entity affiliate of Northcrown Property LLC, a neighborhood developer, who primarily redevelops vacant buildings in the Over the Rhine neighborhood surrounding Grant Park. In the past, they have stabilized the historic Crown Brewery Building located at 131 E. McMicken and have multiple projects underway north along E. McMicken.

PROJECT DESCRIPTION

Once completed, this project will consist of ten 1-bedroom apartment units and 549 square feet of commercial space. Rent will range between \$724-\$1,296 per month depending on the square footage of the unit (ranging from 441-864 square feet). In connection with this project, it is estimated that 20 temporary construction jobs are created at a total annual payroll of \$750,000.

This project is consistent with several of Plan Cincinnati's goals including the City's goal to remain competitive economically, and the City's goal to be good stewards of its resources—both built and environmental.

PROPOSED INCENTIVE

The Ordinance provides for a 100% (net 52%), 15-year CRA tax exemption for this property. The exemption applies only to the increase in value of the building attributable to the project improvements. Pursuant to the Commercial CRA policy established by City Council, this project is located within the Streetcar VTICA Area and is therefore subject to analysis based on project underwriting, VTICA contribution, and job creation to determine abatement terms.

The administration is recommending a 15 year CRA term to allow for the project to secure adequate construction and permanent financing using the realized savings. This project will result in a more vibrant commercial district along the McMicken corridor and bring much needed housing to the northern section of Over the Rhine.

SUMMARY	
Forgone Public Benefit if Project Does not Proceed	
CPS PILOT (Forgone New Revenue)	(\$79,908)
VTICA (Forgone New Revenue)	(\$36,322)
Income Tax (Forgone New Revenue)	(\$45,675)
Total Public Benefit Lost	(\$161,905)
Incentive Value	
Annual Net Incentive to Developer	\$8,394
Total Term Incentive to Developer	\$125,916
City's Portion of Property Taxes Forgone	\$31,252
Public Benefit	
CPS PILOT	
Annual CPS Pilot	\$5,327
Total Term CPS PILOT	\$79,908
VTICA	
Annual VTICA	\$2,421
Total Term VTICA	\$36,322
Income Tax (Max)	\$45,675
Total Public Benefit (CPS PILOT/VTICA /Income Tax)	\$161,905
Total Public Benefit ROI*	\$1.29
City's ROI*	\$5.18

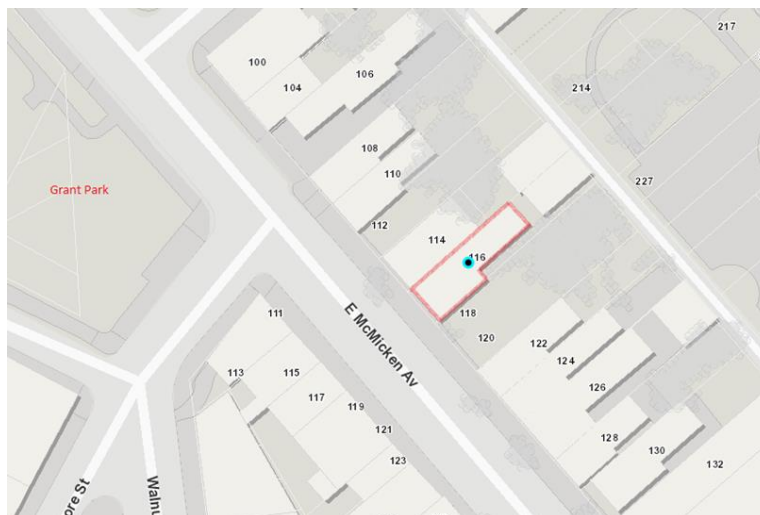
RECOMMENDATION

The Administration recommends approval of this Emergency Ordinance. The emergency clause in the Ordinance is required for the developer to maintain a strict project schedule.

Attachment: A. Property location and photographs

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

Attachment A: Location and Photographs



EMERGENCY

City of Cincinnati

TJL

AWB

An Ordinance No. _____ - 2021

APPROVING AND AUTHORIZING the City Manager to execute a *Community Reinvestment Area Tax Exemption Agreement* with 116 E McMicken LLC, an affiliate of Northcrown Property LLC thereby authorizing a 15-year tax exemption for 100% of the value of improvements made to real property located at 116 E. McMicken Avenue in the Over-the-Rhine neighborhood of Cincinnati, in connection with the remodeling of the existing building into approximately 549 square feet of commercial space and approximately 5,183 square feet of residential space, consisting of 10 residential rental units, at a total construction cost of approximately \$869,325.

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

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

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

WHEREAS, 116 E McMicken LLC (the "Company") desires to remodel an existing building located at 116 E. McMicken Avenue located within the corporate boundaries of the City of Cincinnati into approximately 549 square feet of commercial space and approximately 5,183 square feet of residential space, consisting of 10 residential rental units (the "Improvements"), provided that the appropriate development incentives are available to support the economic viability of the Improvements; and

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

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

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

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

WHEREAS, the Company has represented that it has entered into (or will enter into) a voluntary tax incentive contribution agreement with a third-party organization for amounts equal to 15% of the exempt real property taxes, which funds shall be committed by the third-party organization to pay for streetcar operations that specially benefit the property; and

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

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

Section 1. That Council approves a *Community Reinvestment Area Tax Exemption Agreement* with 116 E McMicken LLC (the “Agreement”), thereby authorizing a 15-year tax exemption for 100% of the assessed value of improvements to be made to real property located at 116 E. McMicken Avenue in Cincinnati, as calculated by the Hamilton County Auditor, in connection with the remodeling of the existing building into approximately 549 square feet of commercial space and approximately 5,183 square feet of residential space, consisting of 10 residential rental units, to be completed at a total construction cost of approximately \$869,325.

Section 2. That Council authorizes the City Manager:

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

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

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

Section 3. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to allow the remodeling described in this ordinance and the corresponding revitalization of the City of Cincinnati and the benefits to the City's economic welfare to begin at the earliest possible time.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____

Attachment A to Ordinance

CRA Tax Exemption Agreement

SEE ATTACHED

Community Reinvestment Area Tax Exemption Agreement

This Community Reinvestment Area Tax Exemption Agreement (this "Agreement") is made and entered into as of the Effective Date (as defined on the signature page hereof) by and between the CITY OF CINCINNATI, an Ohio municipal corporation (the "City"), and 116 E MCMICKEN LLC, Ohio limited liability company (the "Company") an affiliate of Northcrown Property LLC.

Recitals:

- A. The City, through the adoption of Ordinance No. 274-2017 on September 27, 2017, designated the entire City of Cincinnati as a Community Reinvestment Area to encourage the development of real property and the acquisition of personal property in that area, pursuant to Ohio Revised Code Sections 3735.65 through 3735.70 (the "Statute").
- B. In accordance with the Statute, the Ohio Director of Development has forwarded to the City the Director's determination dated October 23, 2017, stating that the findings contained in Ordinance No. 274-2017 are valid and that the entire City is a Community Reinvestment Area under the Statute. By such determination, the Director of Development of the State of Ohio determined that the area within the corporate boundaries of the City of Cincinnati contains the characteristics set forth in the Statute and confirmed such area as a Community Reinvestment Area under the Statute.
- C. The Council of the City of Cincinnati has also passed Ordinance No. 275-2017 as of September 27, 2017, as amended by Ordinance No. 339-2018 passed on October 31, 2018 (the "Commercial Policy Ordinance"), which sets forth certain additional policies, conditions and limitations regarding newly constructed or remodeled commercial and residential structures in the Community Reinvestment Area.
- D. The Company is the sole owner of certain real property within the City, located at 116 E. McMicken Avenue, Cincinnati, Ohio 45202 (the "Property"), as further described in Exhibit A (Legal Description of Property) hereto. Notwithstanding the foregoing, the Property shall not include any residential condominiums being developed in connection with the Project (as defined below) (the "Excluded Property"), and the Company acknowledges and agrees that the City's Community Reinvestment Area program entails separate applications by the owner of any residential condominium units included within the Project. For the avoidance of doubt, the Excluded Property shall not be exempt under this Agreement; however, this provision shall not be deemed to prohibit any owners from time to time of any Excluded Property from separately applying for a tax abatement in accordance with applicable law.
- E. The Company has proposed to remodel a building located on the Property, within the boundaries of the City of Cincinnati, as more fully described in Section 1 herein (the "Project"), provided that the appropriate development incentives are available to support the economic viability of the Project.
- F. The Statute provides that if any part of a project is to be used for commercial or industrial purposes, including projects containing four or more dwelling units, in order to be eligible for tax exemption the City and the Company must enter into an agreement pursuant to Ohio Revised Code Section 3735.671 prior to commencement of construction or remodeling.
- G. The City, having appropriate authority under the Statute for this type of project, agrees (as provided herein and subject to all conditions herein) to provide the Company with the tax exemption incentives stated herein, available under the Statute, for development of the Project.
- H. The Company has submitted to the City an application for this tax exemption agreement (the "Application"), a copy of which is attached hereto as Exhibit B, has remitted with the Application (i) the City application fee of One Thousand Two Hundred Fifty Dollars (\$1,250) made payable to the City and (ii) in accordance with Ohio Revised Code Section 3735.672(C), the state application fee

of Seven Hundred Fifty Dollars (\$750) made payable to the Ohio Development Services Agency ("ODSA"), to be forwarded to the ODSA with an executed copy of this Agreement.

- I. The Director of the City's Department of Community and Economic Development has recommended approval of the Application on the basis that the Company is qualified by financial responsibility and business experience to create and preserve employment opportunities and improve the economic climate of the City.
- J. The Board of Education of the Cincinnati City School District (the "Board of Education"), pursuant to that certain *Tax Incentive Agreement* effective as of April 28, 2020, has approved exemptions of up to one hundred percent (100%) of Community Reinvestment Area projects, waived advance notice and right to review such projects, and waived sharing or allocation of municipal income taxes in connection with such projects.
- K. The Company has entered into (or will enter into) an agreement with the Board of Education requiring the Company to pay the Board of Education amounts equal to thirty-three percent (33%) of the full amount of exempt real property taxes that would have been paid to Hamilton County if this Agreement were not in effect (the "Board of Education Agreement").
- L. The Company represents and warrants to the City that the Company and its major tenants, if any, do not intend to relocate part or all of their operations to the City from another county or municipal corporation in the State of Ohio (the "State").
- M. The Company represents that within the past five (5) years neither the Company, any related member of the Company, nor any entity to which the Company is a successor has discontinued operations at a project site in the State during the term of a property tax exemption agreement (under Ohio Revised Code Section 3735.671, 5709.62, 5709.63 or 5709.632) applicable to that site, and the Company acknowledges that misrepresentation hereunder will result in voiding of this Agreement.
- N. The Company represents and warrants to the City that the Company is not subject to an Enterprise Zone Agreement with the City of Cincinnati for the Property or the Project.
- O. City Council passed (i) Motion No. 201401368 on November 19, 2014, establishing a tax incentive policy that incentivizes each applicant for a real property tax abatement in the neighborhoods of Downtown and OTR to enter into a voluntary tax incentive contribution agreement with a third-party organization ("VTICA") for an amount equal to a percentage of the real property taxes that would have been payable on the abated property but for the City-authorized tax abatement (the "VTICA Contribution"), which funds shall be committed by a third-party organization to pay for streetcar operations that specially benefit the abated property, and (ii) Motion No. 201501592 on December 16, 2015, which established that the VTICA Contribution to be recognized by the Director of the Department of Community and Economic Development is 15% of the real property taxes that would have been payable on the abated property but for the City-authorized tax abatement. The Commercial Policy Ordinance confirmed that such motions have not been superseded and remain the will of Council.
- P. The Company acknowledges that Streetcar operations in the Central Business District and Over-the-Rhine will specially benefit the Project due to (a) the Streetcar's enhancement of public transit options in such neighborhoods and (b) the anticipated increase in property values attributable to public investment in Streetcar infrastructure.
- Q. The Company represents and warrants to the City that the Company has entered or will enter into a VTICA and shall pay the VTICA Contribution each year for the full term of the abatement.
- R. This Agreement has been authorized by Ordinance No. _____-2021, passed by Cincinnati City Council on _____, 2021.

- S. In determining to recommend and authorize this Agreement, the Department of Community and Economic Development and City Council, respectively, have acted in material reliance on the Company's representations in the Application and herein regarding the Project including, but not limited to, representations relating to the number of jobs to be created and/or retained by the Company, the Board of Education Agreement, the VTICA Contribution, and the Project's effect in promoting the general welfare of the people of Cincinnati by, for example, encouraging the development of real property located in the Community Reinvestment Area and thereby promoting economic growth and vitality in Cincinnati.

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

Section 1. Project. Upon issuance of the necessary zoning and building approvals, the Company agrees to remodel the existing building into approximately 5,183 square feet of residential space, consisting of 10 residential rental units, and approximately 549 square feet of commercial space on the Property (the "Improvements") at an estimated aggregate cost of Eight Hundred Sixty-Nine Thousand, Three Hundred Twenty-Five Dollars (\$869,325) to commence after the execution of this Agreement and to be completed no later than January 1, 2022; *provided*, however, that the Director of the Department of Community and Economic Development (the "Housing Officer") may, in his discretion, extend such deadline for a period of up to 12 months by written notice if, in the Director's judgment, the Company is proceeding in good faith towards completion. The remodeling shall be in compliance with applicable building code requirements and zoning regulations. In addition to the foregoing, (A) the Project shall comply with the Americans with Disabilities Act, together with any and all regulations or other binding directives promulgated pursuant thereto (collectively, the "**ADA**"), and (B) if (i) any building(s) within the Project is subject to the accessibility requirements of the ADA (e.g., by constituting a "place of public accommodation" or another category of structure to which the ADA is applicable) and (ii) such building(s) is not already required to meet the Contractual Minimum Accessibility Requirements (as defined below) pursuant to the ADA, applicable building code requirements, or by any other legal requirement, then the Company shall cause such building(s) to comply with the Contractual Minimum Accessibility Requirements in addition to any requirements pursuant to the ADA and the applicable building code or legal requirement. As used herein, "**Contractual Minimum Accessibility Requirements**" means that a building shall, at a minimum, include (1) at least one point of entry (as used in the ADA), accessible from a public right of way, with respect to which all architectural barriers (as used in the ADA) to entry have been eliminated, and (2) if such accessible point of entry is not a building's primary point of entry, conspicuous signage directing persons to such accessible point of entry.

Section 2. Real Property Tax Exemption. Subject to the satisfaction of the conditions set forth in this Agreement, the City approves exemption from real property taxation, pursuant to and to the fullest extent authorized by the Statute, of one hundred percent (100%) of the amount by which the Improvements increase the assessed value of the Property as determined by the Hamilton County Auditor, for a period of fifteen (15) years, provided that the Company shall have entered into the Board of Education Agreement. Within 120 days after completion of the Project (unless otherwise extended in writing by the City's Housing Officer), the Company must file the appropriate application for tax exemption with the City's Housing Officer. The Company is solely responsible to take this action. Upon receipt of the application for tax exemption, the City will proceed with the exemption authorized by this Agreement. In accordance with Ohio Revised Code Section 3735.67, the exemption is conditioned on verification by the Housing Officer of (A) the completion of remodeling, (B) the cost of remodeling, (C) the facts asserted in the application for exemption and (D) if a remodeled structure is a structure of historical or architectural significance as designated by the City, state or federal government, that the appropriateness of the remodeling has been certified in writing by the appropriate agency. If the required verification is made, the Housing Officer will forward the exemption application to the Hamilton County Auditor with the necessary certification by the Housing Officer. Subject to the conditions set forth in this Agreement, the exemption commences the first tax year for which the Improvements would first be taxable were the Improvements not exempted from taxation.

The dates provided in this paragraph refer to tax years in which the subject property is assessed, as opposed to years in which taxes are billed. No exemption shall commence after tax year 2022 nor extend beyond the earlier of (i) tax year 2036 or (ii) the end of the fifteenth (15th) year of exemption.

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

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

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

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

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

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

Section 9. Continuation of Exemptions. As provided in Ohio Revised Code Section 3735.671(C)(5), if for any reason the City revokes the designation of the City of Cincinnati as a Community Reinvestment Area, entitlements granted under this Agreement shall continue for the number of years

specified under this Agreement, unless the Company materially fails to fulfill its obligations under this Agreement and the City terminates or modifies the exemptions from taxation authorized pursuant to this Agreement.

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

Section 11. Small Business Enterprise Program.¹

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

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

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

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

Section 12. Jobs. The Company represents that, as of the date of the execution of this Agreement, the Company has no existing employment at the Property or in the State.

Section 13. Job Creation and Retention.

A. Jobs to be Created by Company. The Company agrees to use its best efforts to create (i) 3 full-time permanent jobs, and (ii) 20 full-time temporary construction jobs at the Property in connection with the Project. In the case of the construction jobs, the job creation and retention period shall be concurrent with remodeling, and in the case of the other jobs described herein, the job creation period shall begin upon completion of remodeling and shall end three (3) years thereafter.

B. Company's Estimated Payroll Increase. The Company's increase in the number of employees will result in approximately (i) \$120,000 of additional annual payroll with respect to the full-time permanent jobs, and (ii) \$750,000 of additional annual payroll prior to the completion of the Project with respect to the full-time temporary construction jobs.

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

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

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

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

Section 16. Default. As provided in Ohio Revised Code Section 3735.671(C)(6), if the Company materially fails to fulfill its obligations under this Agreement, or if the City determines that the certification as to delinquent taxes required by this Agreement (Section 6 hereof) or the covenant of satisfaction of tax and other obligations (Section 7 hereof) is fraudulent, the City may terminate or modify the exemptions from taxation granted or authorized under this Agreement and may require the repayment by the Company of the amount of taxes that would have been payable had the Improvements not been exempted from taxation pursuant to this Agreement. A modification of exemption may be in the form of reduction in the number of years that eligible property is exempt and/or a reduction in the exemption percentage. The City shall provide written notice to the Company prior to finding the Company in default under this section. The notice shall provide the Company with not less than thirty (30) days to cure the default prior to City termination or modification of the exemptions under this Agreement. The City may extend the cure period as reasonably necessary under the circumstances. In the event of such termination or modification, the City is authorized to so notify the appropriate taxing authorities in order to effect the termination or modification. If repayment of previously exempt taxes is required by the City under this Section, such amount shall be paid as directed by the City within thirty (30) days of written demand. The

City may secure repayment of such taxes by a lien on the Property in the amount required to be repaid. Such a lien shall attach, and may be perfected, collected, and enforced, in the same manner as a mortgage lien on real property, and shall otherwise have the same force and effect as a mortgage lien on real property. Amounts due and not paid when due under this Section 16 shall bear interest at the rate specified in Ohio Revised Code Section 1343.03(A) (as in effect on the date of the City's payment demand).

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

Section 18. Revocation.

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

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

Section 19. False Statements; Penalties; Material Representations.

A. Generally. As required in connection with Ohio Revised Code Section 9.66(C), the Company affirmatively covenants that it has made no false statements to the State or the City in the process of obtaining approval for this Agreement. If any representative of the Company has knowingly made a false statement to the State or the City to obtain approval for this Agreement, or if the Company fails to provide any information expressly required under the Application, the Company shall be required to immediately return all benefits received under this Agreement (by payment of the amount of taxes exempted hereunder, paid as directed by the City within thirty (30) days of written demand) and the Company shall be ineligible for any future economic development assistance from the State, any State agency or any political subdivision of the State pursuant to Ohio Revised Code Section 9.66(C)(1). Amounts due and not paid under this Section 19 shall bear interest at the rate of twelve percent (12%) per year. Any person who provides a false statement

to secure economic development assistance (as defined in Ohio Revised Code Section 9.66) may be guilty of falsification, a misdemeanor of the first degree, pursuant to Ohio Revised Code Section 2921.13(F)(1), which is punishable by fine of not more than One Thousand Dollars (\$1,000) and/or a term of imprisonment of not more than six (6) months.

B. Material Representations – Board of Education Agreement and VTICA. The Parties acknowledge and agree that a material failure by the Company to comply with its representations concerning the Board of Education Agreement or VTICA Contribution shall constitute an event of default for purposes of Section 16 (*Default*) and the basis for revocation under Section 18 (*Revocation*). Subject to the terms of the VTICA, if the VTICA is unenforceable for reasons of infeasibility or otherwise, the Company shall enter into alternative arrangements providing for the economic equivalent of the VTICA Contribution in order to support streetcar operations. Such arrangements may include, but are not limited to, providing for the economic equivalent of the VTICA Contribution through formation of a special improvement district. For purposes of this Section 19.B, alternative arrangements must result in services substantially similar to those that would have been supported through the VTICA and at a value that is the economic equivalent of the VTICA Contribution, which value shall not be required to exceed the VTICA Contribution amount that would have been payable by the Company. Any determination of infeasibility or mechanism for providing alternative arrangements is subject to approval by the City at its sole discretion. Nothing in this Section 19.B shall operate to limit the City's enforcement authority under this Agreement including, without limitation, Section 16, Section 18, and Section 19.A.

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

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

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

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

To the City:

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

To the Company:

116 E McMicken LLC
Attention: Jeremy Moore, Chief Operating Officer
131 E. McMicken Avenue,
Cincinnati, Ohio 45202

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 36. Wage Enforcement.

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

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

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

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

(c) If this contract is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this contract is required to authorize, and does hereby specifically authorize, any local, state or federal agency, court, administrative body or other entity investigating a complaint of Wage Theft or Payroll Fraud against the Person (collectively "investigative bodies") to release to the City's Department of Economic Inclusion any and all evidence, findings,

complaints and determinations associated with the allegations of Wage Theft or Payroll Fraud upon the City's request and further authorizes such investigative bodies to keep the City advised regarding the status of the investigation and ultimate determination. If the investigative bodies require the Person to provide additional authorization on a prescribed form or in another manner, the Person shall be required to provide such additional authorization within 14 days of a request by the City.

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

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

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

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

Section 38. Counterparts and Electronic Signatures. This Agreement may be executed by the parties hereto in two or more counterparts and each executed counterpart shall be considered an original but all of which together shall constitute one and the same instrument. This Agreement may be executed and delivered by electronic signature; any original signatures that are initially delivered electronically shall be physically delivered as soon as reasonably possible.

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

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

CITY OF CINCINNATI,
an Ohio municipal corporation

116 E MCMICKEN LLC,
an Ohio limited liability company

By: _____
Paula Boggs Muething, City Manager

Date: _____, 2021

By: _____

Printed Name: _____

Title: _____

Date: _____, 2021

Authorized by resolution dated _____

Approved as to Form:

Assistant City Solicitor

Certified Date: _____

Fund/Code: _____

Amount: _____

By: _____
Karen Alder, City Finance Director

Exhibit A to CRA Agreement

LEGAL DESCRIPTION OF PROPERTY

Street Address: 116 E. McMicken Avenue, Cincinnati, Ohio 45202

Parcel ID No.: 094-0007-0244-00

Situate in Cincinnati, Hamilton County, Ohio, in Block 1 of Finlay & Ludlow's Subdivision, and described as follows:

Beginning at a point in the northerly line of McMicken Avenue 174.50 feet eastwardly from the northeast corner of Lang Street and McMicken Avenue; thence N. 47° 43' E. 120.77 feet to the southerly line of Hust Alley; thence S. 42° 41' E. 24 feet along said southerly line of Hust Alley; thence S. 47° 43' W. 121.05 feet to the northerly line of McMicken Avenue; thence N. 42° 01' W. 24 feet to the point of beginning.

Exhibit B to CRA Agreement
APPLICATION FOR TAX EXEMPTION

TO BE ATTACHED

Attachment A to Ordinance

CRA Tax Exemption Agreement

SEE ATTACHED

Community Reinvestment Area Tax Exemption Agreement

This Community Reinvestment Area Tax Exemption Agreement (this "Agreement") is made and entered into as of the Effective Date (as defined on the signature page hereof) by and between the CITY OF CINCINNATI, an Ohio municipal corporation (the "City"), and 116 E MCMICKEN LLC, Ohio limited liability company (the "Company") an affiliate of Northcrown Property LLC.

Recitals:

- A. The City, through the adoption of Ordinance No. 274-2017 on September 27, 2017, designated the entire City of Cincinnati as a Community Reinvestment Area to encourage the development of real property and the acquisition of personal property in that area, pursuant to Ohio Revised Code Sections 3735.65 through 3735.70 (the "Statute").
- B. In accordance with the Statute, the Ohio Director of Development has forwarded to the City the Director's determination dated October 23, 2017, stating that the findings contained in Ordinance No. 274-2017 are valid and that the entire City is a Community Reinvestment Area under the Statute. By such determination, the Director of Development of the State of Ohio determined that the area within the corporate boundaries of the City of Cincinnati contains the characteristics set forth in the Statute and confirmed such area as a Community Reinvestment Area under the Statute.
- C. The Council of the City of Cincinnati has also passed Ordinance No. 275-2017 as of September 27, 2017, as amended by Ordinance No. 339-2018 passed on October 31, 2018 (the "Commercial Policy Ordinance"), which sets forth certain additional policies, conditions and limitations regarding newly constructed or remodeled commercial and residential structures in the Community Reinvestment Area.
- D. The Company is the sole owner of certain real property within the City, located at 116 E. McMicken Avenue, Cincinnati, Ohio 45202 (the "Property"), as further described in Exhibit A (Legal Description of Property) hereto. Notwithstanding the foregoing, the Property shall not include any residential condominiums being developed in connection with the Project (as defined below) (the "Excluded Property"), and the Company acknowledges and agrees that the City's Community Reinvestment Area program entails separate applications by the owner of any residential condominium units included within the Project. For the avoidance of doubt, the Excluded Property shall not be exempt under this Agreement; however, this provision shall not be deemed to prohibit any owners from time to time of any Excluded Property from separately applying for a tax abatement in accordance with applicable law.
- E. The Company has proposed to remodel a building located on the Property, within the boundaries of the City of Cincinnati, as more fully described in Section 1 herein (the "Project"), provided that the appropriate development incentives are available to support the economic viability of the Project.
- F. The Statute provides that if any part of a project is to be used for commercial or industrial purposes, including projects containing four or more dwelling units, in order to be eligible for tax exemption the City and the Company must enter into an agreement pursuant to Ohio Revised Code Section 3735.671 prior to commencement of construction or remodeling.
- G. The City, having appropriate authority under the Statute for this type of project, agrees (as provided herein and subject to all conditions herein) to provide the Company with the tax exemption incentives stated herein, available under the Statute, for development of the Project.
- H. The Company has submitted to the City an application for this tax exemption agreement (the "Application"), a copy of which is attached hereto as Exhibit B, has remitted with the Application (i) the City application fee of One Thousand Two Hundred Fifty Dollars (\$1,250) made payable to the City and (ii) in accordance with Ohio Revised Code Section 3735.672(C), the state application fee

of Seven Hundred Fifty Dollars (\$750) made payable to the Ohio Development Services Agency ("ODSA"), to be forwarded to the ODSA with an executed copy of this Agreement.

- I. The Director of the City's Department of Community and Economic Development has recommended approval of the Application on the basis that the Company is qualified by financial responsibility and business experience to create and preserve employment opportunities and improve the economic climate of the City.
- J. The Board of Education of the Cincinnati City School District (the "Board of Education"), pursuant to that certain *Tax Incentive Agreement* effective as of April 28, 2020, has approved exemptions of up to one hundred percent (100%) of Community Reinvestment Area projects, waived advance notice and right to review such projects, and waived sharing or allocation of municipal income taxes in connection with such projects.
- K. The Company has entered into (or will enter into) an agreement with the Board of Education requiring the Company to pay the Board of Education amounts equal to thirty-three percent (33%) of the full amount of exempt real property taxes that would have been paid to Hamilton County if this Agreement were not in effect (the "Board of Education Agreement").
- L. The Company represents and warrants to the City that the Company and its major tenants, if any, do not intend to relocate part or all of their operations to the City from another county or municipal corporation in the State of Ohio (the "State").
- M. The Company represents that within the past five (5) years neither the Company, any related member of the Company, nor any entity to which the Company is a successor has discontinued operations at a project site in the State during the term of a property tax exemption agreement (under Ohio Revised Code Section 3735.671, 5709.62, 5709.63 or 5709.632) applicable to that site, and the Company acknowledges that misrepresentation hereunder will result in voiding of this Agreement.
- N. The Company represents and warrants to the City that the Company is not subject to an Enterprise Zone Agreement with the City of Cincinnati for the Property or the Project.
- O. City Council passed (i) Motion No. 201401368 on November 19, 2014, establishing a tax incentive policy that incentivizes each applicant for a real property tax abatement in the neighborhoods of Downtown and OTR to enter into a voluntary tax incentive contribution agreement with a third-party organization ("VTICA") for an amount equal to a percentage of the real property taxes that would have been payable on the abated property but for the City-authorized tax abatement (the "VTICA Contribution"), which funds shall be committed by a third-party organization to pay for streetcar operations that specially benefit the abated property, and (ii) Motion No. 201501592 on December 16, 2015, which established that the VTICA Contribution to be recognized by the Director of the Department of Community and Economic Development is 15% of the real property taxes that would have been payable on the abated property but for the City-authorized tax abatement. The Commercial Policy Ordinance confirmed that such motions have not been superseded and remain the will of Council.
- P. The Company acknowledges that Streetcar operations in the Central Business District and Over-the-Rhine will specially benefit the Project due to (a) the Streetcar's enhancement of public transit options in such neighborhoods and (b) the anticipated increase in property values attributable to public investment in Streetcar infrastructure.
- Q. The Company represents and warrants to the City that the Company has entered or will enter into a VTICA and shall pay the VTICA Contribution each year for the full term of the abatement.
- R. This Agreement has been authorized by Ordinance No. _____-2021, passed by Cincinnati City Council on _____, 2021.

- S. In determining to recommend and authorize this Agreement, the Department of Community and Economic Development and City Council, respectively, have acted in material reliance on the Company's representations in the Application and herein regarding the Project including, but not limited to, representations relating to the number of jobs to be created and/or retained by the Company, the Board of Education Agreement, the VTICA Contribution, and the Project's effect in promoting the general welfare of the people of Cincinnati by, for example, encouraging the development of real property located in the Community Reinvestment Area and thereby promoting economic growth and vitality in Cincinnati.

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

Section 1. Project. Upon issuance of the necessary zoning and building approvals, the Company agrees to remodel the existing building into approximately 5,183 square feet of residential space, consisting of 10 residential rental units, and approximately 549 square feet of commercial space on the Property (the "Improvements") at an estimated aggregate cost of Eight Hundred Sixty-Nine Thousand, Three Hundred Twenty-Five Dollars (\$869,325) to commence after the execution of this Agreement and to be completed no later than January 1, 2022; *provided*, however, that the Director of the Department of Community and Economic Development (the "Housing Officer") may, in his discretion, extend such deadline for a period of up to 12 months by written notice if, in the Director's judgment, the Company is proceeding in good faith towards completion. The remodeling shall be in compliance with applicable building code requirements and zoning regulations. In addition to the foregoing, (A) the Project shall comply with the Americans with Disabilities Act, together with any and all regulations or other binding directives promulgated pursuant thereto (collectively, the "**ADA**"), and (B) if (i) any building(s) within the Project is subject to the accessibility requirements of the ADA (e.g., by constituting a "place of public accommodation" or another category of structure to which the ADA is applicable) and (ii) such building(s) is not already required to meet the Contractual Minimum Accessibility Requirements (as defined below) pursuant to the ADA, applicable building code requirements, or by any other legal requirement, then the Company shall cause such building(s) to comply with the Contractual Minimum Accessibility Requirements in addition to any requirements pursuant to the ADA and the applicable building code or legal requirement. As used herein, "**Contractual Minimum Accessibility Requirements**" means that a building shall, at a minimum, include (1) at least one point of entry (as used in the ADA), accessible from a public right of way, with respect to which all architectural barriers (as used in the ADA) to entry have been eliminated, and (2) if such accessible point of entry is not a building's primary point of entry, conspicuous signage directing persons to such accessible point of entry.

Section 2. Real Property Tax Exemption. Subject to the satisfaction of the conditions set forth in this Agreement, the City approves exemption from real property taxation, pursuant to and to the fullest extent authorized by the Statute, of one hundred percent (100%) of the amount by which the Improvements increase the assessed value of the Property as determined by the Hamilton County Auditor, for a period of fifteen (15) years, provided that the Company shall have entered into the Board of Education Agreement. Within 120 days after completion of the Project (unless otherwise extended in writing by the City's Housing Officer), the Company must file the appropriate application for tax exemption with the City's Housing Officer. The Company is solely responsible to take this action. Upon receipt of the application for tax exemption, the City will proceed with the exemption authorized by this Agreement. In accordance with Ohio Revised Code Section 3735.67, the exemption is conditioned on verification by the Housing Officer of (A) the completion of remodeling, (B) the cost of remodeling, (C) the facts asserted in the application for exemption and (D) if a remodeled structure is a structure of historical or architectural significance as designated by the City, state or federal government, that the appropriateness of the remodeling has been certified in writing by the appropriate agency. If the required verification is made, the Housing Officer will forward the exemption application to the Hamilton County Auditor with the necessary certification by the Housing Officer. Subject to the conditions set forth in this Agreement, the exemption commences the first tax year for which the Improvements would first be taxable were the Improvements not exempted from taxation.

The dates provided in this paragraph refer to tax years in which the subject property is assessed, as opposed to years in which taxes are billed. No exemption shall commence after tax year 2022 nor extend beyond the earlier of (i) tax year 2036 or (ii) the end of the fifteenth (15th) year of exemption.

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

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

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

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

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

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

Section 9. Continuation of Exemptions. As provided in Ohio Revised Code Section 3735.671(C)(5), if for any reason the City revokes the designation of the City of Cincinnati as a Community Reinvestment Area, entitlements granted under this Agreement shall continue for the number of years

specified under this Agreement, unless the Company materially fails to fulfill its obligations under this Agreement and the City terminates or modifies the exemptions from taxation authorized pursuant to this Agreement.

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

Section 11. Small Business Enterprise Program.¹

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

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

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

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

Section 12. Jobs. The Company represents that, as of the date of the execution of this Agreement, the Company has no existing employment at the Property or in the State.

Section 13. Job Creation and Retention.

A. Jobs to be Created by Company. The Company agrees to use its best efforts to create (i) 3 full-time permanent jobs, and (ii) 20 full-time temporary construction jobs at the Property in connection with the Project. In the case of the construction jobs, the job creation and retention period shall be concurrent with remodeling, and in the case of the other jobs described herein, the job creation period shall begin upon completion of remodeling and shall end three (3) years thereafter.

B. Company's Estimated Payroll Increase. The Company's increase in the number of employees will result in approximately (i) \$120,000 of additional annual payroll with respect to the full-time permanent jobs, and (ii) \$750,000 of additional annual payroll prior to the completion of the Project with respect to the full-time temporary construction jobs.

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

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

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

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

Section 16. Default. As provided in Ohio Revised Code Section 3735.671(C)(6), if the Company materially fails to fulfill its obligations under this Agreement, or if the City determines that the certification as to delinquent taxes required by this Agreement (Section 6 hereof) or the covenant of satisfaction of tax and other obligations (Section 7 hereof) is fraudulent, the City may terminate or modify the exemptions from taxation granted or authorized under this Agreement and may require the repayment by the Company of the amount of taxes that would have been payable had the Improvements not been exempted from taxation pursuant to this Agreement. A modification of exemption may be in the form of reduction in the number of years that eligible property is exempt and/or a reduction in the exemption percentage. The City shall provide written notice to the Company prior to finding the Company in default under this section. The notice shall provide the Company with not less than thirty (30) days to cure the default prior to City termination or modification of the exemptions under this Agreement. The City may extend the cure period as reasonably necessary under the circumstances. In the event of such termination or modification, the City is authorized to so notify the appropriate taxing authorities in order to effect the termination or modification. If repayment of previously exempt taxes is required by the City under this Section, such amount shall be paid as directed by the City within thirty (30) days of written demand. The

City may secure repayment of such taxes by a lien on the Property in the amount required to be repaid. Such a lien shall attach, and may be perfected, collected, and enforced, in the same manner as a mortgage lien on real property, and shall otherwise have the same force and effect as a mortgage lien on real property. Amounts due and not paid when due under this Section 16 shall bear interest at the rate specified in Ohio Revised Code Section 1343.03(A) (as in effect on the date of the City's payment demand).

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

Section 18. Revocation.

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

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

Section 19. False Statements; Penalties; Material Representations.

A. Generally. As required in connection with Ohio Revised Code Section 9.66(C), the Company affirmatively covenants that it has made no false statements to the State or the City in the process of obtaining approval for this Agreement. If any representative of the Company has knowingly made a false statement to the State or the City to obtain approval for this Agreement, or if the Company fails to provide any information expressly required under the Application, the Company shall be required to immediately return all benefits received under this Agreement (by payment of the amount of taxes exempted hereunder, paid as directed by the City within thirty (30) days of written demand) and the Company shall be ineligible for any future economic development assistance from the State, any State agency or any political subdivision of the State pursuant to Ohio Revised Code Section 9.66(C)(1). Amounts due and not paid under this Section 19 shall bear interest at the rate of twelve percent (12%) per year. Any person who provides a false statement

to secure economic development assistance (as defined in Ohio Revised Code Section 9.66) may be guilty of falsification, a misdemeanor of the first degree, pursuant to Ohio Revised Code Section 2921.13(F)(1), which is punishable by fine of not more than One Thousand Dollars (\$1,000) and/or a term of imprisonment of not more than six (6) months.

B. Material Representations – Board of Education Agreement and VTICA. The Parties acknowledge and agree that a material failure by the Company to comply with its representations concerning the Board of Education Agreement or VTICA Contribution shall constitute an event of default for purposes of Section 16 (*Default*) and the basis for revocation under Section 18 (*Revocation*). Subject to the terms of the VTICA, if the VTICA is unenforceable for reasons of infeasibility or otherwise, the Company shall enter into alternative arrangements providing for the economic equivalent of the VTICA Contribution in order to support streetcar operations. Such arrangements may include, but are not limited to, providing for the economic equivalent of the VTICA Contribution through formation of a special improvement district. For purposes of this Section 19.B, alternative arrangements must result in services substantially similar to those that would have been supported through the VTICA and at a value that is the economic equivalent of the VTICA Contribution, which value shall not be required to exceed the VTICA Contribution amount that would have been payable by the Company. Any determination of infeasibility or mechanism for providing alternative arrangements is subject to approval by the City at its sole discretion. Nothing in this Section 19.B shall operate to limit the City's enforcement authority under this Agreement including, without limitation, Section 16, Section 18, and Section 19.A.

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

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

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

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

To the City:

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

To the Company:

116 E McMicken LLC
Attention: Jeremy Moore, Chief Operating Officer
131 E. McMicken Avenue,
Cincinnati, Ohio 45202

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 36. Wage Enforcement.

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

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

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

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

(c) If this contract is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this contract is required to authorize, and does hereby specifically authorize, any local, state or federal agency, court, administrative body or other entity investigating a complaint of Wage Theft or Payroll Fraud against the Person (collectively "investigative bodies") to release to the City's Department of Economic Inclusion any and all evidence, findings,

complaints and determinations associated with the allegations of Wage Theft or Payroll Fraud upon the City's request and further authorizes such investigative bodies to keep the City advised regarding the status of the investigation and ultimate determination. If the investigative bodies require the Person to provide additional authorization on a prescribed form or in another manner, the Person shall be required to provide such additional authorization within 14 days of a request by the City.

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

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

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

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

Section 38. Counterparts and Electronic Signatures. This Agreement may be executed by the parties hereto in two or more counterparts and each executed counterpart shall be considered an original but all of which together shall constitute one and the same instrument. This Agreement may be executed and delivered by electronic signature; any original signatures that are initially delivered electronically shall be physically delivered as soon as reasonably possible.

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

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

CITY OF CINCINNATI,
an Ohio municipal corporation

116 E MCMICKEN LLC,
an Ohio limited liability company

By: _____
Paula Boggs Muething, City Manager

Date: _____, 2021

By: _____

Printed Name: _____

Title: _____

Date: _____, 2021

Authorized by resolution dated _____

Approved as to Form:

Assistant City Solicitor

Certified Date: _____

Fund/Code: _____

Amount: _____

By: _____
Karen Alder, City Finance Director

Exhibit A to CRA Agreement

LEGAL DESCRIPTION OF PROPERTY

Street Address: 116 E. McMicken Avenue, Cincinnati, Ohio 45202

Parcel ID No.: 094-0007-0244-00

Situate in Cincinnati, Hamilton County, Ohio, in Block 1 of Finlay & Ludlow's Subdivision, and described as follows:

Beginning at a point in the northerly line of McMicken Avenue 174.50 feet eastwardly from the northeast corner of Lang Street and McMicken Avenue; thence N. 47° 43' E. 120.77 feet to the southerly line of Hust Alley; thence S. 42° 41' E. 24 feet along said southerly line of Hust Alley; thence S. 47° 43' W. 121.05 feet to the northerly line of McMicken Avenue; thence N. 42° 01' W. 24 feet to the point of beginning.

Exhibit B to CRA Agreement
APPLICATION FOR TAX EXEMPTION

TO BE ATTACHED

March 24, 2021

To: Mayor and Members of City Council

202101195

From: Paula Boggs Muething, City Manager

Subject: **JOB CREATION TAX CREDIT FOR LUMA FINANCIAL
TECHNOLOGIES**

Attached is an Emergency Ordinance captioned as follows:

APPROVING AND AUTHORIZING the execution of a Job Creation Tax Credit Agreement with Luma Financial Technologies, LLC, pursuant to which the company agrees to create 58 new jobs at 425 Walnut Street, Suite 2410 in the Central Business District of Cincinnati and, for a period of 4 years, the City agrees to provide an income tax credit equal to 35% of City income tax revenue from such new jobs.

BACKGROUND/CURRENT CONDITIONS

Luma Financial Technologies, a fin-tech start-up company in Cincinnati, is expanding so that it can offer additional products and services to its customer base and grow their international presence. The Company engaged with the City of Cincinnati and JobsOhio to seek financial assistance for the expansion project.

COMPANY INFORMATION

Luma Financial Technologies, LLC is a fin-tech start-up company providing a marketplace for structured products and annuities, a class of financial products that help investors further diversify their portfolios beyond traditional stocks and bonds. The company was founded in Cincinnati in 2018 and has received seed investment from Morgan Stanley and Bank of America, two of the largest investment banks on Wall Street. Luma Financial Technologies is currently leasing office space in the US Bank office building at Fifth & Walnut Street in downtown Cincinnati.

PROJECT DESCRIPTION

The Company is taking on an expansion project to offer additional annuities products, build their secondary market (investor to investor) offerings, as well as grow their international presence. Through the expansion project, the company will retain 54 jobs and \$6,560,000 in annual payroll and create a total of 58 new jobs and \$6,814,000 additional annual payroll within the next three years. The new hires will serve a variety of functions for the business including IT, web development, business analysis, quality assurance and HR. Annual average salary will exceed \$115,000 per

new job. The Company will create the new jobs at its current office location in the U.S. Bank building at 425 Walnut Street in the Central Business District.

PROPOSED INCENTIVE

The Administration is recommending a 4-year, 35% non-refundable job creation tax credit (JCTC). The Company will be required to retain the newly created jobs for a total of eight years.

The reason for providing the payroll tax incentive is that the Project provides an advantageous return on investment for the City. In addition, the incentive will require the Company to maintain an operation within the City beyond the expiration of their current lease in 2024. The Company was also considering relocating the new jobs to its secondary location in the New York City area.

Estimated Total Term JCTC Value to Company:	\$171,712
Estimated Total Term New Payroll Tax Revenue:	\$809,503
Incentive Leverage per Dollar of City Investment:	\$4.71

RECOMMENDATION

The Administration recommends approval of this Emergency Ordinance.

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

EMERGENCY

City of Cincinnati

TJL

BWL

An Ordinance No. _____

- 2021

APPROVING AND AUTHORIZING the execution of a Job Creation Tax Credit Agreement with Luma Financial Technologies, LLC, pursuant to which the company agrees to create 58 new jobs at 425 Walnut Street, Suite 2410 in the Central Business District of Cincinnati and, for a period of 4 years, the City agrees to provide an income tax credit equal to 35% of City income tax revenue from such new jobs.

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

WHEREAS, Luma Financial Technologies, LLC ("Employer") intends to expend approximately \$200,000 in leasehold improvements to its office at 425 Walnut Street, Suite 2410 (the "Project" and the "Project Site," respectively), which will result in the creation of at least 58 new jobs in Cincinnati within three years if certain income tax credit assistance is provided by the City; and

WHEREAS, the City Manager has recommended that Council authorize the execution of a Job Creation Tax Credit Agreement (the "Agreement") with Employer, in substantially the form attached hereto as Attachment A, which provides for an income tax credit equal to 35% of income tax revenue from new jobs created by Employer at the Project Site for a term of 4 years; and

WHEREAS, the Agreement provides that Employer will spend a minimum of \$200,000 to implement the Project at the Project Site; and

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

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

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

Section 1. That Council approves and authorizes the execution of a Job Creation Tax Credit Agreement (the "Agreement") with Luma Financial Technologies, LLC ("Employer"), in substantially the form attached hereto as Attachment A, in order to assist Employer in the

investment of \$200,000 in leasehold improvements to its office at 425 Walnut Street, Suite 2410 (the “Project” and the “Project Site,” respectively) in the Central Business District, which provides for a City income tax credit equal to 35% of City income tax revenue from new jobs created by Employer at the Project Site for a period of 4 years, and the creation of 58 new jobs in the City within three years.

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

Section 3. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is to allow the Project and the corresponding revitalization of the City of Cincinnati and improvement of the City’s economic welfare to begin at the earliest possible time.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

Attachment A to Ordinance

Job Creation Tax Credit Agreement

SEE ATTACHED



Contract Number _____

JOB CREATION TAX CREDIT AGREEMENT

This Job Creation Tax Credit Agreement (this "Agreement") is made and entered into as of the Effective Date (as defined on the signature page hereof) by and between the CITY OF CINCINNATI, an Ohio municipal corporation (the "City"), and LUMA FINANCIAL TECHNOLOGIES, LLC, a Delaware limited liability company (the "Grantee").

BACKGROUND INFORMATION

- A. The City seeks to increase employment opportunities and to encourage establishment of new jobs within the corporate boundaries of the City of Cincinnati (the "City Boundaries"), in order to improve the economic welfare of the City and its citizens, in furtherance of the public purposes enunciated in Article VIII, Section 13 of the Ohio Constitution.
- B. The City has determined that the Grantee will create new jobs within the City Boundaries in connection with a project to be implemented by the Grantee at 425 Walnut Street, Suite 2410, Cincinnati, Ohio 45202 (the "Project Site"), consisting of the purchase of furniture, fixtures and equipment (the "Project").
- C. Cincinnati Municipal Code ("CMC") Chapter 311 imposes income taxes, including a tax on business net profits. The Grantee represents and has documented to the City that the credit authorized by this Agreement against the tax imposed on the Grantee's net profits under CMC Chapter 311 (the "City Income Tax Credit") is a major factor in the Grantee's decision to go forward with the Project, to offset costs of capital expenditures and/or moving.
- D. The City Income Tax Credit as provided in this Agreement is authorized by Ohio Revised Code ("ORC") Sections 718.15 and 718.151.
- E. The City and Grantee intend that Grantee will implement the Project partly as a result of Grantee cost savings resulting from a thirty-five (35%) City income tax credit applicable to new jobs created by Grantee at the Project Site for a period of four (4) years, and thereby create 58 new jobs in the City within three (3) years of the Determination Date (as defined below).

STATEMENT OF THE AGREEMENT

In consideration of the foregoing and the mutual promises and covenants hereinafter set forth, the parties agree as follows:

- 1. PRECONDITIONS TO EFFECTIVENESS OF AGREEMENT. Notwithstanding anything to the contrary herein, this Agreement shall be of no force and effect unless and until (1) this Agreement is fully executed by both parties and (2) the Council of the City of Cincinnati passes an ordinance approving this Agreement, and the ordinance takes effect.
- 2. CERTAIN DEFINITIONS. As used in this Agreement:
 - (A) "Aggregate Employees" means, for any stated period, the Number of Full-Time Employee Equivalents employed either by the Grantee or by a Related Member, calculated with reference to all employees of the Grantee and all Related Members of the Grantee for which (1) the primary work location is within the City of Cincinnati and (2) the Grantee or a Related Member withholds City income taxes.
 - (B) "City Tax Credit Term" means the 4-year term of 2021 through 2024.

- (C) "Determination Date" means September 14, 2020.
- (D) "Employment Retention Period" means an 8-year period commencing as of the start of the City Tax Credit Term.
- (E) "Grantee's City-Wide Employees" means, for any stated period, the Number of Full-Time Employee Equivalents employed by the Grantee, calculated with reference to all employees of the Grantee for which (1) the primary work location is within the City (not limited to the Project Site) and (2) the Grantee withholds City income taxes. An employee is considered to have a primary work location within the City if at least fifty-one percent (51%) of the compensation paid by the Grantee to that employee is taxed by the City with respect to work performed in the City.
- (F) "Income Tax Revenue" means, for any Tax Year:
- (1) Payments from the Grantee to the City in an amount equal to the aggregate amount of earnings taxes withheld on the qualifying wages (as defined in CMC Section 311-9-Q) paid by the Grantee to all Aggregate Employees whose primary work location is the Project Site; less
 - (2) Any amounts refunded by the City to Aggregate Employees whose primary work location is the Project Site (pursuant to CMC Chapter 311) relating to qualifying wages (as defined in CMC Section 311-9-Q) paid by the Grantee, as such refunds are reported by the City to the Grantee from time to time.
- (G) "Initial Tax Year" means the first Tax Year during which the Grantee is entitled to a City Income Tax Credit.
- (H) "Minimum Qualifying Wage" means an hourly wage of at least (1) \$12.50 per hour on and after July 1, 2018, (2) \$13.50 per hour on and after January 1, 2019, and (3) \$15.00 per hour on and after July 1, 2019; *provided however*, that if (i) the Grantee contributes to any health, vision and/or dental insurance plan; provides retirement benefits; or provides childcare, tuition, or training reimbursement benefits to a New Employee and (ii) the City approves in writing, in its sole and absolute discretion any such contribution, retirement, or reimbursement benefit, then the hourly cash value of any such City-approved benefit shall be added to the New Employee's base monetary hourly wage for the purposes of calculating that New Employee's hourly wage under this definition.
- (I) "Net Number of New Employees" means, for any Tax Year, the lesser of:
- (1) The average Number of New Employees in the final three (3) calendar months of that Tax Year; or
 - (2) The remainder computed by subtracting (a) the Baseline City-Wide Employment Level from (b) the average number of the Grantee's City-Wide Employees in the final three (3) months of that Tax Year; or
 - (3) The remainder computed by subtracting (a) the Baseline Aggregate Employment Level from (b) the average number of Aggregate Employees in the final three (3) months of that Tax Year.
- Computations of an "average number" of employees, as required by this Agreement, shall be made and documented by the Grantee in a manner subject to approval by the City, such approval not to be unreasonably withheld.
- (J) "New Employee" means an employee of the Grantee that meets all of the following criteria during the applicable Tax Year: (i) has a primary work location is the Project Site, (ii) is first employed by the Grantee within the City Boundaries after the Determination Date, and (iii) is paid at least the Minimum Qualifying Wage by the Grantee at all times during the applicable Tax Year. An employee is considered to have a primary work location at the Project Site if at least fifty-one percent (51%) of the compensation paid by the Grantee to that employee is taxed by the City with

respect to work performed at the Project Site. "New Employees" may include employees of the Grantee employed in employment positions that were relocated to the Project Site from other operations of the Grantee (or of a Related Member) outside of the City Boundaries.

- (K) "New Income Tax Revenue" means, for any Tax Year, the lesser of:
- (1) Income Tax Revenue in such Tax Year relating only to New Employees; or
 - (2) The amount computed by multiplying (a) the Net Number of New Employees for such Tax Year by (b) the average amount of Income Tax Revenue received by the City in such Tax Year per New Employee (which average amount is computed by dividing (x) the total Income Tax Revenue for such Tax Year relating only to New Employees by (y) the monthly average of Number of New Employees (determined on a twelve (12) month basis) employed during such Tax Year.
- (L) "Number of Full-Time Employee Equivalents" means one fortieth (1/40) of the total number of compensated hours worked in a work week by permanent employees that are paid at least the Minimum Qualifying Wage for the duration of the applicable Tax Year (whether full-time or part-time), provided that the hours included in the calculation may not exceed forty (40) per week for any individual employee.
- (M) "Number of New Employees" means, for any stated period, the Number of Full-Time Employee Equivalents employed in that period, calculated only with reference to hours worked by New Employees.
- (N) "Related Member" means any of the Grantee's "related members" (as defined in ORC Section 122.171(A)(7)) that has at least one employee whose primary work location is within the City Boundaries (not limited to the Project Site), including those "related members" that begin operations within the City Boundaries on or after the Effective Date.
- (O) "Tax Year" means the fiscal year used by the Grantee to compute net profits under CMC Chapter 311.

3. PROJECT; JOB CREATION AND RETENTION.

- (A) Grantee Representations. The Grantee represents that:
- (1) The monthly average of the Number of Full-Time Employee Equivalents employed by the Grantee, for whom the Project Site was the primary work location, for the three (3) full calendar month period immediately prior to the Determination Date was 54.
 - (2) The monthly average of the Grantee's City-Wide Employees for the three (3) full calendar month period immediately prior to the Determination Date was 54 (the "Baseline City-Wide Employment Level").
 - (3) The monthly average of Aggregate Employees for the three (3) full calendar month period immediately prior to the Determination Date was 54 (the "Baseline Aggregate Employment Level").
 - (4) Related Members of the Grantee with any employees whose primary work location is within the City Boundaries as of the Effective Date (and the Related Members' Cincinnati addresses and Federal Tax Identification Numbers) consist of the following: NONE.
 - (5) The Grantee shall give written notice to the City of any Related Member that begins operations within the City Boundaries on or after the Effective Date.
- (B) Minimum Expenditures. The Grantee agrees to expend a minimum of \$200,000.00 not later than three (3) years from the Effective Date to accomplish the Project.
- (C) Minimum Number of New Employees. Within three (3) years from the Determination Date, the Grantee agrees to employ a Number of New Employees at the Project Site equal to at least fifty-eight (58). The Grantee agrees that the aggregate annual wages of the New Employees will be equal to at least \$6,814,000.00.

- (D) Relocation of Employment Positions from Elsewhere in Ohio. The Grantee may not relocate a substantial number of employment positions from elsewhere in Ohio (i.e., outside the City) unless the Director of the Department of Community and Economic Development determines that the legislative authority of the county, township, or municipal corporation from which the employment positions would be relocated has been notified by the Grantee of the relocation.
- (E) Employment Retention by the Grantee.
- (1) During each year of the Employment Retention Period, the Grantee agrees to maintain a monthly average of Aggregate Employees (determined on a twelve (12) month basis) equal to or greater than the Baseline Aggregate Employee Level.
 - (2) During each of the first three (3) years of the City Tax Credit Term, the Grantee agrees to maintain a monthly average of the Grantee's City-Wide Employees (determined on a twelve (12) month basis) equal to or greater than the Baseline City-Wide Employee Level.
 - (3) Beginning with the fourth (4th) year of the City Tax Credit Term and continuing during each subsequent year of the Employment Retention Period, the Grantee agrees to maintain an average Net Number of New Employees (determined on a twelve (12) month basis) of at least ninety percent (90%) of the highest Net Number of New Employees reported by the Grantee in calculating the City Income Tax Credit in any prior Tax Year during the City Tax Credit Term.

The Grantee acknowledges and agrees that the obligations of the Grantee under this Agreement may be affected by decisions of the Related Members, as the City's agreement to provide the City Income Tax Credit authorized herein is conditioned on maintenance of the existing employment within the City Boundaries by both the Grantee and the Related Members. The Grantee may apply to the City Manager for waiver of this employment retention requirement (which waiver may be granted in the City Manager's sole discretion) on the grounds that the Grantee's failure to maintain the required Net Number of New Employees is excusable based on exceptional circumstances not under the control of the Grantee or of the Related Members, as described in Section 12.

- (F) City Residents; Referral Procedure for New Hires. The Grantee agrees to use its best efforts to fill at least seventy-five percent (75%) of the new jobs created in connection with the Project with employees residing within the City Boundaries (the "City Resident Hiring Goal"). In furtherance of such goal, the Grantee shall implement the following procedures:
- (1) City Representative. In its efforts to meet the City Resident Hiring Goal, the Grantee agrees to request referrals from the OhioMeansJobs Center (or such other agency as the City Manager may designate) when positions need to be filled. A representative of the personnel office of the Grantee will meet periodically with a representative of the OhioMeansJobs Center (the "City Representative") to assess the Grantee's future employment needs and to assure that qualified applicants can be recruited and trained in a timely manner.
 - (2) Initial Positions. As soon as practicable after execution of this Agreement, and no later than ninety (90) days prior to the earlier of (a) the scheduled initial occupancy of the Project or completion of renovation or expansion or (b) the date when the following employment positions will be filled, the Grantee agrees to notify the City Representative of the following: (i) the number of new employees that will be required, and the date when the positions must be filled; (ii) the training, qualifications and experience required for the individuals who will fill the positions; and (iii) the name, address and telephone number of the person responsible for hiring. For positions requiring customized training, the Grantee agrees to provide such notice as far in advance of such ninety-day period as is practicable.
 - (3) City Referrals. The City Representative shall, within thirty (30) days after receiving such notification from the Grantee, submit in writing the following: (a) the positions for which the City intends to make referrals; (b) the names and qualifications of referred applicants for each position available; and (c) the date when these applicants will be available for interview. For positions requiring customized training, however, such information may be

submitted to the Grantee up to thirty (30) days prior to the date that such positions are to be filled.

- (4) Interviews. The Grantee agrees to interview those applicants who are referred by the City Representative and shall consider for employment those applicants the Grantee finds to be qualified for an available position. If (a) the City Representative informs the Grantee that it does not intend to make referrals for a position, (b) the City Representative fails to refer applicants who are available for interview for a position in accordance with this subsection or (c) the applicants referred for a position are deemed not qualified by the Grantee, then the Grantee may hire individuals from other sources for such position, without any further obligations or restrictions hereunder as to such position.
- (5) Subsequent Positions. During the three (3) year period following the date upon which this Agreement becomes effective, if the Grantee needs to fill a vacant employment position (either from attrition or an increase in employment), the Grantee agrees to notify the City Representative for an additional referral of applicants. The Grantee, however, is under no obligation to postpone the hiring of a new employee pending receipt of referrals from the City Representative. If the position is still vacant at the time referrals are received from the City Representative, the Grantee shall interview those applicants who are referred by the City Representative and shall consider for employment those applicants the Grantee finds to be qualified for an available position.
- (6) Continuation of Referral Procedure. If the Grantee and the City agree that this referral process has been mutually beneficial, the parties shall continue the process after the three (3) year period.

4. CITY INCOME TAX CREDIT.

- (A) Credit Requirements. Subject to the terms and conditions of this Agreement, for each Tax Year during the City Tax Credit Term in which the Grantee has claimed the City Income Tax Credit on an income tax return filed directly with the City with respect to its net profits and is otherwise in full compliance with all requirements under both CMC Chapter 311 and this Agreement, the Grantee shall be allowed to apply the City Income Tax Credit stated in this Section against the tax imposed on the Grantee's net profits under CMC Chapter 311. The City Income Tax Credit shall be applied in accordance with any applicable rules and regulations (consistent with this Agreement) that may be adopted by the Board of Review (as defined in CMC Section 311-9-B1).
- (B) Amount of Credit. The amount of the City Income Tax Credit shall be thirty-five percent (35%) of any New Income Tax Revenue in a given Tax Year. The City Income Tax Credit shall be applied against net profits tax due to the City (pursuant to CMC Chapter 311) from the Grantee for such Tax Year. The City Income Tax Credit shall be allowed only after the allowance of all other credits and deductions under CMC Chapter 311. If the City Income Tax Credit exceeds the Grantee's tax liability for such Tax Year, the City Income Tax Credit shall not be refunded to the Grantee or carried back to previous Tax Years, but may be carried forward up to five (5) Tax Years; provided, however, that such City Income Tax Credit shall not be carried forward beyond the tenth (10th) Tax Year (for the purposes of such calculations, the Initial Tax Year shall be the first (1st) Tax Year).
- (C) Related Members. The Grantee acknowledges and agrees that the City Income Tax Credit calculated under this Agreement will be reduced to the extent that reductions in the number of Aggregate Employees of both the Grantee and the Related Members affect the calculation of Net Number of New Employees.

5. COVENANT AS TO OUTSTANDING LIABILITIES; INSPECTION OF RECORDS; FALSE STATEMENTS.

In accordance with Ohio Revised Code Section 9.66, (A) the Grantee affirmatively covenants that it does not owe: (1) any delinquent taxes to the State of Ohio (the "State") or to a political subdivision of the State; (2) any moneys to the State or a State agency for the administration or enforcement of any environmental laws of the State; or (3) any other moneys to the State, a State agency or a political subdivision of the State that are past due, regardless of whether the amounts owed are being contested in a court of law or

not; (B) the Grantee authorizes the City and/or the State to inspect the personal financial statements of the Grantee, including tax records and other similar information not ordinarily open to public inspection; and (C) the Grantee authorizes the Ohio Environmental Protection Agency and the Ohio Department of Taxation to release information to the City and or other State departments in connection with the above statements. As provided by statute, a knowingly false statement under this Section may be prosecuted as a first-degree misdemeanor under Ohio Revised Code Section 2921.13, may render the Grantee ineligible for any future economic development assistance from the State or any political subdivision of the State and will result in the City requiring the Grantee's repayment of any assistance provided by the City in connection with the Project.

6. TERMINATION; REIMBURSEMENT FOR DEFAULT.

- (A) Suspension or Termination of the City Income Tax Credit. Subject to the provisions of subsections (B) and (C) below, if the City provides the Grantee with written notice of an event of default under this Agreement, and such default is not cured to the City's satisfaction within thirty (30) days of such notice, the City shall suspend or terminate the City Income Tax Credit hereunder and may, in the City's sole discretion, take such other measures as may be lawful (including suing for specific performance). Except as provided in subsections (B) or (C) below, such suspension or termination shall only affect City Income Tax Credits otherwise allowable after the date of suspension or termination.
- (B) Grantee's Failure to Comply with Job Creation and Retention Obligations. If the City provides the Grantee with written notice of an event of default under Section 3(C) or 3(D), and such default is not cured to the City's satisfaction within thirty (30) days of such notice, the City may, after giving the Grantee an opportunity to explain such default, require the Grantee to pay to the City all or a portion of the City Income Tax Credits previously claimed under this Agreement. In determining the portion of the City Income Tax Credit amounts to be repaid, the City may consider the effect of market conditions on the Grantee's Project and whether the Grantee continues to maintain other operations and employment in the City. For the avoidance of doubt, the City shall have the ability to exercise its rights under this Section with respect to each event of default under Section 3(C) or 3(D) (i.e. in the event that Grantee defaults under Section 3(C) or 3(D) in multiple Tax Years, the City may require the Grantee to pay to the City all or a portion of the City Income Tax Credits previously claimed and not repaid under this Agreement after each event of default).
- (C) Grantee's Failure to Comply with Outstanding Liability Obligations. If the City provides the Grantee with written notice of an event of default under Section 5, the City may, after giving the Grantee an opportunity to explain such default, require the Grantee to pay to the City all or any portion of the City Income Tax Credits previously claimed under this Agreement. For the avoidance of doubt, the City shall have the ability to exercise its rights under this Section with respect to each event of default under Section 5 (i.e. in the event that Grantee defaults under Section 5 in multiple Tax Years, the City may require the Grantee to pay to the City all or a portion of the City Income Tax Credits previously claimed and not repaid under this Agreement after each event of default).
- (D) Reimbursement. The Grantee hereby agrees (i) to make any payments required by the City under this Section within thirty (30) days of written demand by the City and (ii) in the event that the City refunds any Income Tax Revenue in a subsequent Tax Year for which a City Income Tax Credit was previously granted pursuant to this Agreement (the "Refund Amount"), then no later than thirty (30) days following Grantee's receipt of written notice from the City (the "City's Notice"), the Grantee will either (a) pay an amount equal to the Refund Amount to the City, as detailed in the City's Notice or (b) deliver written notice to the City that the Grantee will reduce its future City Income Tax Credits by the Refund Amount, such reduction to begin with the first City Income Tax Credit the Grantee is eligible to receive pursuant to this Agreement following the Grantee's receipt of the City's Notice. In the event that the Grantee fails to make a timely election pursuant to the foregoing sentence, then the City may, in its sole and absolute discretion, reduce the amount of any future City Income Tax Credits by the Refund Amount, charge interest on the Refund Amount, terminate this Agreement, and/or take any and all other actions available to the City pursuant to

this Agreement and applicable law. Amounts due and not paid when due shall bear interest at the rate specified in ORC Section 1343.03(A) (as such rate is in effect on the date of the applicable payment demand by the City). The Grantee hereby expressly waives the statute of limitations period contained in CMC Chapter 311 with respect to any such demand and payment.

7. SUBMISSION OF ANNUAL REPORTS. During the Employment Retention Period, the Grantee shall submit to the City an annual progress report documenting the Number of Full-Time Employee Equivalents at the Project Site, the number of the Grantee's City-Wide Employees, the number of Aggregate Employees, the Net Number of New Employees, the New Income Tax Revenue, the hourly wages and any related Grantee-paid benefits claimed as part of a Minimum Qualifying Wage for each New Employee for the duration of the applicable Tax Year, and any other information that the City deems relevant to this Agreement. The report shall include computations of necessary employment information for the Grantee and the Related Members for the report period, and the City may, in its discretion, require that the report be submitted in a certain format and manner (e.g., submission of a particular electronic file format, mailing a hard copy, etc.). The Grantee agrees to furnish the progress report to the City no later than the first business day of May following each year during the Employment Retention Period. The annual report, as submitted, must be certified as accurate and signed by (A) an independent certified public accountant licensed to do business in the state of Ohio (an "ICPA"), (B) the Chief Executive Officer of the Grantee and (C) the Chief Financial Officer of the Grantee; provided, however, that (1) reports for any or all of the initial two Tax Years may be submitted without certification and signature of an ICPA, so long as the Grantee's report for the third Tax Year includes an ICPA certification and signature for all Tax Years in which a City Income Tax Credit has been claimed without previous certification by an ICPA and (2) after the report for the third Tax Year, the ICPA certification and signature need not be provided more frequently than once every two years, so long as each ICPA certification and signature applies both to the current reported Tax Year and any previous Tax Year in which a City Income Tax Credit has been claimed without previous certification by an ICPA. If the report is approved by the City as demonstrating compliance with this Agreement, a certificate of verification from the City will be sent to the Grantee and the Tax Commissioner (as defined in CMC Section 311-9-T2) within thirty (30) days after receipt of the annual report. Failure to submit an annual report within the time periods specified herein will be considered a default and may result in termination of this Agreement.

8. SMALL BUSINESS ENTERPRISE PROGRAM AND EQUAL EMPLOYMENT OPPORTUNITY PROGRAM.¹

- (A) Small Business Enterprise Program Policy. The policy of the City is that a fair share of contracts be awarded to Small Business Enterprises (as such term is defined in CMC Section 323-1, "SBEs"). Pursuant to CMC Section 323-7, the City's annual goal for SBE participation shall be thirty percent (30%) of the City's total dollars spent for construction (as such term is defined in CMC Section 323-1), supplies (as such term is defined in CMC Section 323-1), services (as such term is defined in CMC Section 323-1) and professional services (as such term is defined in CMC Section 323-1). Accordingly, the Grantee shall use its best efforts and take affirmative steps to achieve the City's goal of voluntarily meeting thirty percent (30%) SBE participation. A list of SBEs may be obtained from the City's Department of Economic Inclusion. The Grantee may refer interested firms to the City's Department of Economic Inclusion for review and possible certification as an SBE. The Grantee shall comply with the provisions of CMC Chapter 323, including without limitation taking at least the following affirmative steps:
- (1) Including qualified SBEs on solicitation lists.
 - (2) Assuring that SBEs are solicited whenever they are potential sources. The Grantee must advertise, on at least two separate occasions, both in local minority publications and in other local newspapers of general circulation, invitations to SBEs to provide services, to supply materials, or to bid on construction contracts, as applicable.

¹ Note: The Department of Community and Economic Development is currently reviewing alternatives for updating this provision based on recent legislative changes adopted by Council. If an alternative policy is approved by DCED prior to the execution of this Agreement, this provision will be revised accordingly.

- (3) When economically feasible, dividing total requirements into small tasks or quantities so as to permit maximum SBE participation.
 - (4) If any subcontracts are to be let, the Grantee shall require the prime contractor (if different from the Grantee) to take the above affirmative steps.
 - (5) Prior to the commencement of work under any subcontracts, the Grantee shall provide to the City a list of such subcontractors, including information as to the dollar amount of the subcontracts and such other information as may be requested by the City. The Grantee shall update the report monthly.
 - (6) The Grantee shall periodically document its best efforts and affirmative steps to meet the above SBE participation goals by submitting such information as may be requested from time to time by the City.
- (B) Small Business Enterprise Program Remedies. Failure of the Grantee or its contractors and subcontractors to take the affirmative steps specified above, to provide fair and equal opportunity to SBEs, or to provide technical assistance to SBEs as may be necessary to reach SBE participation as set out in CMC Chapter 323 may be construed by the City as failure of the Grantee to use its best efforts, and, in addition to other remedies under this Agreement, may be a cause for the City to file suit in Common Pleas Court to enforce specific performance of the terms of this Section. The provisions of CMC Section 323-99 are hereby incorporated by reference into this Agreement.
- (C) Equal Employment Opportunity Program. This Agreement is subject to and hereby incorporates the provisions of the Equal Employment Opportunity Program set forth in CMC Chapter 325 (including, without limitation, CMC Section 325-9).
- (D) Further Information. Details concerning both the SBE Program and the Equal Employment Opportunity Program can be obtained from the City's Department of Economic Inclusion, Two Centennial Plaza, 805 Central Avenue, Suite 222, Cincinnati, Ohio 45202, (513)352-3144.
9. RECORDS, ACCESS AND MAINTENANCE. Throughout the period required by CMC Section 311-81, the Grantee agrees to establish and maintain such records as are necessary to document compliance with this Agreement (including but not limited to, financial reports, payroll records, documentation with respect to any Grantee-paid benefits claimed as part of a Minimum Qualifying Wage, intake and participant information and all other relevant information). For the three (3) year period following the end of the Employment Retention Period, the Grantee agrees to maintain records of the amounts of City Income Tax Credits claimed and allowed. The parties further agree that records with respect to any audit disallowances, litigation or dispute between the City and the Grantee shall be maintained for the time needed for the resolution of said disallowance, litigation or dispute, and that in the event of early termination of this Agreement (or if for any other reason the City shall require a review of the records related to the Project), the Grantee shall, at its own cost and expense, segregate all such records related to the Project and this Agreement (or copies thereof) from its other records of operation.
10. AUDITS AND INSPECTIONS. At any time during normal business hours upon written notice and as often as the City may deem necessary, the Grantee shall make available to the City and to appropriate State agencies or officials all records of the Grantee and the Related Members with respect to matters covered by this Agreement including, but not limited to, records of personnel and conditions of employment, and shall permit the City to audit, examine and make excerpts or transcripts from such records.
11. FORBEARANCE NOT A WAIVER. No act of forbearance or failure to insist on the prompt performance by the Grantee of its obligations under this Agreement, either express or implied, shall be construed as a waiver by the City of any of its rights hereunder.
12. ENFORCED FAILURE TO PERFORM FOR CAUSES BEYOND CONTROL OF THE GRANTEE -- RELIEF FROM REIMBURSEMENT OBLIGATION.

- (A) The Grantee shall not be required to pay the reimbursement required for default under Section 6(B) of this Agreement for any Tax Year in which such default is due to unforeseeable causes beyond the control of the Grantee and the Related Members and without fault or negligence of the Grantee or the Related Members, restricted to: acts of the federal, state or city government; orders of courts; fires, floods, epidemics, earthquakes or similar natural disasters; quarantine restrictions; strikes; and other causes which in the opinion of the City Manager are beyond the control of the Grantee and the Related Members and without fault or negligence of the Grantee or the Related Members. Economic difficulties of the Grantee or the Related Members (including, without limitation, bankruptcy), do not constitute causes beyond the control of the Grantee or the Related Members under this subsection. If the Grantee seeks the benefit of the provisions of this subsection it shall, within sixty (60) days after the beginning of any such unforeseeable cause, notify the City thereof in writing.
- (B) Notwithstanding the provisions set forth in subsection (A) above, the Grantee shall not be allowed a City Income Tax Credit hereunder (including any credit carried forward from prior tax years) in any Tax Year in which the Grantee is not in full compliance with all requirements of this Agreement.
13. COMPLIANCE WITH IMMIGRATION AND NATIONALITY ACT. In the performance of its obligations under this Agreement, the Grantee agrees to comply with the provisions of the Immigration and Nationality Act codified at 8 U.S.C. §§ 1324a(a)(1)(A) and (a)(2). Any noncompliance with such provisions shall be solely determined by either the federal agencies authorized to enforce the Immigration and Nationality Act or the U.S. Attorney General, in accordance with Executive Order 12989 of the U.S. President dated February 13, 1996, and as amended by Executive Order 13465 of the U.S. President dated June 6, 2008.
14. INDEMNIFICATION. The Grantee shall indemnify, defend and save the City, its agents and employees harmless from and against any and all losses, claims, damages, liabilities, costs or expenses (including reasonable fees, disbursements, settlement costs and other charges of counsel) imposed on, incurred by or asserted against any of them in connection with any litigation, investigation, claim or proceeding commenced or threatened related to the negotiation, preparation, execution, delivery, enforcement, performance or administration of this Agreement, any other documents related to this Agreement or any undertaking or proceeding related to any of the transactions contemplated hereby or thereby or any act, omission, event or transaction related or attendant thereto, including amounts paid in settlement, court costs and the fees and expenses of counsel, except that the Grantee shall not have any obligation under this Section to the extent that such losses, claims, damages, liabilities, costs or expenses do not result from an act or omission by the Grantee. To the extent that the undertaking to indemnify, pay and hold harmless set forth in this Section may be unenforceable because it violates any law or public policy, the Grantee shall pay the maximum portion which it is permitted to pay under applicable law to the City in satisfaction of indemnified matters under this Section. To the extent permitted by applicable law, neither the Grantee nor the City shall assert, and each of the Grantee and the City hereby waives, any claim against either the Grantee or the City, as applicable, on any theory of liability for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other documents related to this Agreement or any undertaking or transaction contemplate hereby. All amounts due under this Section shall be payable upon demand. The foregoing indemnity shall survive the termination of this Agreement.
15. CITY IDENTIFICATION IN MARKETING MATERIALS. The Grantee shall acknowledge the financial support of the City with respect to this Agreement in all printed materials (including but not limited to informational releases, pamphlets and brochures, construction signs, project and identification signage and stationary) and any publicity (such as but not limited to materials appearing on the Internet, television, cable television, radio or in the press or any other printed media). In identifying the City as a funding source, the Grantee shall use either the phrase "Funded by the City of Cincinnati" or a City of Cincinnati logotype or other form of acknowledgement that has been approved in advance in writing by the City. The Grantee's obligations under this Section shall be in effect throughout the term of this Agreement.
16. CONFLICT OF INTEREST. The Grantee agrees that no officer, employee or agent of the City who exercises any functions or responsibilities in connection with the planning and carrying out of this

Agreement, nor any immediate family member, close business associate or organization which is about to employ any such person, shall have any personal financial interest, direct or indirect, in the Grantee or in this Agreement and the Grantee shall take appropriate steps to assure compliance.

17. MISCELLANEOUS.

- (A) Relocation of Project Site Within the City. During the term of the Tax Credit, the Grantee may change the location of the Project Site to another location, but only within the City of Cincinnati's corporate boundaries.
- (B) Governing Law. This Agreement shall be governed by the laws of the State as to all matters, including but not limited to matters of validity, construction, effect and performance.
- (C) Forum and Venue. All actions regarding this Agreement shall be brought in a court of competent subject matter jurisdiction in Hamilton County, Ohio.
- (D) Entire Document. This Agreement and its exhibits and any documents referred to herein constitute the complete understanding of the parties and merge and supersede any and all other discussions, agreements and understandings, either oral or written, between the parties with respect to the subject matter hereof.
- (E) Severability. If any provisions of this Agreement are declared by final non-appealable court order to be unlawful or invalid under applicable law, then such order shall not invalidate the remainder of this Agreement not found to be unlawful or invalid and shall not create any liability to the City resulting from the unlawfulness or invalidity of such provisions. Any provision so declared to be unlawful or invalid shall, if possible, be construed in a manner which will give effect to the terms of such provision to the fullest extent possible while remaining lawful and valid.
- (F) Assignment. Neither this Agreement nor any rights, duties, or obligations described herein shall be assigned or subcontracted by the Grantee without the prior express written consent of the City.
- (G) Successor in Interest. Each and all of the Grantee's obligations under this Agreement shall extend to and bind not only the Grantee, but its successors and assigns. Only in the case of assignment consented to by the City (as provided in subsection (F) above), the Grantee's benefits hereunder shall inure to the benefit of any approved assignee.
- (H) Certification as to Non-Debarment. Grantee represents that neither it nor any of its principals is presently debarred by any federal, state, or local government agency. In completing the Project, Grantee shall not solicit bids from any contractors or subcontractors who are identified as being debarred by any federal, state, or local government agency. If Grantee or any of its principals becomes debarred by any federal, state, or local government agency during the term of this Agreement, Grantee shall be considered in default under this Agreement.
- (I) Notices. All notices, consents, demands, requests and other communications given hereunder shall be in writing and shall be deemed duly given if personally delivered or sent by mail, registered or certified, to the addresses set forth hereunder, or to such other address as the other party hereto may designate in written notice transmitted in accordance with this provision.

To the City:

City of Cincinnati
801 Plum Street, Room 152
Cincinnati, Ohio 45202
Attention: City Manager

with a copy to:

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

To the Grantee:

Luma Financial Technologies, LLC
425 Walnut Street, Suite 2410
Cincinnati, Ohio, 45202
Attention: Bob Jenkins, CFO

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

- (J) Wage Enforcement. This Agreement is or may be subject to the Wage Enforcement provisions of the Cincinnati Municipal Code. These provisions require that any person who has an agreement with the City, or a contractor or subcontractor of that person, shall report all complaints or adverse determinations of Wage Theft and Payroll Fraud (as defined in Chapter 326 of the Cincinnati Municipal Code) against the person, contractor or subcontractors to the Department of Economic Inclusion within 30 days of notification of the complaint or adverse determination. Under the Wage Enforcement provisions, the City shall have the authority, under certain circumstances, to terminate this Agreement or reduce the incentives or subsidies to be provided under this Agreement and to seek other remedies.
- (K) Legal Requirements. In completing and operating the Project, and in undertaking the matters contemplated by this Agreement, the Grantee shall comply with all applicable statutes, ordinances, regulations, and rules of the government of the United States, State of Ohio, County of Hamilton, and City of Cincinnati.
- (L) Counterparts and Electronic Signatures. This Agreement may be executed by the parties hereto in two or more counterparts and each executed counterpart shall be considered an original but all of which together shall constitute one and the same instrument. This Agreement may be executed and delivered by electronic signature; any original signatures that are initially delivered electronically shall be physically delivered as soon as reasonably possible.
18. FEES. The Grantee shall pay to the City (i) within 10 days following the Effective Date, an initial administrative fee in connection with the City's application, underwriting, processing and documentation costs equal to \$3,000.00, and (ii) concurrently with the submission of each required annual report under Section 7, an annual monitoring, review and administration fee of \$2,000.00.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates indicated below, the latest date of which shall be the "Effective Date."

LUMA FINANCIAL TECHNOLOGIES, LLC,
an Ohio limited liability company

By: _____

Printed Name: _____

Title: _____

Date: _____, 2021

As authorized by corporate resolution dated _____, 2021

CITY OF CINCINNATI,
an Ohio municipal corporation

By: _____
Paula Boggs Muething, City Manager

Date: _____, 2021

Approved as to Form:

Assistant City Solicitor

Certification of Funds:

Certified Date: _____

Fund/Code: _____

Amount: _____

By: _____
Karen Alder, City Finance Director

Attachment A to Ordinance

Job Creation Tax Credit Agreement

SEE ATTACHED



Contract Number _____

JOB CREATION TAX CREDIT AGREEMENT

This Job Creation Tax Credit Agreement (this "Agreement") is made and entered into as of the Effective Date (as defined on the signature page hereof) by and between the CITY OF CINCINNATI, an Ohio municipal corporation (the "City"), and LUMA FINANCIAL TECHNOLOGIES, LLC, a Delaware limited liability company (the "Grantee").

BACKGROUND INFORMATION

- A. The City seeks to increase employment opportunities and to encourage establishment of new jobs within the corporate boundaries of the City of Cincinnati (the "City Boundaries"), in order to improve the economic welfare of the City and its citizens, in furtherance of the public purposes enunciated in Article VIII, Section 13 of the Ohio Constitution.
- B. The City has determined that the Grantee will create new jobs within the City Boundaries in connection with a project to be implemented by the Grantee at 425 Walnut Street, Suite 2410, Cincinnati, Ohio 45202 (the "Project Site"), consisting of the purchase of furniture, fixtures and equipment (the "Project").
- C. Cincinnati Municipal Code ("CMC") Chapter 311 imposes income taxes, including a tax on business net profits. The Grantee represents and has documented to the City that the credit authorized by this Agreement against the tax imposed on the Grantee's net profits under CMC Chapter 311 (the "City Income Tax Credit") is a major factor in the Grantee's decision to go forward with the Project, to offset costs of capital expenditures and/or moving.
- D. The City Income Tax Credit as provided in this Agreement is authorized by Ohio Revised Code ("ORC") Sections 718.15 and 718.151.
- E. The City and Grantee intend that Grantee will implement the Project partly as a result of Grantee cost savings resulting from a thirty-five (35%) City income tax credit applicable to new jobs created by Grantee at the Project Site for a period of four (4) years, and thereby create 58 new jobs in the City within three (3) years of the Determination Date (as defined below).

STATEMENT OF THE AGREEMENT

In consideration of the foregoing and the mutual promises and covenants hereinafter set forth, the parties agree as follows:

- 1. PRECONDITIONS TO EFFECTIVENESS OF AGREEMENT. Notwithstanding anything to the contrary herein, this Agreement shall be of no force and effect unless and until (1) this Agreement is fully executed by both parties and (2) the Council of the City of Cincinnati passes an ordinance approving this Agreement, and the ordinance takes effect.
- 2. CERTAIN DEFINITIONS. As used in this Agreement:
 - (A) "Aggregate Employees" means, for any stated period, the Number of Full-Time Employee Equivalents employed either by the Grantee or by a Related Member, calculated with reference to all employees of the Grantee and all Related Members of the Grantee for which (1) the primary work location is within the City of Cincinnati and (2) the Grantee or a Related Member withholds City income taxes.
 - (B) "City Tax Credit Term" means the 4-year term of 2021 through 2024.

- (C) "Determination Date" means September 14, 2020.
- (D) "Employment Retention Period" means an 8-year period commencing as of the start of the City Tax Credit Term.
- (E) "Grantee's City-Wide Employees" means, for any stated period, the Number of Full-Time Employee Equivalents employed by the Grantee, calculated with reference to all employees of the Grantee for which (1) the primary work location is within the City (not limited to the Project Site) and (2) the Grantee withholds City income taxes. An employee is considered to have a primary work location within the City if at least fifty-one percent (51%) of the compensation paid by the Grantee to that employee is taxed by the City with respect to work performed in the City.
- (F) "Income Tax Revenue" means, for any Tax Year:
- (1) Payments from the Grantee to the City in an amount equal to the aggregate amount of earnings taxes withheld on the qualifying wages (as defined in CMC Section 311-9-Q) paid by the Grantee to all Aggregate Employees whose primary work location is the Project Site; less
 - (2) Any amounts refunded by the City to Aggregate Employees whose primary work location is the Project Site (pursuant to CMC Chapter 311) relating to qualifying wages (as defined in CMC Section 311-9-Q) paid by the Grantee, as such refunds are reported by the City to the Grantee from time to time.
- (G) "Initial Tax Year" means the first Tax Year during which the Grantee is entitled to a City Income Tax Credit.
- (H) "Minimum Qualifying Wage" means an hourly wage of at least (1) \$12.50 per hour on and after July 1, 2018, (2) \$13.50 per hour on and after January 1, 2019, and (3) \$15.00 per hour on and after July 1, 2019; *provided however*, that if (i) the Grantee contributes to any health, vision and/or dental insurance plan; provides retirement benefits; or provides childcare, tuition, or training reimbursement benefits to a New Employee and (ii) the City approves in writing, in its sole and absolute discretion any such contribution, retirement, or reimbursement benefit, then the hourly cash value of any such City-approved benefit shall be added to the New Employee's base monetary hourly wage for the purposes of calculating that New Employee's hourly wage under this definition.
- (I) "Net Number of New Employees" means, for any Tax Year, the lesser of:
- (1) The average Number of New Employees in the final three (3) calendar months of that Tax Year; or
 - (2) The remainder computed by subtracting (a) the Baseline City-Wide Employment Level from (b) the average number of the Grantee's City-Wide Employees in the final three (3) months of that Tax Year; or
 - (3) The remainder computed by subtracting (a) the Baseline Aggregate Employment Level from (b) the average number of Aggregate Employees in the final three (3) months of that Tax Year.
- Computations of an "average number" of employees, as required by this Agreement, shall be made and documented by the Grantee in a manner subject to approval by the City, such approval not to be unreasonably withheld.
- (J) "New Employee" means an employee of the Grantee that meets all of the following criteria during the applicable Tax Year: (i) has a primary work location is the Project Site, (ii) is first employed by the Grantee within the City Boundaries after the Determination Date, and (iii) is paid at least the Minimum Qualifying Wage by the Grantee at all times during the applicable Tax Year. An employee is considered to have a primary work location at the Project Site if at least fifty-one percent (51%) of the compensation paid by the Grantee to that employee is taxed by the City with

respect to work performed at the Project Site. "New Employees" may include employees of the Grantee employed in employment positions that were relocated to the Project Site from other operations of the Grantee (or of a Related Member) outside of the City Boundaries.

- (K) "New Income Tax Revenue" means, for any Tax Year, the lesser of:
- (1) Income Tax Revenue in such Tax Year relating only to New Employees; or
 - (2) The amount computed by multiplying (a) the Net Number of New Employees for such Tax Year by (b) the average amount of Income Tax Revenue received by the City in such Tax Year per New Employee (which average amount is computed by dividing (x) the total Income Tax Revenue for such Tax Year relating only to New Employees by (y) the monthly average of Number of New Employees (determined on a twelve (12) month basis) employed during such Tax Year.
- (L) "Number of Full-Time Employee Equivalents" means one fortieth (1/40) of the total number of compensated hours worked in a work week by permanent employees that are paid at least the Minimum Qualifying Wage for the duration of the applicable Tax Year (whether full-time or part-time), provided that the hours included in the calculation may not exceed forty (40) per week for any individual employee.
- (M) "Number of New Employees" means, for any stated period, the Number of Full-Time Employee Equivalents employed in that period, calculated only with reference to hours worked by New Employees.
- (N) "Related Member" means any of the Grantee's "related members" (as defined in ORC Section 122.171(A)(7)) that has at least one employee whose primary work location is within the City Boundaries (not limited to the Project Site), including those "related members" that begin operations within the City Boundaries on or after the Effective Date.
- (O) "Tax Year" means the fiscal year used by the Grantee to compute net profits under CMC Chapter 311.

3. PROJECT; JOB CREATION AND RETENTION.

- (A) Grantee Representations. The Grantee represents that:
- (1) The monthly average of the Number of Full-Time Employee Equivalents employed by the Grantee, for whom the Project Site was the primary work location, for the three (3) full calendar month period immediately prior to the Determination Date was 54.
 - (2) The monthly average of the Grantee's City-Wide Employees for the three (3) full calendar month period immediately prior to the Determination Date was 54 (the "Baseline City-Wide Employment Level").
 - (3) The monthly average of Aggregate Employees for the three (3) full calendar month period immediately prior to the Determination Date was 54 (the "Baseline Aggregate Employment Level").
 - (4) Related Members of the Grantee with any employees whose primary work location is within the City Boundaries as of the Effective Date (and the Related Members' Cincinnati addresses and Federal Tax Identification Numbers) consist of the following: NONE.
 - (5) The Grantee shall give written notice to the City of any Related Member that begins operations within the City Boundaries on or after the Effective Date.
- (B) Minimum Expenditures. The Grantee agrees to expend a minimum of \$200,000.00 not later than three (3) years from the Effective Date to accomplish the Project.
- (C) Minimum Number of New Employees. Within three (3) years from the Determination Date, the Grantee agrees to employ a Number of New Employees at the Project Site equal to at least fifty-eight (58). The Grantee agrees that the aggregate annual wages of the New Employees will be equal to at least \$6,814,000.00.

- (D) Relocation of Employment Positions from Elsewhere in Ohio. The Grantee may not relocate a substantial number of employment positions from elsewhere in Ohio (i.e., outside the City) unless the Director of the Department of Community and Economic Development determines that the legislative authority of the county, township, or municipal corporation from which the employment positions would be relocated has been notified by the Grantee of the relocation.
- (E) Employment Retention by the Grantee.
- (1) During each year of the Employment Retention Period, the Grantee agrees to maintain a monthly average of Aggregate Employees (determined on a twelve (12) month basis) equal to or greater than the Baseline Aggregate Employee Level.
 - (2) During each of the first three (3) years of the City Tax Credit Term, the Grantee agrees to maintain a monthly average of the Grantee's City-Wide Employees (determined on a twelve (12) month basis) equal to or greater than the Baseline City-Wide Employee Level.
 - (3) Beginning with the fourth (4th) year of the City Tax Credit Term and continuing during each subsequent year of the Employment Retention Period, the Grantee agrees to maintain an average Net Number of New Employees (determined on a twelve (12) month basis) of at least ninety percent (90%) of the highest Net Number of New Employees reported by the Grantee in calculating the City Income Tax Credit in any prior Tax Year during the City Tax Credit Term.

The Grantee acknowledges and agrees that the obligations of the Grantee under this Agreement may be affected by decisions of the Related Members, as the City's agreement to provide the City Income Tax Credit authorized herein is conditioned on maintenance of the existing employment within the City Boundaries by both the Grantee and the Related Members. The Grantee may apply to the City Manager for waiver of this employment retention requirement (which waiver may be granted in the City Manager's sole discretion) on the grounds that the Grantee's failure to maintain the required Net Number of New Employees is excusable based on exceptional circumstances not under the control of the Grantee or of the Related Members, as described in Section 12.

- (F) City Residents; Referral Procedure for New Hires. The Grantee agrees to use its best efforts to fill at least seventy-five percent (75%) of the new jobs created in connection with the Project with employees residing within the City Boundaries (the "City Resident Hiring Goal"). In furtherance of such goal, the Grantee shall implement the following procedures:
- (1) City Representative. In its efforts to meet the City Resident Hiring Goal, the Grantee agrees to request referrals from the OhioMeansJobs Center (or such other agency as the City Manager may designate) when positions need to be filled. A representative of the personnel office of the Grantee will meet periodically with a representative of the OhioMeansJobs Center (the "City Representative") to assess the Grantee's future employment needs and to assure that qualified applicants can be recruited and trained in a timely manner.
 - (2) Initial Positions. As soon as practicable after execution of this Agreement, and no later than ninety (90) days prior to the earlier of (a) the scheduled initial occupancy of the Project or completion of renovation or expansion or (b) the date when the following employment positions will be filled, the Grantee agrees to notify the City Representative of the following: (i) the number of new employees that will be required, and the date when the positions must be filled; (ii) the training, qualifications and experience required for the individuals who will fill the positions; and (iii) the name, address and telephone number of the person responsible for hiring. For positions requiring customized training, the Grantee agrees to provide such notice as far in advance of such ninety-day period as is practicable.
 - (3) City Referrals. The City Representative shall, within thirty (30) days after receiving such notification from the Grantee, submit in writing the following: (a) the positions for which the City intends to make referrals; (b) the names and qualifications of referred applicants for each position available; and (c) the date when these applicants will be available for interview. For positions requiring customized training, however, such information may be

submitted to the Grantee up to thirty (30) days prior to the date that such positions are to be filled.

- (4) Interviews. The Grantee agrees to interview those applicants who are referred by the City Representative and shall consider for employment those applicants the Grantee finds to be qualified for an available position. If (a) the City Representative informs the Grantee that it does not intend to make referrals for a position, (b) the City Representative fails to refer applicants who are available for interview for a position in accordance with this subsection or (c) the applicants referred for a position are deemed not qualified by the Grantee, then the Grantee may hire individuals from other sources for such position, without any further obligations or restrictions hereunder as to such position.
- (5) Subsequent Positions. During the three (3) year period following the date upon which this Agreement becomes effective, if the Grantee needs to fill a vacant employment position (either from attrition or an increase in employment), the Grantee agrees to notify the City Representative for an additional referral of applicants. The Grantee, however, is under no obligation to postpone the hiring of a new employee pending receipt of referrals from the City Representative. If the position is still vacant at the time referrals are received from the City Representative, the Grantee shall interview those applicants who are referred by the City Representative and shall consider for employment those applicants the Grantee finds to be qualified for an available position.
- (6) Continuation of Referral Procedure. If the Grantee and the City agree that this referral process has been mutually beneficial, the parties shall continue the process after the three (3) year period.

4. CITY INCOME TAX CREDIT.

- (A) Credit Requirements. Subject to the terms and conditions of this Agreement, for each Tax Year during the City Tax Credit Term in which the Grantee has claimed the City Income Tax Credit on an income tax return filed directly with the City with respect to its net profits and is otherwise in full compliance with all requirements under both CMC Chapter 311 and this Agreement, the Grantee shall be allowed to apply the City Income Tax Credit stated in this Section against the tax imposed on the Grantee's net profits under CMC Chapter 311. The City Income Tax Credit shall be applied in accordance with any applicable rules and regulations (consistent with this Agreement) that may be adopted by the Board of Review (as defined in CMC Section 311-9-B1).
- (B) Amount of Credit. The amount of the City Income Tax Credit shall be thirty-five percent (35%) of any New Income Tax Revenue in a given Tax Year. The City Income Tax Credit shall be applied against net profits tax due to the City (pursuant to CMC Chapter 311) from the Grantee for such Tax Year. The City Income Tax Credit shall be allowed only after the allowance of all other credits and deductions under CMC Chapter 311. If the City Income Tax Credit exceeds the Grantee's tax liability for such Tax Year, the City Income Tax Credit shall not be refunded to the Grantee or carried back to previous Tax Years, but may be carried forward up to five (5) Tax Years; provided, however, that such City Income Tax Credit shall not be carried forward beyond the tenth (10th) Tax Year (for the purposes of such calculations, the Initial Tax Year shall be the first (1st) Tax Year).
- (C) Related Members. The Grantee acknowledges and agrees that the City Income Tax Credit calculated under this Agreement will be reduced to the extent that reductions in the number of Aggregate Employees of both the Grantee and the Related Members affect the calculation of Net Number of New Employees.

5. COVENANT AS TO OUTSTANDING LIABILITIES; INSPECTION OF RECORDS; FALSE STATEMENTS.

In accordance with Ohio Revised Code Section 9.66, (A) the Grantee affirmatively covenants that it does not owe: (1) any delinquent taxes to the State of Ohio (the "State") or to a political subdivision of the State; (2) any moneys to the State or a State agency for the administration or enforcement of any environmental laws of the State; or (3) any other moneys to the State, a State agency or a political subdivision of the State that are past due, regardless of whether the amounts owed are being contested in a court of law or

not; (B) the Grantee authorizes the City and/or the State to inspect the personal financial statements of the Grantee, including tax records and other similar information not ordinarily open to public inspection; and (C) the Grantee authorizes the Ohio Environmental Protection Agency and the Ohio Department of Taxation to release information to the City and or other State departments in connection with the above statements. As provided by statute, a knowingly false statement under this Section may be prosecuted as a first-degree misdemeanor under Ohio Revised Code Section 2921.13, may render the Grantee ineligible for any future economic development assistance from the State or any political subdivision of the State and will result in the City requiring the Grantee's repayment of any assistance provided by the City in connection with the Project.

6. TERMINATION; REIMBURSEMENT FOR DEFAULT.

- (A) Suspension or Termination of the City Income Tax Credit. Subject to the provisions of subsections (B) and (C) below, if the City provides the Grantee with written notice of an event of default under this Agreement, and such default is not cured to the City's satisfaction within thirty (30) days of such notice, the City shall suspend or terminate the City Income Tax Credit hereunder and may, in the City's sole discretion, take such other measures as may be lawful (including suing for specific performance). Except as provided in subsections (B) or (C) below, such suspension or termination shall only affect City Income Tax Credits otherwise allowable after the date of suspension or termination.
- (B) Grantee's Failure to Comply with Job Creation and Retention Obligations. If the City provides the Grantee with written notice of an event of default under Section 3(C) or 3(D), and such default is not cured to the City's satisfaction within thirty (30) days of such notice, the City may, after giving the Grantee an opportunity to explain such default, require the Grantee to pay to the City all or a portion of the City Income Tax Credits previously claimed under this Agreement. In determining the portion of the City Income Tax Credit amounts to be repaid, the City may consider the effect of market conditions on the Grantee's Project and whether the Grantee continues to maintain other operations and employment in the City. For the avoidance of doubt, the City shall have the ability to exercise its rights under this Section with respect to each event of default under Section 3(C) or 3(D) (i.e. in the event that Grantee defaults under Section 3(C) or 3(D) in multiple Tax Years, the City may require the Grantee to pay to the City all or a portion of the City Income Tax Credits previously claimed and not repaid under this Agreement after each event of default).
- (C) Grantee's Failure to Comply with Outstanding Liability Obligations. If the City provides the Grantee with written notice of an event of default under Section 5, the City may, after giving the Grantee an opportunity to explain such default, require the Grantee to pay to the City all or any portion of the City Income Tax Credits previously claimed under this Agreement. For the avoidance of doubt, the City shall have the ability to exercise its rights under this Section with respect to each event of default under Section 5 (i.e. in the event that Grantee defaults under Section 5 in multiple Tax Years, the City may require the Grantee to pay to the City all or a portion of the City Income Tax Credits previously claimed and not repaid under this Agreement after each event of default).
- (D) Reimbursement. The Grantee hereby agrees (i) to make any payments required by the City under this Section within thirty (30) days of written demand by the City and (ii) in the event that the City refunds any Income Tax Revenue in a subsequent Tax Year for which a City Income Tax Credit was previously granted pursuant to this Agreement (the "Refund Amount"), then no later than thirty (30) days following Grantee's receipt of written notice from the City (the "City's Notice"), the Grantee will either (a) pay an amount equal to the Refund Amount to the City, as detailed in the City's Notice or (b) deliver written notice to the City that the Grantee will reduce its future City Income Tax Credits by the Refund Amount, such reduction to begin with the first City Income Tax Credit the Grantee is eligible to receive pursuant to this Agreement following the Grantee's receipt of the City's Notice. In the event that the Grantee fails to make a timely election pursuant to the foregoing sentence, then the City may, in its sole and absolute discretion, reduce the amount of any future City Income Tax Credits by the Refund Amount, charge interest on the Refund Amount, terminate this Agreement, and/or take any and all other actions available to the City pursuant to

this Agreement and applicable law. Amounts due and not paid when due shall bear interest at the rate specified in ORC Section 1343.03(A) (as such rate is in effect on the date of the applicable payment demand by the City). The Grantee hereby expressly waives the statute of limitations period contained in CMC Chapter 311 with respect to any such demand and payment.

7. **SUBMISSION OF ANNUAL REPORTS.** During the Employment Retention Period, the Grantee shall submit to the City an annual progress report documenting the Number of Full-Time Employee Equivalents at the Project Site, the number of the Grantee's City-Wide Employees, the number of Aggregate Employees, the Net Number of New Employees, the New Income Tax Revenue, the hourly wages and any related Grantee-paid benefits claimed as part of a Minimum Qualifying Wage for each New Employee for the duration of the applicable Tax Year, and any other information that the City deems relevant to this Agreement. The report shall include computations of necessary employment information for the Grantee and the Related Members for the report period, and the City may, in its discretion, require that the report be submitted in a certain format and manner (e.g., submission of a particular electronic file format, mailing a hard copy, etc.). The Grantee agrees to furnish the progress report to the City no later than the first business day of May following each year during the Employment Retention Period. The annual report, as submitted, must be certified as accurate and signed by (A) an independent certified public accountant licensed to do business in the state of Ohio (an "ICPA"), (B) the Chief Executive Officer of the Grantee and (C) the Chief Financial Officer of the Grantee; provided, however, that (1) reports for any or all of the initial two Tax Years may be submitted without certification and signature of an ICPA, so long as the Grantee's report for the third Tax Year includes an ICPA certification and signature for all Tax Years in which a City Income Tax Credit has been claimed without previous certification by an ICPA and (2) after the report for the third Tax Year, the ICPA certification and signature need not be provided more frequently than once every two years, so long as each ICPA certification and signature applies both to the current reported Tax Year and any previous Tax Year in which a City Income Tax Credit has been claimed without previous certification by an ICPA. If the report is approved by the City as demonstrating compliance with this Agreement, a certificate of verification from the City will be sent to the Grantee and the Tax Commissioner (as defined in CMC Section 311-9-T2) within thirty (30) days after receipt of the annual report. Failure to submit an annual report within the time periods specified herein will be considered a default and may result in termination of this Agreement.

8. **SMALL BUSINESS ENTERPRISE PROGRAM AND EQUAL EMPLOYMENT OPPORTUNITY PROGRAM.¹**

- (A) **Small Business Enterprise Program Policy.** The policy of the City is that a fair share of contracts be awarded to Small Business Enterprises (as such term is defined in CMC Section 323-1, "SBEs"). Pursuant to CMC Section 323-7, the City's annual goal for SBE participation shall be thirty percent (30%) of the City's total dollars spent for construction (as such term is defined in CMC Section 323-1), supplies (as such term is defined in CMC Section 323-1), services (as such term is defined in CMC Section 323-1) and professional services (as such term is defined in CMC Section 323-1). Accordingly, the Grantee shall use its best efforts and take affirmative steps to achieve the City's goal of voluntarily meeting thirty percent (30%) SBE participation. A list of SBEs may be obtained from the City's Department of Economic Inclusion. The Grantee may refer interested firms to the City's Department of Economic Inclusion for review and possible certification as an SBE. The Grantee shall comply with the provisions of CMC Chapter 323, including without limitation taking at least the following affirmative steps:
- (1) Including qualified SBEs on solicitation lists.
 - (2) Assuring that SBEs are solicited whenever they are potential sources. The Grantee must advertise, on at least two separate occasions, both in local minority publications and in other local newspapers of general circulation, invitations to SBEs to provide services, to supply materials, or to bid on construction contracts, as applicable.

¹ Note: The Department of Community and Economic Development is currently reviewing alternatives for updating this provision based on recent legislative changes adopted by Council. If an alternative policy is approved by DCED prior to the execution of this Agreement, this provision will be revised accordingly.

- (3) When economically feasible, dividing total requirements into small tasks or quantities so as to permit maximum SBE participation.
 - (4) If any subcontracts are to be let, the Grantee shall require the prime contractor (if different from the Grantee) to take the above affirmative steps.
 - (5) Prior to the commencement of work under any subcontracts, the Grantee shall provide to the City a list of such subcontractors, including information as to the dollar amount of the subcontracts and such other information as may be requested by the City. The Grantee shall update the report monthly.
 - (6) The Grantee shall periodically document its best efforts and affirmative steps to meet the above SBE participation goals by submitting such information as may be requested from time to time by the City.
- (B) Small Business Enterprise Program Remedies. Failure of the Grantee or its contractors and subcontractors to take the affirmative steps specified above, to provide fair and equal opportunity to SBEs, or to provide technical assistance to SBEs as may be necessary to reach SBE participation as set out in CMC Chapter 323 may be construed by the City as failure of the Grantee to use its best efforts, and, in addition to other remedies under this Agreement, may be a cause for the City to file suit in Common Pleas Court to enforce specific performance of the terms of this Section. The provisions of CMC Section 323-99 are hereby incorporated by reference into this Agreement.
- (C) Equal Employment Opportunity Program. This Agreement is subject to and hereby incorporates the provisions of the Equal Employment Opportunity Program set forth in CMC Chapter 325 (including, without limitation, CMC Section 325-9).
- (D) Further Information. Details concerning both the SBE Program and the Equal Employment Opportunity Program can be obtained from the City's Department of Economic Inclusion, Two Centennial Plaza, 805 Central Avenue, Suite 222, Cincinnati, Ohio 45202, (513)352-3144.
9. RECORDS, ACCESS AND MAINTENANCE. Throughout the period required by CMC Section 311-81, the Grantee agrees to establish and maintain such records as are necessary to document compliance with this Agreement (including but not limited to, financial reports, payroll records, documentation with respect to any Grantee-paid benefits claimed as part of a Minimum Qualifying Wage, intake and participant information and all other relevant information). For the three (3) year period following the end of the Employment Retention Period, the Grantee agrees to maintain records of the amounts of City Income Tax Credits claimed and allowed. The parties further agree that records with respect to any audit disallowances, litigation or dispute between the City and the Grantee shall be maintained for the time needed for the resolution of said disallowance, litigation or dispute, and that in the event of early termination of this Agreement (or if for any other reason the City shall require a review of the records related to the Project), the Grantee shall, at its own cost and expense, segregate all such records related to the Project and this Agreement (or copies thereof) from its other records of operation.
10. AUDITS AND INSPECTIONS. At any time during normal business hours upon written notice and as often as the City may deem necessary, the Grantee shall make available to the City and to appropriate State agencies or officials all records of the Grantee and the Related Members with respect to matters covered by this Agreement including, but not limited to, records of personnel and conditions of employment, and shall permit the City to audit, examine and make excerpts or transcripts from such records.
11. FORBEARANCE NOT A WAIVER. No act of forbearance or failure to insist on the prompt performance by the Grantee of its obligations under this Agreement, either express or implied, shall be construed as a waiver by the City of any of its rights hereunder.
12. ENFORCED FAILURE TO PERFORM FOR CAUSES BEYOND CONTROL OF THE GRANTEE -- RELIEF FROM REIMBURSEMENT OBLIGATION.

- (A) The Grantee shall not be required to pay the reimbursement required for default under Section 6(B) of this Agreement for any Tax Year in which such default is due to unforeseeable causes beyond the control of the Grantee and the Related Members and without fault or negligence of the Grantee or the Related Members, restricted to: acts of the federal, state or city government; orders of courts; fires, floods, epidemics, earthquakes or similar natural disasters; quarantine restrictions; strikes; and other causes which in the opinion of the City Manager are beyond the control of the Grantee and the Related Members and without fault or negligence of the Grantee or the Related Members. Economic difficulties of the Grantee or the Related Members (including, without limitation, bankruptcy), do not constitute causes beyond the control of the Grantee or the Related Members under this subsection. If the Grantee seeks the benefit of the provisions of this subsection it shall, within sixty (60) days after the beginning of any such unforeseeable cause, notify the City thereof in writing.
- (B) Notwithstanding the provisions set forth in subsection (A) above, the Grantee shall not be allowed a City Income Tax Credit hereunder (including any credit carried forward from prior tax years) in any Tax Year in which the Grantee is not in full compliance with all requirements of this Agreement.
13. COMPLIANCE WITH IMMIGRATION AND NATIONALITY ACT. In the performance of its obligations under this Agreement, the Grantee agrees to comply with the provisions of the Immigration and Nationality Act codified at 8 U.S.C. §§ 1324a(a)(1)(A) and (a)(2). Any noncompliance with such provisions shall be solely determined by either the federal agencies authorized to enforce the Immigration and Nationality Act or the U.S. Attorney General, in accordance with Executive Order 12989 of the U.S. President dated February 13, 1996, and as amended by Executive Order 13465 of the U.S. President dated June 6, 2008.
14. INDEMNIFICATION. The Grantee shall indemnify, defend and save the City, its agents and employees harmless from and against any and all losses, claims, damages, liabilities, costs or expenses (including reasonable fees, disbursements, settlement costs and other charges of counsel) imposed on, incurred by or asserted against any of them in connection with any litigation, investigation, claim or proceeding commenced or threatened related to the negotiation, preparation, execution, delivery, enforcement, performance or administration of this Agreement, any other documents related to this Agreement or any undertaking or proceeding related to any of the transactions contemplated hereby or thereby or any act, omission, event or transaction related or attendant thereto, including amounts paid in settlement, court costs and the fees and expenses of counsel, except that the Grantee shall not have any obligation under this Section to the extent that such losses, claims, damages, liabilities, costs or expenses do not result from an act or omission by the Grantee. To the extent that the undertaking to indemnify, pay and hold harmless set forth in this Section may be unenforceable because it violates any law or public policy, the Grantee shall pay the maximum portion which it is permitted to pay under applicable law to the City in satisfaction of indemnified matters under this Section. To the extent permitted by applicable law, neither the Grantee nor the City shall assert, and each of the Grantee and the City hereby waives, any claim against either the Grantee or the City, as applicable, on any theory of liability for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other documents related to this Agreement or any undertaking or transaction contemplate hereby. All amounts due under this Section shall be payable upon demand. The foregoing indemnity shall survive the termination of this Agreement.
15. CITY IDENTIFICATION IN MARKETING MATERIALS. The Grantee shall acknowledge the financial support of the City with respect to this Agreement in all printed materials (including but not limited to informational releases, pamphlets and brochures, construction signs, project and identification signage and stationary) and any publicity (such as but not limited to materials appearing on the Internet, television, cable television, radio or in the press or any other printed media). In identifying the City as a funding source, the Grantee shall use either the phrase "Funded by the City of Cincinnati" or a City of Cincinnati logotype or other form of acknowledgement that has been approved in advance in writing by the City. The Grantee's obligations under this Section shall be in effect throughout the term of this Agreement.
16. CONFLICT OF INTEREST. The Grantee agrees that no officer, employee or agent of the City who exercises any functions or responsibilities in connection with the planning and carrying out of this

Agreement, nor any immediate family member, close business associate or organization which is about to employ any such person, shall have any personal financial interest, direct or indirect, in the Grantee or in this Agreement and the Grantee shall take appropriate steps to assure compliance.

17. MISCELLANEOUS.

- (A) Relocation of Project Site Within the City. During the term of the Tax Credit, the Grantee may change the location of the Project Site to another location, but only within the City of Cincinnati's corporate boundaries.
- (B) Governing Law. This Agreement shall be governed by the laws of the State as to all matters, including but not limited to matters of validity, construction, effect and performance.
- (C) Forum and Venue. All actions regarding this Agreement shall be brought in a court of competent subject matter jurisdiction in Hamilton County, Ohio.
- (D) Entire Document. This Agreement and its exhibits and any documents referred to herein constitute the complete understanding of the parties and merge and supersede any and all other discussions, agreements and understandings, either oral or written, between the parties with respect to the subject matter hereof.
- (E) Severability. If any provisions of this Agreement are declared by final non-appealable court order to be unlawful or invalid under applicable law, then such order shall not invalidate the remainder of this Agreement not found to be unlawful or invalid and shall not create any liability to the City resulting from the unlawfulness or invalidity of such provisions. Any provision so declared to be unlawful or invalid shall, if possible, be construed in a manner which will give effect to the terms of such provision to the fullest extent possible while remaining lawful and valid.
- (F) Assignment. Neither this Agreement nor any rights, duties, or obligations described herein shall be assigned or subcontracted by the Grantee without the prior express written consent of the City.
- (G) Successor in Interest. Each and all of the Grantee's obligations under this Agreement shall extend to and bind not only the Grantee, but its successors and assigns. Only in the case of assignment consented to by the City (as provided in subsection (F) above), the Grantee's benefits hereunder shall inure to the benefit of any approved assignee.
- (H) Certification as to Non-Debarment. Grantee represents that neither it nor any of its principals is presently debarred by any federal, state, or local government agency. In completing the Project, Grantee shall not solicit bids from any contractors or subcontractors who are identified as being debarred by any federal, state, or local government agency. If Grantee or any of its principals becomes debarred by any federal, state, or local government agency during the term of this Agreement, Grantee shall be considered in default under this Agreement.
- (I) Notices. All notices, consents, demands, requests and other communications given hereunder shall be in writing and shall be deemed duly given if personally delivered or sent by mail, registered or certified, to the addresses set forth hereunder, or to such other address as the other party hereto may designate in written notice transmitted in accordance with this provision.

To the City:

City of Cincinnati
801 Plum Street, Room 152
Cincinnati, Ohio 45202
Attention: City Manager

with a copy to:

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

To the Grantee:

Luma Financial Technologies, LLC
425 Walnut Street, Suite 2410
Cincinnati, Ohio, 45202
Attention: Bob Jenkins, CFO

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

- (J) Wage Enforcement. This Agreement is or may be subject to the Wage Enforcement provisions of the Cincinnati Municipal Code. These provisions require that any person who has an agreement with the City, or a contractor or subcontractor of that person, shall report all complaints or adverse determinations of Wage Theft and Payroll Fraud (as defined in Chapter 326 of the Cincinnati Municipal Code) against the person, contractor or subcontractors to the Department of Economic Inclusion within 30 days of notification of the complaint or adverse determination. Under the Wage Enforcement provisions, the City shall have the authority, under certain circumstances, to terminate this Agreement or reduce the incentives or subsidies to be provided under this Agreement and to seek other remedies.
 - (K) Legal Requirements. In completing and operating the Project, and in undertaking the matters contemplated by this Agreement, the Grantee shall comply with all applicable statutes, ordinances, regulations, and rules of the government of the United States, State of Ohio, County of Hamilton, and City of Cincinnati.
 - (L) Counterparts and Electronic Signatures. This Agreement may be executed by the parties hereto in two or more counterparts and each executed counterpart shall be considered an original but all of which together shall constitute one and the same instrument. This Agreement may be executed and delivered by electronic signature; any original signatures that are initially delivered electronically shall be physically delivered as soon as reasonably possible.
18. FEES. The Grantee shall pay to the City (i) within 10 days following the Effective Date, an initial administrative fee in connection with the City's application, underwriting, processing and documentation costs equal to \$3,000.00, and (ii) concurrently with the submission of each required annual report under Section 7, an annual monitoring, review and administration fee of \$2,000.00.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates indicated below, the latest date of which shall be the "Effective Date."

LUMA FINANCIAL TECHNOLOGIES, LLC,
an Ohio limited liability company

By: _____

Printed Name: _____

Title: _____

Date: _____, 2021

As authorized by corporate resolution dated _____, 2021

CITY OF CINCINNATI,
an Ohio municipal corporation

By: _____
Paula Boggs Muething, City Manager

Date: _____, 2021

Approved as to Form:

Assistant City Solicitor

Certification of Funds:

Certified Date: _____

Fund/Code: _____

Amount: _____

By: _____
Karen Alder, City Finance Director

March 24, 2021

To: Mayor and Members of City Council

202101196

From: Paula Boggs Muething, City Manager

Subject: **LEED CRA ABATEMENT AGREEMENT FOR 18 W. ELDER ST.**

Attached is an Emergency Ordinance captioned as follows:

APPROVING AND AUTHORIZING the City Manager to execute a *Community Reinvestment Area Tax Exemption Agreement (LEED or Living Building Challenge)* with Robel 1 LLC, thereby authorizing a 15-year tax exemption for 100% of the value of improvements made to real property located at 18 W. Elder Street in the Over-the-Rhine neighborhood of Cincinnati, in connection with the remodeling of an existing building into approximately 500 square feet of commercial space and approximately 3,300 square feet of residential space, consisting of 7 residential rental units, which remodeling shall be completed in compliance with Leadership in Energy and Environmental Design Silver, Gold or Platinum standards or Living Building Challenge standards, at a total remodeling cost of approximately \$300,000.

BACKGROUND/CURRENT CONDITIONS

18 W. Elder Street is a three-story vacant historic building located just east of Findlay Market in Over-the-Rhine. The property is also directly south of Findlay Park. The property owner is planning a full renovation of the building that will achieve a LEED Silver Certification from the U.S. Green Building Council.

DEVELOPER INFORMATION

Robel I, LLC is a small business owned by Mr. Robel Abraham. Mr. Abraham has been renovating residential properties for the last seven years and also owns a property at 1646 Vine Street, which will also be renovated in 2021.

PROJECT DESCRIPTION

Developer will renovate the vacant historic building at 18 W. Elder Street in Over-the-Rhine. Work will be completed to LEED Silver standards, as defined by the U.S. Green Building Council. Once completed, the building will include seven residential apartment units as well as 500 square feet of ground floor commercial space. The apartments will be 500 square feet on average and rents will range between \$900 and

\$1,000 per month. Total project cost is estimated to be \$350,000. In connection with this project, it is estimated that seven temporary construction jobs will be created with an annual payroll of \$120,000.

PROPOSED INCENTIVE

The Emergency Ordinance provides for a 100% (net 52%), 15-year CRA tax exemption for this property. The exemption applies only to the increase in value of the building attributable to the project improvements. Pursuant to the Commercial CRA policy established by City Council, this project is located within the Streetcar VTICA Area and is therefore subject to analysis based on project underwriting, VTICA contribution, and job creation to determine abatement terms.

The administration recommends a 15-year CRA term to allow for the project secure adequate construction and permanent financing to complete this LEED Silver certified renovation. This project will result in a highly visible renovated building and new apartments directly adjacent to Findlay Market and Findlay Park.

SUMMARY	
Forgone Public Benefit if Project Does not Proceed	
CPS PILOT (Forgone New Revenue)	(\$58,495)
VTICA (Forgone New Revenue)	(\$26,588)
Income Tax (Forgone New Revenue)	(\$2,520)
Total Public Benefit Lost	(\$87,603)
Incentive Value	
Annual Net Incentive to Developer	\$6,145
Total Term Incentive to Developer	\$92,173
City's Portion of Property Taxes Forgone	\$22,877
Public Benefit	
CPS PILOT	
Annual CPS Pilot	\$3,900
Total Term CPS PILOT	\$58,495
VTICA	
Annual VTICA	\$1,773
Total Term VTICA	\$26,588
Income Tax (Max)	\$2,520
Total Public Benefit (CPS PILOT/VTICA /Income Tax)	\$87,603
Total Public Benefit ROI*	\$0.95
City's ROI*	\$3.83

*If the project were going to happen regardless of incentive, this is the return of real dollars for public benefits as potential future dollars are forgone

RECOMMENDATION

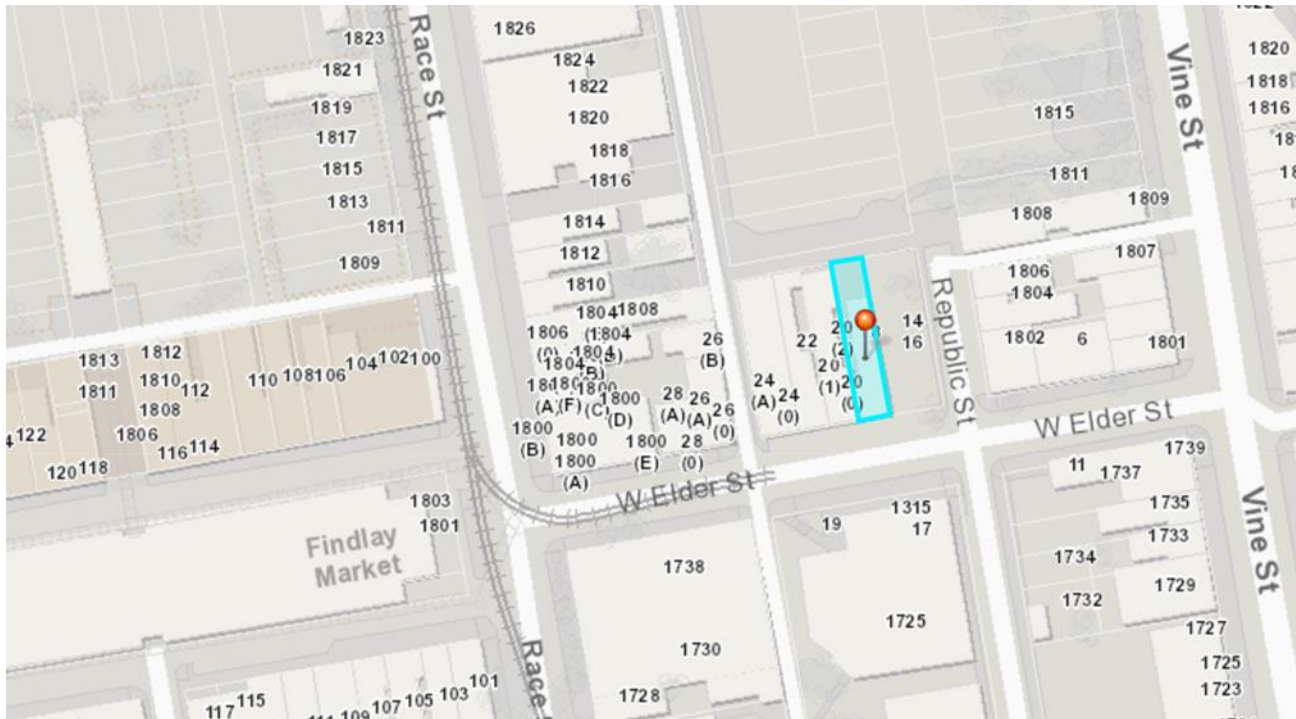
The Administration recommends approval of this Emergency Ordinance. The project will restore a historic building to LEED Silver standards, activate a vacant property adjacent to Findlay Market and Findlay Park, and will bring additional housing units to the urban core and will add much needed density to northern Over-the-Rhine. The emergency clause is needed so that the project can meet its construction commencement deadlines.

Attachment: A. Property location and photographs

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

Attachment A: Location and Photographs

Property Location



18 W. Elder Street – Current Condition



EMERGENCY

City of Cincinnati

TJL

AWB

An Ordinance No. _____ - 2021

APPROVING AND AUTHORIZING the City Manager to execute a *Community Reinvestment Area Tax Exemption Agreement (LEED or Living Building Challenge)* with Robel 1 LLC, thereby authorizing a 15-year tax exemption for 100% of the value of improvements made to real property located at 18 W. Elder Street in the Over-the-Rhine neighborhood of Cincinnati, in connection with the remodeling of an existing building into approximately 500 square feet of commercial space and approximately 3,300 square feet of residential space, consisting of 7 residential rental units, which remodeling shall be completed in compliance with Leadership in Energy and Environmental Design Silver, Gold or Platinum standards or Living Building Challenge standards, at a total remodeling cost of approximately \$300,000.

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

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

WHEREAS, to encourage the development of real property in a more environmentally-friendly manner, the Commercial Policy Ordinance incentivizes: (i) construction and remodeling to Leadership in Energy and Environmental Design ("LEED") standards (as defined by the U.S. Green Building Council); and (ii) construction and remodeling that obtains (a) Living Building Challenge Net Zero certification, (b) Living Building Challenge Full certification, or (c) solely in circumstances where the construction or remodeling complies with the requirements of the "Energy Petal" of the Living Building Challenge, Living Building Challenge Petal certification, in each case as defined by the International Living Future Institute and the Cascadia Green Building Council (collectively, "LBC" standards), all pursuant to the Statute; and

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

WHEREAS, Robel 1 LLC (the "Company") desires to remodel an existing building located on real property at 18 W. Elder Street located within the corporate boundaries of the City of

Cincinnati, to LEED or LBC standards into approximately 3,300 square feet of residential space, consisting of 7 residential rental units, and approximately 500 square feet of commercial space (the “Improvements”), provided that the appropriate development incentives are available to support the economic viability of the Improvements; and

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

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

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

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

WHEREAS, the Company has represented that it has entered into (or will enter into) a voluntary tax incentive contribution agreement with a third-party organization for amounts equal to 15% of the exempt real property taxes, which funds shall be committed by the third-party organization to pay for streetcar operations that specially benefit the property; and

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

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

Section 1. That Council approves a *Community Reinvestment Area Tax Exemption Agreement (LEED or Living Building Challenge)* with Robel 1 LLC (the “Agreement”), thereby authorizing a 15-year tax exemption for 100% of the assessed value of improvements to be made to real property located at 18 W. Elder Street in Cincinnati, as calculated by the Hamilton County Auditor, in connection with the remodeling of an existing building into approximately 500 square feet of commercial space and approximately 3,300 square feet of residential space, consisting of 7

residential rental units, to be constructed in compliance with Leadership in Energy and Environmental Design Silver, Gold or Platinum standards (as defined by the U.S. Green Building Council) or Living Building Challenge standards (as described in the Agreement and as determined by the International Living Future Institute and the Cascadia Green Building Council, as applicable) at a total remodeling cost of approximately \$300,000.

Section 2. That Council authorizes the City Manager:

- (i) to execute the Agreement on behalf of the City in substantially the form of Attachment A to this ordinance; and
- (ii) to forward on behalf of Council a copy of the Agreement, within fifteen (15) days after execution, to the Director of the Ohio Development Services Agency in accordance with Ohio Revised Code Section 3735.671(F); and
- (iii) to submit on behalf of Council annual reports on the Agreement to the Director of the Ohio Development Services Agency and to the Board of Education of the Cincinnati City School District, in accordance with Ohio Revised Code Section 3735.672; and
- (iv) to take all necessary and proper actions to fulfill the City's obligations under the Agreement.

Section 3. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to allow the remodeling described in this ordinance and the corresponding revitalization of the City of Cincinnati and the benefits to the City's economic welfare to begin at the earliest possible time.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

Attachment A to Ordinance

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

SEE ATTACHED

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

This Community Reinvestment Area Tax Exemption Agreement (this "Agreement") is made and entered into as of the Effective Date (as defined on the signature page hereof) by and between the CITY OF CINCINNATI, an Ohio municipal corporation (the "City"), and ROBEL 1 LLC, an Ohio limited liability company (the "Company").

Recitals:

- A. The City, through the adoption of Ordinance No. 274-2017 on September 27, 2017, designated the entire City of Cincinnati as a Community Reinvestment Area to encourage the development of real property and the acquisition of personal property in that area, pursuant to Ohio Revised Code Sections 3735.65 through 3735.70 (the "Statute").
- B. In accordance with the Statute, the Ohio Director of Development has forwarded to the City the Director's determination dated October 23, 2017, stating that the findings contained in Ordinance No. 274-2017 are valid and that the entire City is a Community Reinvestment Area under the Statute. By such determination, the Director of Development of the State of Ohio determined that the area within the corporate boundaries of the City of Cincinnati contains the characteristics set forth in the Statute and confirmed such area as a Community Reinvestment Area under the Statute.
- C. The Council of the City of Cincinnati has also passed Ordinance No. 275-2017 as of September 27, 2017, as amended by Ordinance No. 339-2018 passed on October 31, 2018 (the "Commercial Policy Ordinance"), which sets forth certain additional policies, conditions and limitations regarding newly constructed or remodeled commercial and residential structures in the Community Reinvestment Area.
- D. Pursuant to the Commercial Policy Ordinance, a project that is constructed or remodeled to (1) Leadership in Energy and Environmental Design ("LEED") Silver, Gold or Platinum standards (as defined by the U.S. Green Building Council), or (2) receives a (a) Living Building Challenge Net Zero certification, (b) Living Building Challenge Full certification, or (c) solely in circumstances where the construction or remodeling complies with the requirements of the "Energy Petal" of the Living Building Challenge, Living Building Challenge Petal certification, in each case as defined by the International Living Future Institute and the Cascadia Green Building Council (such qualifying remodeling or construction is referred to, collectively, as "LBC" remodeling or construction), may qualify for a longer term and/or greater abatement.
- E. The Company is the sole owner of certain real property within the City, located at 18 W. Elder Street, Cincinnati, Ohio 45202 (the "Property"), as further described in Exhibit A (Legal Description of Property) hereto. Notwithstanding the foregoing, the Property shall not include any residential condominiums being developed in connection with the Project (as defined below) (the "Excluded Property"), and the Company acknowledges and agrees that the City's Community Reinvestment Area program entails separate applications by the owner of any residential condominium units included within the Project. For the avoidance of doubt, the Excluded Property shall not be exempt under this Agreement; however, this provision shall not be deemed to prohibit any owners from time to time of any Excluded Property from separately applying for a tax abatement in accordance with applicable law.
- F. The Company has proposed the remodeling of a building located on the Property to LBC standards or LEED Silver, Gold or Platinum standards, as defined by the U.S. Green Building Council, within the boundaries of the City of Cincinnati, as more fully described in Section 1 herein (the "Project"); provided that the appropriate development incentives are available to support the economic viability of the Project.
- G. The Statute provides that if any part of a project is to be used for commercial or industrial purposes, including projects containing four or more dwelling units, in order to be eligible for tax exemption

the City and the Company must enter into an agreement pursuant to Ohio Revised Code Section 3735.671 prior to commencement of construction or remodeling.

- H. The City, having appropriate authority under the Statute for this type of project, agrees (as provided herein and subject to all conditions herein) to provide the Company with the tax exemption incentives stated herein, available under the Statute, for development of the Project.
- I. The Company has submitted to the City an application for this tax exemption agreement (the "Application"), a copy of which is attached hereto as Exhibit B, has remitted with the Application (i) the City application fee of One Thousand Two Hundred Fifty Dollars (\$1,250) made payable to the City and (ii) in accordance with Ohio Revised Code Section 3735.672(C), the state application fee of Seven Hundred Fifty Dollars (\$750) made payable to the Ohio Development Services Agency ("ODSA"), to be forwarded to the ODSA with an executed copy of this Agreement.
- J. The Director of the City's Department of Community and Economic Development has recommended approval of the Application on the basis that the Company is qualified by financial responsibility and business experience to create and preserve employment opportunities and improve the economic climate of the City.
- K. The Board of Education of the Cincinnati City School District (the "Board of Education"), pursuant to that certain *Tax Incentive Agreement* effective as of April 28, 2020, has approved exemptions of up to one hundred percent (100%) of Community Reinvestment Area projects, waived advance notice and right to review such projects, and waived sharing or allocation of municipal income taxes in connection with such projects.
- L. The Company has entered into (or will enter into) an agreement with the Board of Education requiring the Company to pay the Board of Education amounts equal to thirty-three percent (33%) of the full amount of exempt real property taxes that would have been paid to Hamilton County if this Agreement were not in effect (the "Board of Education Agreement").
- M. The Company represents and warrants to the City that the Company and its major tenants, if any, do not intend to relocate part or all of their operations to the City from another county or municipal corporation in the State of Ohio (the "State").
- N. The Company represents that within the past five (5) years neither the Company, any related member of the Company, nor any entity to which the Company is a successor has discontinued operations at a project site in the State during the term of a property tax exemption agreement (under Ohio Revised Code Section 3735.671, 5709.62, 5709.63 or 5709.632) applicable to that site, and the Company acknowledges that misrepresentation hereunder will result in voiding of this Agreement.
- O. The Company represents and warrants to the City that the Company is not subject to an Enterprise Zone Agreement with the City of Cincinnati for the Property or the Project.
- P. City Council passed (i) Motion No. 201401368 on November 19, 2014, establishing a tax incentive policy that incentivizes each applicant for a real property tax abatement in the neighborhoods of Downtown and OTR to enter into a voluntary tax incentive contribution agreement with a third-party organization ("VTICA") for an amount equal to a percentage of the real property taxes that would have been payable on the abated property but for the City-authorized tax abatement (the "VTICA Contribution"), which funds shall be committed by a third-party organization to pay for streetcar operations that specially benefit the abated property, and (ii) Motion No. 201501592 on December 16, 2015, which established that the VTICA Contribution to be recognized by the Director of the Department of Community and Economic Development is 15% of the real property taxes that would have been payable on the abated property but for the City-authorized tax abatement. The Commercial Policy Ordinance confirmed that such motions have not been superseded and remain the will of Council.

- Q. The Company acknowledges that Streetcar operations in the Central Business District and Over-the-Rhine will specially benefit the Project due to (a) the Streetcar's enhancement of public transit options in such neighborhoods and (b) the anticipated increase in property values attributable to public investment in Streetcar infrastructure.
- R. The Company represents and warrants to the City that the Company has entered or will enter into a VTICA and shall pay the VTICA Contribution each year for the full term of the abatement.
- S. This Agreement has been authorized by Ordinance No. _____-2021, passed by Cincinnati City Council on _____, 2021.
- T. In determining to recommend and authorize this Agreement, the Department of Community and Economic Development and City Council, respectively, have acted in material reliance on the Company's representations in the Application and herein regarding the Project including, but not limited to, representations relating to the number of jobs to be created and/or retained by the Company, the Board of Education Agreement, the VTICA Contribution, and the Project's effect in promoting the general welfare of the people of Cincinnati by, for example, encouraging the development of real property located in the Community Reinvestment Area and thereby promoting economic growth and vitality in Cincinnati.

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

Section 1. Project. Upon issuance of the necessary zoning and building approvals, the Company agrees to remodel the existing building into approximately 3,300 square feet of residential space, consisting of 7 residential rental units, and approximately 500 square feet of commercial space on the Property (the "Improvements") at an estimated aggregate cost of \$300,000 to commence after the execution of this Agreement and to be completed no later than July 1, 2022; *provided*, however, that the Director of the Department of Community and Economic Development (the "Housing Officer") may, in his discretion, extend such deadline for a period of up to 12 months by written notice if, in the Director's judgment, the Company is proceeding in good faith towards completion. The remodeling shall be in compliance with applicable building code and zoning regulations, as well as complying with LBC standards or LEED Silver, Gold or Platinum standards, as defined by the U.S. Green Building Council. The Company hereby represents that either or both of the following clauses (a) and (b) are true: (a) it has registered with the U.S. Green Building Council with intent to certify compliance with LEED Silver, Gold or Platinum standards, or (b) it has registered with the International Living Future Institute and/or the Cascadia Green Building Council with intent to certify compliance with LBC standards. In addition to the foregoing, (A) the Project shall comply with the Americans with Disabilities Act, together with any and all regulations or other binding directives promulgated pursuant thereto (collectively, the "**ADA**"), and (B) if (i) any building(s) within the Project is subject to the accessibility requirements of the ADA (e.g., by constituting a "place of public accommodation" or another category of structure to which the ADA is applicable) and (ii) such building(s) is not already required to meet the Contractual Minimum Accessibility Requirements (as defined below) pursuant to the ADA, applicable building code requirements, or by any other legal requirement, then the Company shall cause such building(s) to comply with the Contractual Minimum Accessibility Requirements in addition to any requirements pursuant to the ADA and the applicable building code or legal requirement. As used herein, "**Contractual Minimum Accessibility Requirements**" means that a building shall, at a minimum, include (1) at least one point of entry (as used in the ADA), accessible from a public right of way, with respect to which all architectural barriers (as used in the ADA) to entry have been eliminated, and (2) if such accessible point of entry is not a building's primary point of entry, conspicuous signage directing persons to such accessible point of entry.

Section 2. Real Property Tax Exemption. Subject to the satisfaction of the conditions set forth in this Agreement, the City approves exemption from real property taxation, pursuant to and to the fullest

extent authorized by the Statute, of 100% of the amount by which the Improvements increase the assessed value of the Property as determined by the Hamilton County Auditor, for a period of 15 years, provided that the Company shall have entered into the Board of Education Agreement. Within 120 days after completion of the Project (unless otherwise extended in writing by the City's Housing Officer), the Company must file the appropriate application for tax exemption with the City's Housing Officer. The Company is solely responsible to take this action. Upon receipt of the application for tax exemption, the City will proceed with the exemption authorized by this Agreement. In accordance with Ohio Revised Code Section 3735.67, the exemption is conditioned on verification by the Housing Officer of (A) the completion of remodeling, (B) the cost of remodeling, (C) the facts asserted in the application for exemption, (D) compliance with LBC standards or LEED Silver, Gold or Platinum standards, as defined by the U.S. Green Building Council, and (E) if a remodeled structure is a structure of historical or architectural significance as designated by the City, state or federal government, that the appropriateness of the remodeling has been certified in writing by the appropriate agency. If the required verification is made, the Housing Officer will forward the exemption application to the Hamilton County Auditor with the necessary certification by the Housing Officer. Subject to the conditions set forth in this Agreement, the exemption commences the first tax year for which the Improvements would first be taxable were the Improvements not exempted from taxation. The dates provided in this paragraph refer to tax years in which the subject property is assessed, as opposed to years in which taxes are billed. No exemption shall commence after tax year 2023 nor extend beyond the earlier of (i) tax year 2037 or (ii) the end of the fifteenth (15th) year of exemption.

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

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

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

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

Section 7. Covenant of Satisfaction of Tax and Other Obligations. In accordance with Ohio Revised Code Section 9.66, (A) the Company affirmatively covenants that it does not owe: (i) any delinquent taxes to the State or to a political subdivision of the State; (ii) any moneys to the State or a State agency for the administration or enforcement of any environmental laws of the State; or (iii) any other moneys to the State, a State agency or a political subdivision of the State that are past due, regardless of whether the amounts owed are being contested in a court of law or not; (B) the Company authorizes the City and/or the State to inspect the personal financial statements of the Company, including tax records and other similar information not ordinarily open to public inspection; and (C) the Company authorizes the Ohio

Environmental Protection Agency and the Ohio Department of Taxation to release information to the City and or other State departments in connection with the above statements. As provided by statute, a knowingly false statement under this section may be prosecuted as a first degree misdemeanor under Ohio Revised Code Section 2921.13, may render the Company ineligible for any future economic development assistance from the State or any political subdivision of the State, and will result in the City requiring the Company's repayment of any assistance provided by the City in connection with the Project.

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

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

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

Section 11. Small Business Enterprise Program.¹

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

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

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

amount of the subcontracts and such other information as may be requested by the City. The Company shall update the report monthly.

(vi) The Company shall periodically document its best efforts and affirmative steps to meet the above SBE participation goals by submitting such information as may be requested from time to time by the City.

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

Section 12. Jobs. The Company represents that, as of the date of the execution of this Agreement, the Company has no existing employment at the Property or in the State.

Section 13. Job Creation and Retention.

A. Jobs to be Created by Company. The Company agrees to use its best efforts to create 5 full-time temporary construction jobs at the Property in connection with the Project. In the case of the construction jobs, the job creation and retention period shall be concurrent with remodeling, and in the case of the other jobs described herein, the job creation period shall begin upon completion of remodeling and shall end three (3) years thereafter.

B. Company's Estimated Payroll Increase. The Company's increase in the number of employees will result in approximately \$120,000 of additional annual payroll prior to the completion of the Project with respect to the full-time temporary construction jobs.

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

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

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

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

Section 16. Default. As provided in Ohio Revised Code Section 3735.671(C)(6), if the Company materially fails to fulfill its obligations under this Agreement, or if the City determines that the

certification as to delinquent taxes required by this Agreement (Section 6 hereof) or the covenant of satisfaction of tax and other obligations (Section 7 hereof) is fraudulent, the City may terminate or modify the exemptions from taxation granted or authorized under this Agreement and may require the repayment by the Company of the amount of taxes that would have been payable had the Improvements not been exempted from taxation pursuant to this Agreement. A modification of exemption may be in the form of reduction in the number of years that eligible property is exempt and/or a reduction in the exemption percentage. The City shall provide written notice to the Company prior to finding the Company in default under this section. The notice shall provide the Company with not less than thirty (30) days to cure the default prior to City termination or modification of the exemptions under this Agreement. The City may extend the cure period as reasonably necessary under the circumstances. In the event of such termination or modification, the City is authorized to so notify the appropriate taxing authorities in order to effect the termination or modification. If repayment of previously exempt taxes is required by the City under this Section, such amount shall be paid as directed by the City within thirty (30) days of written demand. The City may secure repayment of such taxes by a lien on the Property in the amount required to be repaid. Such a lien shall attach, and may be perfected, collected, and enforced, in the same manner as a mortgage lien on real property, and shall otherwise have the same force and effect as a mortgage lien on real property. Amounts due and not paid when due under this Section 16 shall bear interest at the rate specified in Ohio Revised Code Section 1343.03(A) (as in effect on the date of the City's payment demand).

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

Section 18. Revocation.

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

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

Section 19. False Statements; Penalties; Material Representations.

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

B. Material Representations – Board of Education Agreement and VTICA. The Parties acknowledge and agree that a material failure by the Company to comply with its representations concerning the Board of Education Agreement or VTICA Contribution shall constitute an event of default for purposes of Section 16 (Default) and the basis for revocation under Section 18 (Revocation). Subject to the terms of the VTICA, if the VTICA is unenforceable for reasons of infeasibility or otherwise, the Company shall enter into alternative arrangements providing for the economic equivalent of the VTICA Contribution in order to support streetcar operations. Such arrangements may include, but are not limited to, providing for the economic equivalent of the VTICA Contribution through formation of a special improvement district. For purposes of this Section 19.B, alternative arrangements must result in services substantially similar to those that would have been supported through the VTICA and at a value that is the economic equivalent of the VTICA Contribution, which value shall not be required to exceed the VTICA Contribution amount that would have been payable by the Company. Any determination of infeasibility or mechanism for providing alternative arrangements is subject to approval by the City at its sole discretion. Nothing in this Section 19.B shall operate to limit the City's enforcement authority under this Agreement including, without limitation, Section 16, Section 18, and Section 19.A.

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

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

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

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

To the City:

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

To the Company:

Robel 1 LLC
Attention: Robel Abraham
2019 Highland Avenue,
Cincinnati, Ohio 45219

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

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

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

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

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

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

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

Section 30. Non-Assignment. As required by Ohio Revised Code Section 3735.671(C)(8), this Agreement is not transferable or assignable by the Company without the express written approval of the City Manager of the City. If the Company has entered into a Board of Education Agreement or VTICA in connection with the Property, the City shall not approve the assignment of this Agreement unless the assignee has assumed the Company's remaining obligations under the Board of Education Agreement and VTICA, as applicable. Failure to assign or otherwise perform the Company's obligations under the Board

of Education Agreement or VTICA upon transfer of the Property during the term of the tax abatement authorized by this Agreement shall be basis for revocation of the tax exemption under Section 18.

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

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

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

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

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

Section 36. Wage Enforcement.

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

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

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

(b) If this contract is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this contract is required to include provisions

in solicitations and contracts regarding a Development Site that all employers, Contractors or Subcontractors performing or proposing to perform work on a Development Site provide an initial sworn and notarized "Affidavit Regarding Wage Theft and Payroll Fraud" on a form prescribed by the city manager or his or her designee and, within 30 days of an Adverse Determination or Complaint of Wage Theft or Payroll Fraud, shall provide an "Amended Affidavit Regarding Wage Theft and Payroll Fraud" on a form prescribed by the city manager or his or her designee.

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

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

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

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

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

Section 38. Counterparts and Electronic Signatures. This Agreement may be executed by the parties hereto in two or more counterparts and each executed counterpart shall be considered an original but all of which together shall constitute one and the same instrument. This Agreement may be executed and delivered by electronic signature; any original signatures that are initially delivered electronically shall be physically delivered as soon as reasonably possible.

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

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

CITY OF CINCINNATI,
an Ohio municipal corporation

ROBEL 1 LLC,
an Ohio limited liability company

By: _____
Paula Boggs Muething, City Manager

Date: _____, 2021

By: _____

Printed Name: _____

Title: _____

Date: _____, 2021

Authorized by resolution dated _____

Approved as to Form:

Assistant City Solicitor

Certified Date: _____

Fund/Code: _____

Amount: _____

By: _____
Karen Alder, City Finance Director

Exhibit A to CRA Agreement

LEGAL DESCRIPTION OF PROPERTY

Street Address: 18 W. Elder Street, Cincinnati, Ohio 45202

Parcel ID No.: 094-0008-0328-00

Situate in the City of Cincinnati, Hamilton County, Ohio and being all of Block "C", which was laid out by Gen. James Findlay and J.D. Garrard and recorded in Book 47, Page 319, Hamilton County Records, being part of Lot #20 in Block "C" as subdivided by Commissioners in Partition case among the heirs of James and Jane Findlay, deceased, of their estate; commencing on the North side of Elder Street 34 feet from Bremen Street; thence North parallel with Bremen Street 100 feet to a 10 foot alley; thence West along said alley 20 feet; thence Southwardly along the East line of Lot #19, 100 feet to Elder Street; thence along Elder Street Eastwardly 20 feet to the place of beginning.

Exhibit B to CRA Agreement
APPLICATION FOR TAX EXEMPTION

TO BE ATTACHED

Attachment A to Ordinance

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

SEE ATTACHED

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

This Community Reinvestment Area Tax Exemption Agreement (this "Agreement") is made and entered into as of the Effective Date (as defined on the signature page hereof) by and between the CITY OF CINCINNATI, an Ohio municipal corporation (the "City"), and ROBEL 1 LLC, an Ohio limited liability company (the "Company").

Recitals:

- A. The City, through the adoption of Ordinance No. 274-2017 on September 27, 2017, designated the entire City of Cincinnati as a Community Reinvestment Area to encourage the development of real property and the acquisition of personal property in that area, pursuant to Ohio Revised Code Sections 3735.65 through 3735.70 (the "Statute").
- B. In accordance with the Statute, the Ohio Director of Development has forwarded to the City the Director's determination dated October 23, 2017, stating that the findings contained in Ordinance No. 274-2017 are valid and that the entire City is a Community Reinvestment Area under the Statute. By such determination, the Director of Development of the State of Ohio determined that the area within the corporate boundaries of the City of Cincinnati contains the characteristics set forth in the Statute and confirmed such area as a Community Reinvestment Area under the Statute.
- C. The Council of the City of Cincinnati has also passed Ordinance No. 275-2017 as of September 27, 2017, as amended by Ordinance No. 339-2018 passed on October 31, 2018 (the "Commercial Policy Ordinance"), which sets forth certain additional policies, conditions and limitations regarding newly constructed or remodeled commercial and residential structures in the Community Reinvestment Area.
- D. Pursuant to the Commercial Policy Ordinance, a project that is constructed or remodeled to (1) Leadership in Energy and Environmental Design ("LEED") Silver, Gold or Platinum standards (as defined by the U.S. Green Building Council), or (2) receives a (a) Living Building Challenge Net Zero certification, (b) Living Building Challenge Full certification, or (c) solely in circumstances where the construction or remodeling complies with the requirements of the "Energy Petal" of the Living Building Challenge, Living Building Challenge Petal certification, in each case as defined by the International Living Future Institute and the Cascadia Green Building Council (such qualifying remodeling or construction is referred to, collectively, as "LBC" remodeling or construction), may qualify for a longer term and/or greater abatement.
- E. The Company is the sole owner of certain real property within the City, located at 18 W. Elder Street, Cincinnati, Ohio 45202 (the "Property"), as further described in Exhibit A (Legal Description of Property) hereto. Notwithstanding the foregoing, the Property shall not include any residential condominiums being developed in connection with the Project (as defined below) (the "Excluded Property"), and the Company acknowledges and agrees that the City's Community Reinvestment Area program entails separate applications by the owner of any residential condominium units included within the Project. For the avoidance of doubt, the Excluded Property shall not be exempt under this Agreement; however, this provision shall not be deemed to prohibit any owners from time to time of any Excluded Property from separately applying for a tax abatement in accordance with applicable law.
- F. The Company has proposed the remodeling of a building located on the Property to LBC standards or LEED Silver, Gold or Platinum standards, as defined by the U.S. Green Building Council, within the boundaries of the City of Cincinnati, as more fully described in Section 1 herein (the "Project"); provided that the appropriate development incentives are available to support the economic viability of the Project.
- G. The Statute provides that if any part of a project is to be used for commercial or industrial purposes, including projects containing four or more dwelling units, in order to be eligible for tax exemption

the City and the Company must enter into an agreement pursuant to Ohio Revised Code Section 3735.671 prior to commencement of construction or remodeling.

- H. The City, having appropriate authority under the Statute for this type of project, agrees (as provided herein and subject to all conditions herein) to provide the Company with the tax exemption incentives stated herein, available under the Statute, for development of the Project.
- I. The Company has submitted to the City an application for this tax exemption agreement (the "Application"), a copy of which is attached hereto as Exhibit B, has remitted with the Application (i) the City application fee of One Thousand Two Hundred Fifty Dollars (\$1,250) made payable to the City and (ii) in accordance with Ohio Revised Code Section 3735.672(C), the state application fee of Seven Hundred Fifty Dollars (\$750) made payable to the Ohio Development Services Agency ("ODSA"), to be forwarded to the ODSA with an executed copy of this Agreement.
- J. The Director of the City's Department of Community and Economic Development has recommended approval of the Application on the basis that the Company is qualified by financial responsibility and business experience to create and preserve employment opportunities and improve the economic climate of the City.
- K. The Board of Education of the Cincinnati City School District (the "Board of Education"), pursuant to that certain *Tax Incentive Agreement* effective as of April 28, 2020, has approved exemptions of up to one hundred percent (100%) of Community Reinvestment Area projects, waived advance notice and right to review such projects, and waived sharing or allocation of municipal income taxes in connection with such projects.
- L. The Company has entered into (or will enter into) an agreement with the Board of Education requiring the Company to pay the Board of Education amounts equal to thirty-three percent (33%) of the full amount of exempt real property taxes that would have been paid to Hamilton County if this Agreement were not in effect (the "Board of Education Agreement").
- M. The Company represents and warrants to the City that the Company and its major tenants, if any, do not intend to relocate part or all of their operations to the City from another county or municipal corporation in the State of Ohio (the "State").
- N. The Company represents that within the past five (5) years neither the Company, any related member of the Company, nor any entity to which the Company is a successor has discontinued operations at a project site in the State during the term of a property tax exemption agreement (under Ohio Revised Code Section 3735.671, 5709.62, 5709.63 or 5709.632) applicable to that site, and the Company acknowledges that misrepresentation hereunder will result in voiding of this Agreement.
- O. The Company represents and warrants to the City that the Company is not subject to an Enterprise Zone Agreement with the City of Cincinnati for the Property or the Project.
- P. City Council passed (i) Motion No. 201401368 on November 19, 2014, establishing a tax incentive policy that incentivizes each applicant for a real property tax abatement in the neighborhoods of Downtown and OTR to enter into a voluntary tax incentive contribution agreement with a third-party organization ("VTICA") for an amount equal to a percentage of the real property taxes that would have been payable on the abated property but for the City-authorized tax abatement (the "VTICA Contribution"), which funds shall be committed by a third-party organization to pay for streetcar operations that specially benefit the abated property, and (ii) Motion No. 201501592 on December 16, 2015, which established that the VTICA Contribution to be recognized by the Director of the Department of Community and Economic Development is 15% of the real property taxes that would have been payable on the abated property but for the City-authorized tax abatement. The Commercial Policy Ordinance confirmed that such motions have not been superseded and remain the will of Council.

- Q. The Company acknowledges that Streetcar operations in the Central Business District and Over-the-Rhine will specially benefit the Project due to (a) the Streetcar's enhancement of public transit options in such neighborhoods and (b) the anticipated increase in property values attributable to public investment in Streetcar infrastructure.
- R. The Company represents and warrants to the City that the Company has entered or will enter into a VTICA and shall pay the VTICA Contribution each year for the full term of the abatement.
- S. This Agreement has been authorized by Ordinance No. _____-2021, passed by Cincinnati City Council on _____, 2021.
- T. In determining to recommend and authorize this Agreement, the Department of Community and Economic Development and City Council, respectively, have acted in material reliance on the Company's representations in the Application and herein regarding the Project including, but not limited to, representations relating to the number of jobs to be created and/or retained by the Company, the Board of Education Agreement, the VTICA Contribution, and the Project's effect in promoting the general welfare of the people of Cincinnati by, for example, encouraging the development of real property located in the Community Reinvestment Area and thereby promoting economic growth and vitality in Cincinnati.

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

Section 1. Project. Upon issuance of the necessary zoning and building approvals, the Company agrees to remodel the existing building into approximately 3,300 square feet of residential space, consisting of 7 residential rental units, and approximately 500 square feet of commercial space on the Property (the "Improvements") at an estimated aggregate cost of \$300,000 to commence after the execution of this Agreement and to be completed no later than July 1, 2022; *provided*, however, that the Director of the Department of Community and Economic Development (the "Housing Officer") may, in his discretion, extend such deadline for a period of up to 12 months by written notice if, in the Director's judgment, the Company is proceeding in good faith towards completion. The remodeling shall be in compliance with applicable building code and zoning regulations, as well as complying with LBC standards or LEED Silver, Gold or Platinum standards, as defined by the U.S. Green Building Council. The Company hereby represents that either or both of the following clauses (a) and (b) are true: (a) it has registered with the U.S. Green Building Council with intent to certify compliance with LEED Silver, Gold or Platinum standards, or (b) it has registered with the International Living Future Institute and/or the Cascadia Green Building Council with intent to certify compliance with LBC standards. In addition to the foregoing, (A) the Project shall comply with the Americans with Disabilities Act, together with any and all regulations or other binding directives promulgated pursuant thereto (collectively, the "**ADA**"), and (B) if (i) any building(s) within the Project is subject to the accessibility requirements of the ADA (e.g., by constituting a "place of public accommodation" or another category of structure to which the ADA is applicable) and (ii) such building(s) is not already required to meet the Contractual Minimum Accessibility Requirements (as defined below) pursuant to the ADA, applicable building code requirements, or by any other legal requirement, then the Company shall cause such building(s) to comply with the Contractual Minimum Accessibility Requirements in addition to any requirements pursuant to the ADA and the applicable building code or legal requirement. As used herein, "**Contractual Minimum Accessibility Requirements**" means that a building shall, at a minimum, include (1) at least one point of entry (as used in the ADA), accessible from a public right of way, with respect to which all architectural barriers (as used in the ADA) to entry have been eliminated, and (2) if such accessible point of entry is not a building's primary point of entry, conspicuous signage directing persons to such accessible point of entry.

Section 2. Real Property Tax Exemption. Subject to the satisfaction of the conditions set forth in this Agreement, the City approves exemption from real property taxation, pursuant to and to the fullest

extent authorized by the Statute, of 100% of the amount by which the Improvements increase the assessed value of the Property as determined by the Hamilton County Auditor, for a period of 15 years, provided that the Company shall have entered into the Board of Education Agreement. Within 120 days after completion of the Project (unless otherwise extended in writing by the City's Housing Officer), the Company must file the appropriate application for tax exemption with the City's Housing Officer. The Company is solely responsible to take this action. Upon receipt of the application for tax exemption, the City will proceed with the exemption authorized by this Agreement. In accordance with Ohio Revised Code Section 3735.67, the exemption is conditioned on verification by the Housing Officer of (A) the completion of remodeling, (B) the cost of remodeling, (C) the facts asserted in the application for exemption, (D) compliance with LBC standards or LEED Silver, Gold or Platinum standards, as defined by the U.S. Green Building Council, and (E) if a remodeled structure is a structure of historical or architectural significance as designated by the City, state or federal government, that the appropriateness of the remodeling has been certified in writing by the appropriate agency. If the required verification is made, the Housing Officer will forward the exemption application to the Hamilton County Auditor with the necessary certification by the Housing Officer. Subject to the conditions set forth in this Agreement, the exemption commences the first tax year for which the Improvements would first be taxable were the Improvements not exempted from taxation. The dates provided in this paragraph refer to tax years in which the subject property is assessed, as opposed to years in which taxes are billed. No exemption shall commence after tax year 2023 nor extend beyond the earlier of (i) tax year 2037 or (ii) the end of the fifteenth (15th) year of exemption.

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

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

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

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

Section 7. Covenant of Satisfaction of Tax and Other Obligations. In accordance with Ohio Revised Code Section 9.66, (A) the Company affirmatively covenants that it does not owe: (i) any delinquent taxes to the State or to a political subdivision of the State; (ii) any moneys to the State or a State agency for the administration or enforcement of any environmental laws of the State; or (iii) any other moneys to the State, a State agency or a political subdivision of the State that are past due, regardless of whether the amounts owed are being contested in a court of law or not; (B) the Company authorizes the City and/or the State to inspect the personal financial statements of the Company, including tax records and other similar information not ordinarily open to public inspection; and (C) the Company authorizes the Ohio

Environmental Protection Agency and the Ohio Department of Taxation to release information to the City and or other State departments in connection with the above statements. As provided by statute, a knowingly false statement under this section may be prosecuted as a first degree misdemeanor under Ohio Revised Code Section 2921.13, may render the Company ineligible for any future economic development assistance from the State or any political subdivision of the State, and will result in the City requiring the Company's repayment of any assistance provided by the City in connection with the Project.

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

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

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

Section 11. Small Business Enterprise Program.¹

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

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

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

amount of the subcontracts and such other information as may be requested by the City. The Company shall update the report monthly.

(vi) The Company shall periodically document its best efforts and affirmative steps to meet the above SBE participation goals by submitting such information as may be requested from time to time by the City.

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

Section 12. Jobs. The Company represents that, as of the date of the execution of this Agreement, the Company has no existing employment at the Property or in the State.

Section 13. Job Creation and Retention.

A. Jobs to be Created by Company. The Company agrees to use its best efforts to create 5 full-time temporary construction jobs at the Property in connection with the Project. In the case of the construction jobs, the job creation and retention period shall be concurrent with remodeling, and in the case of the other jobs described herein, the job creation period shall begin upon completion of remodeling and shall end three (3) years thereafter.

B. Company's Estimated Payroll Increase. The Company's increase in the number of employees will result in approximately \$120,000 of additional annual payroll prior to the completion of the Project with respect to the full-time temporary construction jobs.

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

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

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

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

Section 16. Default. As provided in Ohio Revised Code Section 3735.671(C)(6), if the Company materially fails to fulfill its obligations under this Agreement, or if the City determines that the

certification as to delinquent taxes required by this Agreement (Section 6 hereof) or the covenant of satisfaction of tax and other obligations (Section 7 hereof) is fraudulent, the City may terminate or modify the exemptions from taxation granted or authorized under this Agreement and may require the repayment by the Company of the amount of taxes that would have been payable had the Improvements not been exempted from taxation pursuant to this Agreement. A modification of exemption may be in the form of reduction in the number of years that eligible property is exempt and/or a reduction in the exemption percentage. The City shall provide written notice to the Company prior to finding the Company in default under this section. The notice shall provide the Company with not less than thirty (30) days to cure the default prior to City termination or modification of the exemptions under this Agreement. The City may extend the cure period as reasonably necessary under the circumstances. In the event of such termination or modification, the City is authorized to so notify the appropriate taxing authorities in order to effect the termination or modification. If repayment of previously exempt taxes is required by the City under this Section, such amount shall be paid as directed by the City within thirty (30) days of written demand. The City may secure repayment of such taxes by a lien on the Property in the amount required to be repaid. Such a lien shall attach, and may be perfected, collected, and enforced, in the same manner as a mortgage lien on real property, and shall otherwise have the same force and effect as a mortgage lien on real property. Amounts due and not paid when due under this Section 16 shall bear interest at the rate specified in Ohio Revised Code Section 1343.03(A) (as in effect on the date of the City's payment demand).

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

Section 18. Revocation.

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

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

Section 19. False Statements; Penalties; Material Representations.

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

B. Material Representations – Board of Education Agreement and VTICA. The Parties acknowledge and agree that a material failure by the Company to comply with its representations concerning the Board of Education Agreement or VTICA Contribution shall constitute an event of default for purposes of Section 16 (Default) and the basis for revocation under Section 18 (Revocation). Subject to the terms of the VTICA, if the VTICA is unenforceable for reasons of infeasibility or otherwise, the Company shall enter into alternative arrangements providing for the economic equivalent of the VTICA Contribution in order to support streetcar operations. Such arrangements may include, but are not limited to, providing for the economic equivalent of the VTICA Contribution through formation of a special improvement district. For purposes of this Section 19.B, alternative arrangements must result in services substantially similar to those that would have been supported through the VTICA and at a value that is the economic equivalent of the VTICA Contribution, which value shall not be required to exceed the VTICA Contribution amount that would have been payable by the Company. Any determination of infeasibility or mechanism for providing alternative arrangements is subject to approval by the City at its sole discretion. Nothing in this Section 19.B shall operate to limit the City's enforcement authority under this Agreement including, without limitation, Section 16, Section 18, and Section 19.A.

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

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

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

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

To the City:

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

To the Company:

Robel 1 LLC
Attention: Robel Abraham
2019 Highland Avenue,
Cincinnati, Ohio 45219

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

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

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

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

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

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

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

Section 30. Non-Assignment. As required by Ohio Revised Code Section 3735.671(C)(8), this Agreement is not transferable or assignable by the Company without the express written approval of the City Manager of the City. If the Company has entered into a Board of Education Agreement or VTICA in connection with the Property, the City shall not approve the assignment of this Agreement unless the assignee has assumed the Company's remaining obligations under the Board of Education Agreement and VTICA, as applicable. Failure to assign or otherwise perform the Company's obligations under the Board

of Education Agreement or VTICA upon transfer of the Property during the term of the tax abatement authorized by this Agreement shall be basis for revocation of the tax exemption under Section 18.

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

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

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

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

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

Section 36. Wage Enforcement.

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

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

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

(b) If this contract is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this contract is required to include provisions

in solicitations and contracts regarding a Development Site that all employers, Contractors or Subcontractors performing or proposing to perform work on a Development Site provide an initial sworn and notarized "Affidavit Regarding Wage Theft and Payroll Fraud" on a form prescribed by the city manager or his or her designee and, within 30 days of an Adverse Determination or Complaint of Wage Theft or Payroll Fraud, shall provide an "Amended Affidavit Regarding Wage Theft and Payroll Fraud" on a form prescribed by the city manager or his or her designee.

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

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

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

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

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

Section 38. Counterparts and Electronic Signatures. This Agreement may be executed by the parties hereto in two or more counterparts and each executed counterpart shall be considered an original but all of which together shall constitute one and the same instrument. This Agreement may be executed and delivered by electronic signature; any original signatures that are initially delivered electronically shall be physically delivered as soon as reasonably possible.

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

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

CITY OF CINCINNATI,
an Ohio municipal corporation

ROBEL 1 LLC,
an Ohio limited liability company

By: _____
Paula Boggs Muething, City Manager

Date: _____, 2021

By: _____

Printed Name: _____

Title: _____

Date: _____, 2021

Authorized by resolution dated _____

Approved as to Form:

Assistant City Solicitor

Certified Date: _____

Fund/Code: _____

Amount: _____

By: _____
Karen Alder, City Finance Director

Exhibit A to CRA Agreement

LEGAL DESCRIPTION OF PROPERTY

Street Address: 18 W. Elder Street, Cincinnati, Ohio 45202

Parcel ID No.: 094-0008-0328-00

Situate in the City of Cincinnati, Hamilton County, Ohio and being all of Block "C", which was laid out by Gen. James Findlay and J.D. Garrard and recorded in Book 47, Page 319, Hamilton County Records, being part of Lot #20 in Block "C" as subdivided by Commissioners in Partition case among the heirs of James and Jane Findlay, deceased, of their estate; commencing on the North side of Elder Street 34 feet from Bremen Street; thence North parallel with Bremen Street 100 feet to a 10 foot alley; thence West along said alley 20 feet; thence Southwardly along the East line of Lot #19, 100 feet to Elder Street; thence along Elder Street Eastwardly 20 feet to the place of beginning.

Exhibit B to CRA Agreement
APPLICATION FOR TAX EXEMPTION

TO BE ATTACHED

March 24, 2021

To: Mayor and Members of City Council

202101197

From: Paula Boggs Muething, City Manager

Subject: **COMMUNITY REINVESTMENT AREA TAX EXEMPTION
AGREEMENT FOR NORTHCROWN 56 MCMICKEN LLC**

Attached is an Emergency Ordinance captioned as follows:

APPROVING AND AUTHORIZING the City Manager to execute a *Community Reinvestment Area Tax Exemption Agreement* with Northcrown 56 McMicken LLC, an affiliate of Northcrown Property LLC thereby authorizing a 15-year tax exemption for 100% of the value of improvements made to real property located at 56 E. McMicken Avenue in the Over-the-Rhine neighborhood of Cincinnati, in connection with the remodeling of the existing building into approximately 1,081 square feet of commercial space and approximately 6,829 square feet of residential space, consisting of 13 apartments, at a total remodeling cost of approximately \$1,501,184.

BACKGROUND/CURRENT CONDITIONS

This property is a multi-story vacant building in the Over-the-Rhine neighborhood of Cincinnati. It is within the OTR Historic District. The property is within walking distance to Grant Park. The Developer submitted a CRA application to DCED requesting assistance in the redevelopment of this property.

DEVELOPER INFORMATION

Northcrown 56 McMicken LLC is an entity affiliate of Northcrown Property LLC, a neighborhood developer, who primarily redevelops vacant buildings in the Over the Rhine neighborhood surrounding Grant Park. In the past, they have stabilized the historic Crown Brewery Building located at 131 E. McMicken and have multiple projects underway north along E. McMicken.

PROJECT DESCRIPTION

Once completed, this project will consist of 13 apartment units and 1,081 square feet of commercial space. Rent will range between \$814-\$1,081 per month depending on the square footage of the unit (ranging from 407-938 square feet). In connection with this project, it is estimated that 30 temporary construction jobs are created at a total annual payroll of \$1,200,000.

This project is consistent with several of Plan Cincinnati's goals including the City's goal to remain competitive economically, and the City's goal to be good stewards of its resources—both built and environmental.

PROPOSED INCENTIVE

The Ordinance provides for a 100% (net 52%), 15-year CRA tax exemption for this property. The exemption applies only to the increase in value of the building attributable to the project improvements. Pursuant to the Commercial CRA policy established by City Council, this project is located within the Streetcar VTICA Area and is therefore subject to analysis based on project underwriting, VTICA contribution, and job creation to determine abatement terms.

The administration is recommending a 15 year CRA term to allow for the project to secure adequate construction and permanent financing using the realized savings. This project will result in a more vibrant commercial district along the McMicken corridor and bring much needed housing to the northern section of Over the Rhine.

SUMMARY	
Forgone Public Benefit if Project Does not Proceed	
CPS PILOT (<i>Forgone New Revenue</i>)	(\$137,989)
VTICA (<i>Forgone New Revenue</i>)	(\$62,722)
Income Tax (<i>Forgone New Revenue</i>)	(\$110,880)
Total Public Benefit Lost	(\$311,591)
Incentive Value	
Annual Net Incentive to Developer	\$14,496
Total Term Incentive to Developer	\$217,437
City's Portion of Property Taxes Forgone	\$53,967
Public Benefit	
CPS PILOT	
Annual CPS Pilot	\$9,199
Total Term CPS PILOT	\$137,989
VTICA	
Annual VTICA	\$4,181
Total Term VTICA	\$62,722
Income Tax (Max)	\$110,880
Total Public Benefit (CPS PILOT/VTICA /Income Tax)	\$311,591
Total Public Benefit ROI*	\$1.43
City's ROI*	\$5.77

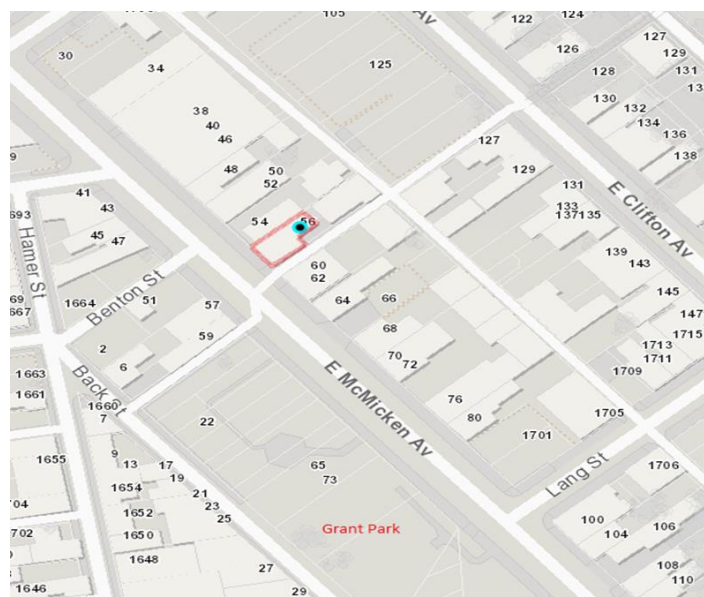
RECOMMENDATION

The Administration recommends approval of this Emergency Ordinance. The emergency clause in the Ordinance is required for the developer to maintain a strict project schedule.

Attachment: A. Property location and photographs

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

Attachment A: Location and Photographs



City of Cincinnati

- 2021

An Ordinance No. _____

APPROVING AND AUTHORIZING the City Manager to execute a *Community Reinvestment Area Tax Exemption Agreement* with Northcrown 56 McMicken LLC, an affiliate of Northcrown Property LLC, thereby authorizing a 15-year tax exemption for 100% of the value of improvements made to real property located at 56 E. McMicken Avenue in the Over-the-Rhine neighborhood of Cincinnati, in connection with the remodeling of the existing building into approximately 1,081 square feet of commercial space and approximately 6,829 square feet of residential space, consisting of 13 apartments, at a total remodeling cost of approximately \$1,501,184.

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

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

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

WHEREAS, Northcrown 56 McMicken LLC (the “Company”) desires to remodel an existing building located on real property at 56 E. McMicken Avenue located within the corporate boundaries of the City of Cincinnati, into approximately 1,081 square feet of commercial space and approximately 6,829 square feet of residential space, consisting of 13 apartments (the “Improvements”), provided that the appropriate development incentives are available to support the economic viability of the Improvements; and

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

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

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

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

WHEREAS, the Company has represented that it has entered into (or will enter into) a voluntary tax incentive contribution agreement with a third-party organization for amounts equal to 15% of the exempt real property taxes, which funds shall be committed by the third-party organization to pay for streetcar operations that specially benefit the property; and

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

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

Section 1. That Council approves a *Community Reinvestment Area Tax Exemption Agreement* with Northcrown 56 McMicken LLC (the “Agreement”), thereby authorizing a 15-year tax exemption for 100% of the assessed value of improvements to be made to real property located at 56 E. McMicken Avenue in Cincinnati, as calculated by the Hamilton County Auditor, in connection with the remodeling of the existing building into approximately 1,081 square feet of commercial space and approximately 6,829 square feet of residential space, consisting of 13 apartments, to be completed at a total construction cost of approximately \$1,501,184.

Section 2. That Council authorizes the City Manager:

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

- (iii) to submit on behalf of Council annual reports on the Agreement to the Director of the Ohio Development Services Agency and to the Board of Education of the Cincinnati City School District, in accordance with Ohio Revised Code Section 3735.672; and
- (iv) to take all necessary and proper actions to fulfill the City's obligations under the Agreement.

Section 3. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to allow the remodeling described in this ordinance and the corresponding revitalization of the City of Cincinnati and the benefits to the City's economic welfare to begin at the earliest possible time.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

Attachment A to Ordinance

CRA Tax Exemption Agreement

SEE ATTACHED

Community Reinvestment Area Tax Exemption Agreement

This Community Reinvestment Area Tax Exemption Agreement (this "Agreement") is made and entered into as of the Effective Date (as defined on the signature page hereof) by and between the CITY OF CINCINNATI, an Ohio municipal corporation (the "City"), and NORTHCROWN 56 McMICKEN LLC, an Ohio limited liability company and affiliate of Northcrown Property LLC (the "Company").

Recitals:

- A. The City, through the adoption of Ordinance No. 274-2017 on September 27, 2017, designated the entire City of Cincinnati as a Community Reinvestment Area to encourage the development of real property and the acquisition of personal property in that area, pursuant to Ohio Revised Code Sections 3735.65 through 3735.70 (the "Statute").
- B. In accordance with the Statute, the Ohio Director of Development has forwarded to the City the Director's determination dated October 23, 2017, stating that the findings contained in Ordinance No. 274-2017 are valid and that the entire City is a Community Reinvestment Area under the Statute. By such determination, the Director of Development of the State of Ohio determined that the area within the corporate boundaries of the City of Cincinnati contains the characteristics set forth in the Statute and confirmed such area as a Community Reinvestment Area under the Statute.
- C. The Council of the City of Cincinnati has also passed Ordinance No. 275-2017 as of September 27, 2017, as amended by Ordinance No. 339-2018 passed on October 31, 2018 (the "Commercial Policy Ordinance"), which sets forth certain additional policies, conditions and limitations regarding newly constructed or remodeled commercial and residential structures in the Community Reinvestment Area.
- D. The Company is the sole owner of certain real property within the City, located at 56 E. McMicken Avenue, Cincinnati, Ohio 45202 (the "Property"), as further described in Exhibit A (Legal Description of Property) hereto. Notwithstanding the foregoing, the Property shall not include any residential condominiums being developed in connection with the Project (as defined below) (the "Excluded Property"), and the Company acknowledges and agrees that the City's Community Reinvestment Area program entails separate applications by the owner of any residential condominium units included within the Project. For the avoidance of doubt, the Excluded Property shall not be exempt under this Agreement; however, this provision shall not be deemed to prohibit any owners from time to time of any Excluded Property from separately applying for a tax abatement in accordance with applicable law.
- E. The Company has proposed to remodel a building located on the Property, within the boundaries of the City of Cincinnati, as more fully described in Section 1 herein (the "Project"), provided that the appropriate development incentives are available to support the economic viability of the Project.
- F. The Statute provides that if any part of a project is to be used for commercial or industrial purposes, including projects containing four or more dwelling units, in order to be eligible for tax exemption the City and the Company must enter into an agreement pursuant to Ohio Revised Code Section 3735.671 prior to commencement of construction or remodeling.
- G. The City, having appropriate authority under the Statute for this type of project, agrees (as provided herein and subject to all conditions herein) to provide the Company with the tax exemption incentives stated herein, available under the Statute, for development of the Project.
- H. The Company has submitted to the City an application for this tax exemption agreement (the "Application"), a copy of which is attached hereto as Exhibit B, has remitted with the Application (i) the City application fee of One Thousand Two Hundred Fifty Dollars (\$1,250) made payable to

the City and (ii) in accordance with Ohio Revised Code Section 3735.672(C), the state application fee of Seven Hundred Fifty Dollars (\$750) made payable to the Ohio Development Services Agency ("ODSA"), to be forwarded to the ODSA with an executed copy of this Agreement.

- I. The Director of the City's Department of Community and Economic Development has recommended approval of the Application on the basis that the Company is qualified by financial responsibility and business experience to create and preserve employment opportunities and improve the economic climate of the City.
- J. The Board of Education of the Cincinnati City School District (the "Board of Education"), pursuant to that certain *Tax Incentive Agreement* effective as of April 28, 2020, has approved exemptions of up to one hundred percent (100%) of Community Reinvestment Area projects, waived advance notice and right to review such projects, and waived sharing or allocation of municipal income taxes in connection with such projects.
- K. The Company has entered into (or will enter into) an agreement with the Board of Education requiring the Company to pay the Board of Education amounts equal to thirty-three percent (33%) of the full amount of exempt real property taxes that would have been paid to Hamilton County if this Agreement were not in effect (the "Board of Education Agreement").
- L. The Company represents and warrants to the City that the Company and its major tenants, if any, do not intend to relocate part or all of their operations to the City from another county or municipal corporation in the State of Ohio (the "State").
- M. The Company represents that within the past five (5) years neither the Company, any related member of the Company, nor any entity to which the Company is a successor has discontinued operations at a project site in the State during the term of a property tax exemption agreement (under Ohio Revised Code Section 3735.671, 5709.62, 5709.63 or 5709.632) applicable to that site, and the Company acknowledges that misrepresentation hereunder will result in voiding of this Agreement.
- N. The Company represents and warrants to the City that the Company is not subject to an Enterprise Zone Agreement with the City of Cincinnati for the Property or the Project.
- O. City Council passed (i) Motion No. 201401368 on November 19, 2014, establishing a tax incentive policy that incentivizes each applicant for a real property tax abatement in the neighborhoods of Downtown and OTR to enter into a voluntary tax incentive contribution agreement with a third-party organization ("VTICA") for an amount equal to a percentage of the real property taxes that would have been payable on the abated property but for the City-authorized tax abatement (the "VTICA Contribution"), which funds shall be committed by a third-party organization to pay for streetcar operations that specially benefit the abated property, and (ii) Motion No. 201501592 on December 16, 2015, which established that the VTICA Contribution to be recognized by the Director of the Department of Community and Economic Development is 15% of the real property taxes that would have been payable on the abated property but for the City-authorized tax abatement. The Commercial Policy Ordinance confirmed that such motions have not been superseded and remain the will of Council.
- P. The Company acknowledges that Streetcar operations in the Central Business District and Over-the-Rhine will specially benefit the Project due to (a) the Streetcar's enhancement of public transit options in such neighborhoods and (b) the anticipated increase in property values attributable to public investment in Streetcar infrastructure.
- Q. The Company represents and warrants to the City that the Company has entered or will enter into a VTICA and shall pay the VTICA Contribution each year for the full term of the abatement.

R. This Agreement has been authorized by Ordinance No. _____-2021, passed by Cincinnati City Council on _____, 2021.

S. In determining to recommend and authorize this Agreement, the Department of Community and Economic Development and City Council, respectively, have acted in material reliance on the Company's representations in the Application and herein regarding the Project including, but not limited to, representations relating to the number of jobs to be created and/or retained by the Company, the Board of Education Agreement, the VTICA Contribution, and the Project's effect in promoting the general welfare of the people of Cincinnati by, for example, encouraging the development of real property located in the Community Reinvestment Area and thereby promoting economic growth and vitality in Cincinnati.

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

Section 1. Project. Upon issuance of the necessary zoning and building approvals, the Company agrees to remodel the existing structure to create approximately: 1,081 square feet of commercial space, and 6,829 square feet of residential space consisting of 13 apartments on the Property (the "Improvements") at an estimated aggregate cost of \$1,501,184, to commence after the execution of this Agreement and to be completed no later than April 1, 2022; *provided*, however, that the Director of the Department of Community and Economic Development (the "Housing Officer") may, in his discretion, extend such deadline for a period of up to 12 months by written notice if, in the Director's judgment, the Company is proceeding in good faith towards completion. The remodeling shall be in compliance with applicable building code requirements and zoning regulations. In addition to the foregoing, (A) the Project shall comply with the Americans with Disabilities Act, together with any and all regulations or other binding directives promulgated pursuant thereto (collectively, the "**ADA**"), and (B) if (i) any building(s) within the Project is subject to the accessibility requirements of the ADA (e.g., by constituting a "place of public accommodation" or another category of structure to which the ADA is applicable) and (ii) such building(s) is not already required to meet the Contractual Minimum Accessibility Requirements (as defined below) pursuant to the ADA, applicable building code requirements, or by any other legal requirement, then the Company shall cause such building(s) to comply with the Contractual Minimum Accessibility Requirements in addition to any requirements pursuant to the ADA and the applicable building code or legal requirement. As used herein, "**Contractual Minimum Accessibility Requirements**" means that a building shall, at a minimum, include (1) at least one point of entry (as used in the ADA), accessible from a public right of way, with respect to which all architectural barriers (as used in the ADA) to entry have been eliminated, and (2) if such accessible point of entry is not a building's primary point of entry, conspicuous signage directing persons to such accessible point of entry.

Section 2. Real Property Tax Exemption. Subject to the satisfaction of the conditions set forth in this Agreement, the City approves exemption from real property taxation, pursuant to and to the fullest extent authorized by the Statute, of one hundred percent (100%) of the amount by which the Improvements increase the assessed value of the Property as determined by the Hamilton County Auditor, for a period of fifteen (15) years, provided that the Company shall have entered into the Board of Education Agreement. Within 120 days after completion of the Project (unless otherwise extended in writing by the City's Housing Officer), the Company must file the appropriate application for tax exemption with the City's Housing Officer. The Company is solely responsible to take this action. Upon receipt of the application for tax exemption, the City will proceed with the exemption authorized by this Agreement. In accordance with Ohio Revised Code Section 3735.67, the exemption is conditioned on verification by the Housing Officer of (A) the completion of remodeling (B) the cost of remodeling, (C) the facts asserted in the application for exemption and (D) if a remodeled structure is a structure of historical or architectural significance as designated by the City, state or federal government, that the appropriateness of the remodeling has been certified in writing by the appropriate agency. If the required verification is made, the Housing Officer will forward the exemption application to the Hamilton County Auditor with the necessary certification by the Housing Officer. Subject to the conditions set forth in this Agreement, the

exemption commences the first tax year for which the Improvements would first be taxable were the Improvements not exempted from taxation. The dates provided in this paragraph refer to tax years in which the subject property is assessed, as opposed to years in which taxes are billed. No exemption shall commence after tax year 2022 nor extend beyond the earlier of (i) tax year 2036 or (ii) the end of the 15th year of exemption.

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

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

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

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

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

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

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

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

Section 11. Small Business Enterprise Program.¹

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

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

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

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

enforce specific performance of the terms of this Section. The provisions of CMC Section 323-99 are hereby incorporated by reference into this Agreement.

Section 12. Jobs. The Company represents that, as of the date of the execution of this Agreement, the Company has no existing employment at the Property or in the State.

Section 13. Job Creation and Retention.

A. Jobs to be Created by Company. The Company agrees to use its best efforts to create (i) 10 full-time permanent jobs and (ii) 30 full-time temporary construction jobs at the Property in connection with the Project. In the case of the construction jobs, the job creation and retention period shall be concurrent with remodeling, and in the case of the other jobs described herein, the job creation period shall begin upon completion of remodeling and shall end three (3) years thereafter.

B. Company's Estimated Payroll Increase. The Company's increase in the number of employees will result in approximately (i) \$312,000 of additional annual payroll with respect to the full-time permanent jobs and (ii) \$1,200,000 of additional annual payroll prior to the completion of the Project with respect to the full-time temporary construction jobs.

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

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

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

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

Section 16. Default. As provided in Ohio Revised Code Section 3735.671(C)(6), if the Company materially fails to fulfill its obligations under this Agreement, or if the City determines that the certification as to delinquent taxes required by this Agreement (Section 6 hereof) or the covenant of satisfaction of tax and other obligations (Section 7 hereof) is fraudulent, the City may terminate or modify the exemptions from taxation granted or authorized under this Agreement and may require the repayment by the Company of the amount of taxes that would have been payable had the Improvements not been exempted from taxation pursuant to this Agreement. A modification of exemption may be in the form of reduction in the number of years that eligible property is exempt and/or a reduction in the exemption percentage. The City shall provide written notice to the Company prior to finding the Company in default under this section. The notice shall provide the Company with not less than thirty (30) days to cure the default prior to City termination or modification of the exemptions under this Agreement. The City may

extend the cure period as reasonably necessary under the circumstances. In the event of such termination or modification, the City is authorized to so notify the appropriate taxing authorities in order to effect the termination or modification. If repayment of previously exempt taxes is required by the City under this Section, such amount shall be paid as directed by the City within thirty (30) days of written demand. The City may secure repayment of such taxes by a lien on the Property in the amount required to be repaid. Such a lien shall attach, and may be perfected, collected, and enforced, in the same manner as a mortgage lien on real property, and shall otherwise have the same force and effect as a mortgage lien on real property. Amounts due and not paid when due under this Section 16 shall bear interest at the rate specified in Ohio Revised Code Section 1343.03(A) (as in effect on the date of the City's payment demand).

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

Section 18. Revocation.

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

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

Section 19. False Statements; Penalties; Material Representations.

A. **Generally.** As required in connection with Ohio Revised Code Section 9.66(C), the Company affirmatively covenants that it has made no false statements to the State or the City in the process of obtaining approval for this Agreement. If any representative of the Company has knowingly made a false statement to the State or the City to obtain approval for this

Agreement, or if the Company fails to provide any information expressly required under the Application, the Company shall be required to immediately return all benefits received under this Agreement (by payment of the amount of taxes exempted hereunder, paid as directed by the City within thirty (30) days of written demand) and the Company shall be ineligible for any future economic development assistance from the State, any State agency or any political subdivision of the State pursuant to Ohio Revised Code Section 9.66(C)(1). Amounts due and not paid under this Section 19 shall bear interest at the rate of twelve percent (12%) per year. Any person who provides a false statement to secure economic development assistance (as defined in Ohio Revised Code Section 9.66) may be guilty of falsification, a misdemeanor of the first degree, pursuant to Ohio Revised Code Section 2921.13(F)(1), which is punishable by fine of not more than One Thousand Dollars (\$1,000) and/or a term of imprisonment of not more than six (6) months.

B. Material Representations – Board of Education Agreement and VTICA. The Parties acknowledge and agree that a material failure by the Company to comply with its representations concerning the Board of Education Agreement or VTICA Contribution shall constitute an event of default for purposes of Section 16 (*Default*) and the basis for revocation under Section 18 (*Revocation*). Subject to the terms of the VTICA, if the VTICA is unenforceable for reasons of infeasibility or otherwise, the Company shall enter into alternative arrangements providing for the economic equivalent of the VTICA Contribution in order to support streetcar operations. Such arrangements may include, but are not limited to, providing for the economic equivalent of the VTICA Contribution through formation of a special improvement district. For purposes of this Section 19.B, alternative arrangements must result in services substantially similar to those that would have been supported through the VTICA and at a value that is the economic equivalent of the VTICA Contribution, which value shall not be required to exceed the VTICA Contribution amount that would have been payable by the Company. Any determination of infeasibility or mechanism for providing alternative arrangements is subject to approval by the City at its sole discretion. Nothing in this Section 19.B shall operate to limit the City's enforcement authority under this Agreement including, without limitation, Section 16, Section 18, and Section 19.A.

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

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

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

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

To the City:

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

To the Company:

Northcrown 56 McMicken LLC
131 E. McMicken Avenue
Cincinnati, Ohio 45202
Attn: Jeremy Moore, Chief Operating Officer

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 36. Wage Enforcement.

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

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

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

(b) If this contract is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this contract is required to include provisions in solicitations and contracts regarding a Development Site that all employers, Contractors or Subcontractors performing or proposing to perform work on a Development Site provide an initial sworn

and notarized "Affidavit Regarding Wage Theft and Payroll Fraud" on a form prescribed by the city manager or his or her designee and, within 30 days of an Adverse Determination or Complaint of Wage Theft or Payroll Fraud, shall provide an "Amended Affidavit Regarding Wage Theft and Payroll Fraud" on a form prescribed by the city manager or his or her designee.

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

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

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

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

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

Section 38. Counterparts and Electronic Signatures. This Agreement may be executed by the parties hereto in two or more counterparts and each executed counterpart shall be considered an original but all of which together shall constitute one and the same instrument. This Agreement may be executed and delivered by electronic signature; any original signatures that are initially delivered electronically shall be physically delivered as soon as reasonably possible.

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

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

CITY OF CINCINNATI,
an Ohio municipal corporation

NORTHCROWN 56 MCMICKEN LLC,
Error! Reference source not found.

By: _____
Paula Boggs Muething, City Manager

Date: _____, 2021

By: _____

Printed Name: _____

Title: _____

Date: _____, 2021

Authorized by resolution dated _____

Approved as to Form:

Assistant City Solicitor

Certified Date: _____

Fund/Code: _____

Amount: _____

By: _____
Karen Alder, City Finance Director

Exhibit A to CRA Agreement

LEGAL DESCRIPTION OF PROPERTY

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

All that part of Block three (3) of a subdivision made by James Findlay and J.C. and J. L. Ludlow and recorded in Book 49, Pages 420, 421, and 422 of the records of Hamilton County, Ohio and being Lot Number Eleven (11) in said Block Three (3) as subdivided by the Executors of James Findlay, deceased, a plat of which subdivision is recorded in Deed Book 70, Page 133 of said records.

PPN: 094-0005-0296-00

Property Address: 56 East McMicken Avenue, Cincinnati, Ohio 45202

Exhibit B to CRA Agreement
APPLICATION FOR TAX EXEMPTION

TO BE ATTACHED

Attachment A to Ordinance

CRA Tax Exemption Agreement

SEE ATTACHED

Community Reinvestment Area Tax Exemption Agreement

This Community Reinvestment Area Tax Exemption Agreement (this "Agreement") is made and entered into as of the Effective Date (as defined on the signature page hereof) by and between the CITY OF CINCINNATI, an Ohio municipal corporation (the "City"), and NORTHCROWN 56 MCMICKEN LLC, an Ohio limited liability company and affiliate of Northcrown Property LLC (the "Company").

Recitals:

- A. The City, through the adoption of Ordinance No. 274-2017 on September 27, 2017, designated the entire City of Cincinnati as a Community Reinvestment Area to encourage the development of real property and the acquisition of personal property in that area, pursuant to Ohio Revised Code Sections 3735.65 through 3735.70 (the "Statute").
- B. In accordance with the Statute, the Ohio Director of Development has forwarded to the City the Director's determination dated October 23, 2017, stating that the findings contained in Ordinance No. 274-2017 are valid and that the entire City is a Community Reinvestment Area under the Statute. By such determination, the Director of Development of the State of Ohio determined that the area within the corporate boundaries of the City of Cincinnati contains the characteristics set forth in the Statute and confirmed such area as a Community Reinvestment Area under the Statute.
- C. The Council of the City of Cincinnati has also passed Ordinance No. 275-2017 as of September 27, 2017, as amended by Ordinance No. 339-2018 passed on October 31, 2018 (the "Commercial Policy Ordinance"), which sets forth certain additional policies, conditions and limitations regarding newly constructed or remodeled commercial and residential structures in the Community Reinvestment Area.
- D. The Company is the sole owner of certain real property within the City, located at 56 E. McMicken Avenue, Cincinnati, Ohio 45202 (the "Property"), as further described in Exhibit A (Legal Description of Property) hereto. Notwithstanding the foregoing, the Property shall not include any residential condominiums being developed in connection with the Project (as defined below) (the "Excluded Property"), and the Company acknowledges and agrees that the City's Community Reinvestment Area program entails separate applications by the owner of any residential condominium units included within the Project. For the avoidance of doubt, the Excluded Property shall not be exempt under this Agreement; however, this provision shall not be deemed to prohibit any owners from time to time of any Excluded Property from separately applying for a tax abatement in accordance with applicable law.
- E. The Company has proposed to remodel a building located on the Property, within the boundaries of the City of Cincinnati, as more fully described in Section 1 herein (the "Project"), provided that the appropriate development incentives are available to support the economic viability of the Project.
- F. The Statute provides that if any part of a project is to be used for commercial or industrial purposes, including projects containing four or more dwelling units, in order to be eligible for tax exemption the City and the Company must enter into an agreement pursuant to Ohio Revised Code Section 3735.671 prior to commencement of construction or remodeling.
- G. The City, having appropriate authority under the Statute for this type of project, agrees (as provided herein and subject to all conditions herein) to provide the Company with the tax exemption incentives stated herein, available under the Statute, for development of the Project.
- H. The Company has submitted to the City an application for this tax exemption agreement (the "Application"), a copy of which is attached hereto as Exhibit B, has remitted with the Application (i) the City application fee of One Thousand Two Hundred Fifty Dollars (\$1,250) made payable to

the City and (ii) in accordance with Ohio Revised Code Section 3735.672(C), the state application fee of Seven Hundred Fifty Dollars (\$750) made payable to the Ohio Development Services Agency ("ODSA"), to be forwarded to the ODSA with an executed copy of this Agreement.

- I. The Director of the City's Department of Community and Economic Development has recommended approval of the Application on the basis that the Company is qualified by financial responsibility and business experience to create and preserve employment opportunities and improve the economic climate of the City.
- J. The Board of Education of the Cincinnati City School District (the "Board of Education"), pursuant to that certain *Tax Incentive Agreement* effective as of April 28, 2020, has approved exemptions of up to one hundred percent (100%) of Community Reinvestment Area projects, waived advance notice and right to review such projects, and waived sharing or allocation of municipal income taxes in connection with such projects.
- K. The Company has entered into (or will enter into) an agreement with the Board of Education requiring the Company to pay the Board of Education amounts equal to thirty-three percent (33%) of the full amount of exempt real property taxes that would have been paid to Hamilton County if this Agreement were not in effect (the "Board of Education Agreement").
- L. The Company represents and warrants to the City that the Company and its major tenants, if any, do not intend to relocate part or all of their operations to the City from another county or municipal corporation in the State of Ohio (the "State").
- M. The Company represents that within the past five (5) years neither the Company, any related member of the Company, nor any entity to which the Company is a successor has discontinued operations at a project site in the State during the term of a property tax exemption agreement (under Ohio Revised Code Section 3735.671, 5709.62, 5709.63 or 5709.632) applicable to that site, and the Company acknowledges that misrepresentation hereunder will result in voiding of this Agreement.
- N. The Company represents and warrants to the City that the Company is not subject to an Enterprise Zone Agreement with the City of Cincinnati for the Property or the Project.
- O. City Council passed (i) Motion No. 201401368 on November 19, 2014, establishing a tax incentive policy that incentivizes each applicant for a real property tax abatement in the neighborhoods of Downtown and OTR to enter into a voluntary tax incentive contribution agreement with a third-party organization ("VTICA") for an amount equal to a percentage of the real property taxes that would have been payable on the abated property but for the City-authorized tax abatement (the "VTICA Contribution"), which funds shall be committed by a third-party organization to pay for streetcar operations that specially benefit the abated property, and (ii) Motion No. 201501592 on December 16, 2015, which established that the VTICA Contribution to be recognized by the Director of the Department of Community and Economic Development is 15% of the real property taxes that would have been payable on the abated property but for the City-authorized tax abatement. The Commercial Policy Ordinance confirmed that such motions have not been superseded and remain the will of Council.
- P. The Company acknowledges that Streetcar operations in the Central Business District and Over-the-Rhine will specially benefit the Project due to (a) the Streetcar's enhancement of public transit options in such neighborhoods and (b) the anticipated increase in property values attributable to public investment in Streetcar infrastructure.
- Q. The Company represents and warrants to the City that the Company has entered or will enter into a VTICA and shall pay the VTICA Contribution each year for the full term of the abatement.

R. This Agreement has been authorized by Ordinance No. _____-2021, passed by Cincinnati City Council on _____, 2021.

S. In determining to recommend and authorize this Agreement, the Department of Community and Economic Development and City Council, respectively, have acted in material reliance on the Company's representations in the Application and herein regarding the Project including, but not limited to, representations relating to the number of jobs to be created and/or retained by the Company, the Board of Education Agreement, the VTICA Contribution, and the Project's effect in promoting the general welfare of the people of Cincinnati by, for example, encouraging the development of real property located in the Community Reinvestment Area and thereby promoting economic growth and vitality in Cincinnati.

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

Section 1. Project. Upon issuance of the necessary zoning and building approvals, the Company agrees to remodel the existing structure to create approximately: 1,081 square feet of commercial space, and 6,829 square feet of residential space consisting of 13 apartments on the Property (the "Improvements") at an estimated aggregate cost of \$1,501,184, to commence after the execution of this Agreement and to be completed no later than April 1, 2022; *provided*, however, that the Director of the Department of Community and Economic Development (the "Housing Officer") may, in his discretion, extend such deadline for a period of up to 12 months by written notice if, in the Director's judgment, the Company is proceeding in good faith towards completion. The remodeling shall be in compliance with applicable building code requirements and zoning regulations. In addition to the foregoing, (A) the Project shall comply with the Americans with Disabilities Act, together with any and all regulations or other binding directives promulgated pursuant thereto (collectively, the "**ADA**"), and (B) if (i) any building(s) within the Project is subject to the accessibility requirements of the ADA (e.g., by constituting a "place of public accommodation" or another category of structure to which the ADA is applicable) and (ii) such building(s) is not already required to meet the Contractual Minimum Accessibility Requirements (as defined below) pursuant to the ADA, applicable building code requirements, or by any other legal requirement, then the Company shall cause such building(s) to comply with the Contractual Minimum Accessibility Requirements in addition to any requirements pursuant to the ADA and the applicable building code or legal requirement. As used herein, "**Contractual Minimum Accessibility Requirements**" means that a building shall, at a minimum, include (1) at least one point of entry (as used in the ADA), accessible from a public right of way, with respect to which all architectural barriers (as used in the ADA) to entry have been eliminated, and (2) if such accessible point of entry is not a building's primary point of entry, conspicuous signage directing persons to such accessible point of entry.

Section 2. Real Property Tax Exemption. Subject to the satisfaction of the conditions set forth in this Agreement, the City approves exemption from real property taxation, pursuant to and to the fullest extent authorized by the Statute, of one hundred percent (100%) of the amount by which the Improvements increase the assessed value of the Property as determined by the Hamilton County Auditor, for a period of fifteen (15) years, provided that the Company shall have entered into the Board of Education Agreement. Within 120 days after completion of the Project (unless otherwise extended in writing by the City's Housing Officer), the Company must file the appropriate application for tax exemption with the City's Housing Officer. The Company is solely responsible to take this action. Upon receipt of the application for tax exemption, the City will proceed with the exemption authorized by this Agreement. In accordance with Ohio Revised Code Section 3735.67, the exemption is conditioned on verification by the Housing Officer of (A) the completion of remodeling (B) the cost of remodeling, (C) the facts asserted in the application for exemption and (D) if a remodeled structure is a structure of historical or architectural significance as designated by the City, state or federal government, that the appropriateness of the remodeling has been certified in writing by the appropriate agency. If the required verification is made, the Housing Officer will forward the exemption application to the Hamilton County Auditor with the necessary certification by the Housing Officer. Subject to the conditions set forth in this Agreement, the

exemption commences the first tax year for which the Improvements would first be taxable were the Improvements not exempted from taxation. The dates provided in this paragraph refer to tax years in which the subject property is assessed, as opposed to years in which taxes are billed. No exemption shall commence after tax year 2022 nor extend beyond the earlier of (i) tax year 2036 or (ii) the end of the 15th year of exemption.

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

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

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

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

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

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

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

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

Section 11. Small Business Enterprise Program.¹

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

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

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

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

enforce specific performance of the terms of this Section. The provisions of CMC Section 323-99 are hereby incorporated by reference into this Agreement.

Section 12. Jobs. The Company represents that, as of the date of the execution of this Agreement, the Company has no existing employment at the Property or in the State.

Section 13. Job Creation and Retention.

A. Jobs to be Created by Company. The Company agrees to use its best efforts to create (i) 10 full-time permanent jobs and (ii) 30 full-time temporary construction jobs at the Property in connection with the Project. In the case of the construction jobs, the job creation and retention period shall be concurrent with remodeling, and in the case of the other jobs described herein, the job creation period shall begin upon completion of remodeling and shall end three (3) years thereafter.

B. Company's Estimated Payroll Increase. The Company's increase in the number of employees will result in approximately (i) \$312,000 of additional annual payroll with respect to the full-time permanent jobs and (ii) \$1,200,000 of additional annual payroll prior to the completion of the Project with respect to the full-time temporary construction jobs.

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

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

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

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

Section 16. Default. As provided in Ohio Revised Code Section 3735.671(C)(6), if the Company materially fails to fulfill its obligations under this Agreement, or if the City determines that the certification as to delinquent taxes required by this Agreement (Section 6 hereof) or the covenant of satisfaction of tax and other obligations (Section 7 hereof) is fraudulent, the City may terminate or modify the exemptions from taxation granted or authorized under this Agreement and may require the repayment by the Company of the amount of taxes that would have been payable had the Improvements not been exempted from taxation pursuant to this Agreement. A modification of exemption may be in the form of reduction in the number of years that eligible property is exempt and/or a reduction in the exemption percentage. The City shall provide written notice to the Company prior to finding the Company in default under this section. The notice shall provide the Company with not less than thirty (30) days to cure the default prior to City termination or modification of the exemptions under this Agreement. The City may

extend the cure period as reasonably necessary under the circumstances. In the event of such termination or modification, the City is authorized to so notify the appropriate taxing authorities in order to effect the termination or modification. If repayment of previously exempt taxes is required by the City under this Section, such amount shall be paid as directed by the City within thirty (30) days of written demand. The City may secure repayment of such taxes by a lien on the Property in the amount required to be repaid. Such a lien shall attach, and may be perfected, collected, and enforced, in the same manner as a mortgage lien on real property, and shall otherwise have the same force and effect as a mortgage lien on real property. Amounts due and not paid when due under this Section 16 shall bear interest at the rate specified in Ohio Revised Code Section 1343.03(A) (as in effect on the date of the City's payment demand).

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

Section 18. Revocation.

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

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

Section 19. False Statements; Penalties; Material Representations.

A. **Generally.** As required in connection with Ohio Revised Code Section 9.66(C), the Company affirmatively covenants that it has made no false statements to the State or the City in the process of obtaining approval for this Agreement. If any representative of the Company has knowingly made a false statement to the State or the City to obtain approval for this

Agreement, or if the Company fails to provide any information expressly required under the Application, the Company shall be required to immediately return all benefits received under this Agreement (by payment of the amount of taxes exempted hereunder, paid as directed by the City within thirty (30) days of written demand) and the Company shall be ineligible for any future economic development assistance from the State, any State agency or any political subdivision of the State pursuant to Ohio Revised Code Section 9.66(C)(1). Amounts due and not paid under this Section 19 shall bear interest at the rate of twelve percent (12%) per year. Any person who provides a false statement to secure economic development assistance (as defined in Ohio Revised Code Section 9.66) may be guilty of falsification, a misdemeanor of the first degree, pursuant to Ohio Revised Code Section 2921.13(F)(1), which is punishable by fine of not more than One Thousand Dollars (\$1,000) and/or a term of imprisonment of not more than six (6) months.

B. Material Representations – Board of Education Agreement and VTICA. The Parties acknowledge and agree that a material failure by the Company to comply with its representations concerning the Board of Education Agreement or VTICA Contribution shall constitute an event of default for purposes of Section 16 (*Default*) and the basis for revocation under Section 18 (*Revocation*). Subject to the terms of the VTICA, if the VTICA is unenforceable for reasons of infeasibility or otherwise, the Company shall enter into alternative arrangements providing for the economic equivalent of the VTICA Contribution in order to support streetcar operations. Such arrangements may include, but are not limited to, providing for the economic equivalent of the VTICA Contribution through formation of a special improvement district. For purposes of this Section 19.B, alternative arrangements must result in services substantially similar to those that would have been supported through the VTICA and at a value that is the economic equivalent of the VTICA Contribution, which value shall not be required to exceed the VTICA Contribution amount that would have been payable by the Company. Any determination of infeasibility or mechanism for providing alternative arrangements is subject to approval by the City at its sole discretion. Nothing in this Section 19.B shall operate to limit the City's enforcement authority under this Agreement including, without limitation, Section 16, Section 18, and Section 19.A.

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

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

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

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

To the City:

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

To the Company:

Northcrown 56 McMicken LLC
131 E. McMicken Avenue
Cincinnati, Ohio 45202
Attn: Jeremy Moore, Chief Operating Officer

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 36. Wage Enforcement.

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

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

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

(b) If this contract is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this contract is required to include provisions in solicitations and contracts regarding a Development Site that all employers, Contractors or Subcontractors performing or proposing to perform work on a Development Site provide an initial sworn

and notarized "Affidavit Regarding Wage Theft and Payroll Fraud" on a form prescribed by the city manager or his or her designee and, within 30 days of an Adverse Determination or Complaint of Wage Theft or Payroll Fraud, shall provide an "Amended Affidavit Regarding Wage Theft and Payroll Fraud" on a form prescribed by the city manager or his or her designee.

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

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

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

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

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

Section 38. Counterparts and Electronic Signatures. This Agreement may be executed by the parties hereto in two or more counterparts and each executed counterpart shall be considered an original but all of which together shall constitute one and the same instrument. This Agreement may be executed and delivered by electronic signature; any original signatures that are initially delivered electronically shall be physically delivered as soon as reasonably possible.

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

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

CITY OF CINCINNATI,
an Ohio municipal corporation

NORTHCROWN 56 MCMICKEN LLC,
Error! Reference source not found.

By: _____
Paula Boggs Muething, City Manager

Date: _____, 2021

By: _____

Printed Name: _____

Title: _____

Date: _____, 2021

Authorized by resolution dated _____

Approved as to Form:

Assistant City Solicitor

Certified Date: _____

Fund/Code: _____

Amount: _____

By: _____
Karen Alder, City Finance Director

Exhibit A to CRA Agreement

LEGAL DESCRIPTION OF PROPERTY

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

All that part of Block three (3) of a subdivision made by James Findlay and J.C. and J. L. Ludlow and recorded in Book 49, Pages 420, 421, and 422 of the records of Hamilton County, Ohio and being Lot Number Eleven (11) in said Block Three (3) as subdivided by the Executors of James Findlay, deceased, a plat of which subdivision is recorded in Deed Book 70, Page 133 of said records.

PPN: 094-0005-0296-00

Property Address: 56 East McMicken Avenue, Cincinnati, Ohio 45202

Exhibit B to CRA Agreement
APPLICATION FOR TAX EXEMPTION

TO BE ATTACHED

March 29, 2021

To: Mayor and Members of City Council 202101220
From: Paula Boggs Muething, City Manager
Subject: Emergency Legislative Resolution: 2022 Property Tax Millage

Submitted herewith is an Emergency Legislative Resolution captioned as follows:

AUTHORIZING tax levies for the calendar year beginning January 1, 2022, certifying them to the Hamilton County Auditor pursuant to O.R.C. § 5705.34, and requesting the County Auditor and County Treasurer to pay monies that may be in the County Treasury and are lawfully applicable to the purpose of this calendar year to the City Treasurer pursuant to O.R.C. § 321.34.

Notification that the Hamilton County Budget Commission has approved the 2022 Tax Budget was received. The attached resolution set the property tax millage for 2022. The 2022 millage for General Fund operating purposes is set at 3.97 mills, which results in estimated property tax revenue of \$28,996,314.

The 2022 millage for debt service is set at 7.5 mills, which is necessary to pay principal and interest to holders of City bonds. The total tax millage rate for 2022 is 11.47 mills. The millage rates are established based on the actual property valuation which was established by the County.

State Law requires that the approved resolution be submitted to the County by April 1, 2021, therefore the resolution must be passed by Council prior to this date.

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

Attachment

EMERGENCY

Legislative Resolution

AWG/ESW

CMZ

RESOLUTION NO. _____ - 2021

AUTHORIZING tax levies for the calendar year beginning January 1, 2022, certifying them to the Hamilton County Auditor pursuant to O.R.C. § 5705.34, and requesting the County Auditor and County Treasurer to pay monies that may be in the County Treasury and are lawfully applicable to the purpose of this calendar year to the City Treasurer pursuant to O.R.C. § 321.34.

WHEREAS, Council adopted a tax budget for the calendar year beginning January 1, 2022; and

WHEREAS, the County Budget Commission has approved the budget and estimate by the County Auditor of the rate of each tax necessary to be levied by this Council and the parts within and outside of the ten mill limitation; and

WHEREAS, Council must request payment of funds derived from taxes and other sources payable to the County Treasury to be made to the account of the City of Cincinnati, which funds are lawfully applicable to the purpose of the calendar year; now, therefore,

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

Section 1. That there is hereby levied on the tax duplicate of the City of Cincinnati for the calendar year beginning January 1, 2022, the rate of each tax necessary to be levied as follows:

<u>Fund</u>	Amount to be derived from levies inside	Amount to be derived from levies outside	Estimate of Rate to be levied		
	<u>Millage</u>	<u>Millage</u>	<u>Inside Mills</u>	<u>Outside Mills</u>	<u>Total Mills</u>
General	\$ - - -	\$28,996,314	- - -	3.97	3.97
Bond Retirement	\$22,809,600	\$25,790,400	3.52	3.98	7.50
Total	\$22,809,600	\$54,786,714	3.52	7.95	11.47

Section 2. That the Hamilton County Auditor and Hamilton County Treasurer are hereby requested to pay to the Treasurer of the City of Cincinnati monies from taxes and other sources in the County Treasury to the account of the City that are lawfully applicable to the purpose of this calendar year.

Section 3. That the Clerk of Council is hereby directed to file a certified copy of this legislative resolution with the County Auditor.

Section 4. That this legislative resolution shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to ensure that the City can meet the April 1, 2021 filing deadline with the County Auditor.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk



Greg Landsman
Councilmember

March 12, 2021

MOTION

We hereby move that the Administration provide a brief, high-level report on what it would take in terms of additional crews and funding to achieve *optimum level of public services functioning* as it relates to sanitation, road treatment, snow removal, and street paving and maintenance.

STATEMENT

The Cities' efforts over the past few years to reinvest in public services is a long overdue project with overwhelming public support. However, more investments are needed; not least because of the increased effects of climate change on dynamic weather patterns.¹ Scientists warn of escalating levels of snowfall and rainfall in the winter, and soaring temperatures in the summer,² and it is imperative that we work to avoid public service failures ahead of time by being prepared.

Councilmember Greg Landsman

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¹ "Extreme Weather gets a Boost from Climate Change" ([Environmental Defense Fund](#))

² "How Climate Change Is Fueling Extreme Weather" ([EarthJustice, 2021](#))

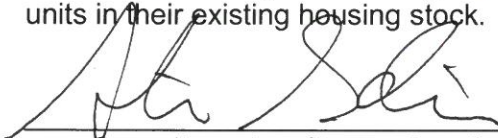


Steven P. Goodin
Councilmember

March 22, 2021

MOTION

While Cincinnati continues to grapple with long-term, systemic fixes to its affordable housing shortage, it has become apparent that the location of such units remains an issue for many homeowners. A concentration of subsidized units in one neighborhood can artificially lower property values and deter market-rate and commercial development. Accordingly, **WE MOVE** that the Administration advise as to whether Council may limit the development of new subsidized housing units in neighborhoods which already contain 50 percent or more of such units in their existing housing stock.



Councilmember Steven Goodin
